

Status: Point in time view as at 06/04/2016.

Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000, Part 1 is up to date with all changes known to be in force on or before 05 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

YOUTH OFFENDER PANELS: FURTHER COURT PROCEEDINGS

PART I

REFERRAL BACK TO APPROPRIATE COURT [F1: REVOCATION OF REFERRAL ORDER]

Textual Amendments

- F1** Words in Sch. 1 Pt. I heading inserted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 49\(2\)](#); S.I. 2009/860, art. 2(2)(f)

Introductory

- 1 (1) This Part of this Schedule applies where a youth offender panel refers an offender back to the appropriate court under section 22(2), 25(2) or (3), 26(5), (8) or (10) [F2, 27(4) or 27A(2)] of this Act.
- (2) For the purposes of this Part of this Schedule and the provisions mentioned in subparagraph (1) above the appropriate court is—
- (a) in the case of an offender aged under 18 at the time when (in pursuance of the referral back) he first appears before the court, a youth court [F3 acting in the local justice area] in which it appears to the youth offender panel that the offender resides or will reside; and
- (b) otherwise, a magistrates' court (other than a youth court) [F3 acting in that area] .

Textual Amendments

- F2** Words in Sch. 1 para. 1(1) substituted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 36\(3\)](#), 153(7); S.I. 2009/860, art. 2(2)(b)
- F3** Words in Sch. 1 para. 1(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 81\(a\)](#)

Mode of referral back to court

- 2 The panel shall make the referral by sending a report to the appropriate court explaining why the offender is being referred back to it.

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Bringing the offender before the court

- 3 (1) Where the appropriate court receives such a report, the court shall cause the offender to appear before it.
- (2) For the purpose of securing the attendance of the offender before the court, a justice [^{F4}acting in the local justice area in which the court acts] may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
 - (b) if the report is substantiated on oath, issue a warrant for the offender's arrest.
- (3) Any summons or warrant issued under sub-paragraph (2) above shall direct the offender to appear or be brought before the appropriate court.

Textual Amendments

- F4** Words in Sch. 1 para. 3(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 1, Sch. para. 81\(b\)](#)

Detention and remand of arrested offender

- 4 (1) Where the offender is arrested in pursuance of a warrant under paragraph 3(2) above and cannot be brought immediately before the appropriate court—
- (a) the person in whose custody he is may make arrangements for his detention in a place of safety (within the meaning given by section 107(1) of the ^{M1}Children and Young Persons Act 1933) for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
 - (b) that person shall within that period bring him before a court which—
 - (i) if he is under the age of 18 when he is brought before the court, shall be a youth court; and
 - (ii) if he has then attained that age, shall be a magistrates' court other than a youth court.
- (2) Sub-paragraphs (3) to (5) below apply where the court before which the offender is brought under sub-paragraph (1)(b) above (“the alternative court”) is not the appropriate court.
- (3) The alternative court may direct that he is to be released forthwith or remand him.
- (4) Section 128 of the ^{M2}Magistrates' Courts Act 1980 (remand in custody or on bail) shall have effect where the alternative court has power under sub-paragraph (3) above to remand the offender as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the appropriate court.
- (5) That section shall have effect where the alternative court has power so to remand him, or the appropriate court has (by virtue of sub-paragraph (4) above) power to further remand him, as if in subsection (1) there were inserted after paragraph (c) “or
- (d) if he is aged under 18, remand him to accommodation provided by or on behalf of a local authority (within the meaning of the ^{M3}Children Act 1989) and, if it does so, shall designate as the authority who are to receive him the local authority for the area in which it appears to the court that he resides or will reside;”.

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Marginal Citations

M1 1933 c. 12.

M2 1980 c. 43.

M3 1989 c. 41.

Power of court where it upholds panel's decision

- 5 (1) If it is proved to the satisfaction of the appropriate court as regards any decision of the panel which resulted in the offender being referred back to the court—
- (a) that, so far as the decision relied on any finding of fact by the panel, the panel was entitled to make that finding in the circumstances, and
 - (b) that, so far as the decision involved any exercise of discretion by the panel, the panel reasonably exercised that discretion in the circumstances,
- the court may exercise the power conferred by sub-paragraph (2) below.
- (2) That power is a power to revoke the referral order (or each of the referral orders).
- (3) The revocation under sub-paragraph (2) above of a referral order has the effect of revoking any related order under [F5 paragraphs 9ZD or 10] below.
- (4) Where any order is revoked under sub-paragraph (2) above or by virtue of sub-paragraph (3) above, the appropriate court may deal with the offender in accordance with sub-paragraph (5) below for the offence in respect of which the revoked order was made.
- (5) In so dealing with the offender for such an offence, the appropriate court—
- (a) may deal with him in any way in which (assuming section 16 of this Act had not applied) he could have been dealt with for that offence by the court which made the order; and
 - (b) shall have regard to—
 - (i) the circumstances of his referral back to the court; and
 - (ii) where a contract has taken effect under section 23 of this Act between the offender and the panel, the extent of his compliance with the terms of the contract.
- (6) The appropriate court may not exercise the powers conferred by sub-paragraph (2) or (4) above unless the offender is present before it; but those powers are exercisable even if, in a case where a contract has taken effect under section 23, the period for which the contract has effect has expired (whether before or after the referral of the offender back to the court).

Textual Amendments

F5 Words in Sch. 1 para. 5(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 44\(3\)\(a\)](#), [95\(1\)](#) (with [s. 44\(4\)](#)); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 35](#)

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Appeal

- 6 Where the court in exercise of the power conferred by paragraph 5(4) above deals with the offender for an offence, the offender may appeal to the Crown Court against the sentence.

[^{F6}Power of court to impose fine or extend period for which contract has effect

Textual Amendments

F6 Sch. 1 para. 6A and cross-heading inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 43\(1\), 95\(1\)](#) (with [s. 43\(5\)](#)); [S.I. 2015/778](#), art. 3, Sch. 1 para. 34

- 6A (1) This paragraph applies where—
- (a) an offender has been referred back to the appropriate court under section 22(2), 26(5) or 27(4), and
 - (b) it is proved to the satisfaction of the court that the offender has failed, without reasonable excuse, to comply with the terms of a contract under section 23.
- (2) If the court does not revoke the order under paragraph 5 it may—
- (a) order the offender to pay a fine of an amount not exceeding £2,500, or
 - (b) make an order extending the length of the period for which the contract under section 23 has effect.
- (3) The court may not extend the length of the period for which the contract has effect so that it becomes longer than 12 months.
- (4) If the period for which the contract has effect has expired (whether before or after the referral of the offender back to court) the court—
- (a) may make an order under sub-paragraph (2)(a), but
 - (b) may not make an order under sub-paragraph (2)(b).
- (5) The court may not exercise a power under sub-paragraph (2) unless the offender is present before it.
- (6) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) The Secretary of State may by order amend any sum for the time being specified in sub-paragraph (2)(a).]

[^{F7}Consequences of] Court not revoking referral order or orders

Textual Amendments

F7 Words in Sch. 1 para. 7 cross-heading inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 43\(3\), 95\(1\)](#) (with [s. 43\(5\)](#)); [S.I. 2015/778](#), art. 3, Sch. 1 para. 34

- 7 (1) This paragraph applies—
- (a) where the appropriate court decides that the matters mentioned in paragraphs (a) and (b) of paragraph 5(1) above have not been proved to its satisfaction; or

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- (b) where, although by virtue of paragraph 5(1) above the appropriate court—
- (i) is able to exercise the power conferred by paragraph 5(2) above, or
 - (ii) would be able to do so if the offender were present before it,
- the court (for any reason) decides not to exercise that power.

(2) If either—

- (a) no contract has taken effect under section 23 of this Act between the offender and the panel, or
- (b) a contract has taken effect under that section but the period for which it has effect has not expired,

the offender shall continue to remain subject to the referral order (or orders) in all respects as if he had not been referred back to the court [^{F8}(subject to any order under paragraph 6A(2)(b))].

(3) If—

- (a) a contract had taken effect under section 23 of this Act, but
- (b) the period for which it has effect has expired (otherwise than by virtue of section 24(6)),

the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

Textual Amendments

F8 Words in Sch. 1 para. 7(2) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 43\(2\), 95\(1\)](#) (with s. 43(5)); S.I. 2015/778, art. 3, Sch. 1 para. 34

Exception where court satisfied as to completion of contract

- 8 If, in a case where the offender is referred back to the court under section 27(4) of this Act, the court decides (contrary to the decision of the panel) that the offender's compliance with the terms of the contract has, or will have, been such as to justify the conclusion that he has satisfactorily completed the contract, the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

Discharge of extension orders

- 9 The discharge under paragraph 7(3) or 8 above of a referral order has the effect of discharging any related order under [^{F9}paragraphs 9ZD or 10] below.

Textual Amendments

F9 Words in Sch. 1 para. 9 substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 44\(3\)\(a\), 95\(1\)](#) (with s. 44(4)); S.I. 2015/778, art. 3, Sch. 1 para. 35

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[^{F10}Power to adjourn hearing and remand offender

Textual Amendments

F10 Sch. 1 para. 9ZA inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 4 para. 107](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(xv)

- 9ZA (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in proceedings under this Part of this Schedule.
- (2) The court may adjourn the hearing, and, where it does so, may—
- (a) direct that the offender be released forthwith, or
 - (b) remand the offender.
- (3) Where the court remands the offender under sub-paragraph (2)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
 - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
 - (b) if it does not do so, it must not resume the hearing unless it is satisfied that the persons mentioned in sub-paragraph (5) have had adequate notice of the time and place for the resumed hearing.
- (5) The persons referred to in sub-paragraph (4)(b) are—
- (a) the offender,
 - (b) if the offender is aged under 14, a parent or guardian of the offender, and
 - (c) a member of the youth offending team specified under section 18(1)(a) as responsible for implementing the order.
- (6) If a local authority has parental responsibility for an offender who is in its care or provided with accommodation by it in the exercise of any social services functions, the reference in sub-paragraph (5)(b) to a parent or guardian of the offender is to be read as a reference to that authority.
- (7) In sub-paragraph (6)—
- “local authority” has the same meaning as it has in Part 1 of the Criminal Justice and Immigration Act 2008 by virtue of section 7 of that Act,
- “parental responsibility” has the same meaning as it has in the Children Act 1989 by virtue of section 3 of that Act, and
- “social services functions” has the same meaning as it has [^{F11}—
- (a) in relation to a local authority in England,]
 - (b) [^{F12}in relation to a local authority in Wales, in section 143 of the Social Services and Well-being (Wales) Act 2014]
- in the Local Authority Social Services Act 1970 by virtue of section 1A of that Act.
- (8) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.

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(9) This paragraph—

- (a) applies to any hearing in proceedings under this Part of this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
- (b) is not to be taken to affect the application of that section to hearings of any other description.]

Textual Amendments

- F11** Words in Sch. 1 para. 9ZA(7) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **168(a)**
- F12** Words in Sch. 1 para. 9ZA(7) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **168(b)**

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