Justice (Northern Ireland) Act 2002

2002 CHAPTER 26

PART 4

YOUTH JUSTICE

Aims

53 Aims of youth justice system

(1) The principal aim of the youth justice system is to protect the public by preventing offending by children.

(2) All persons and bodies exercising functions in relation to the youth justice system must have regard to that principal aim in exercising their functions, with a view (in particular) to encouraging children to recognise the effects of crime and to take responsibility for their actions.

(3) But all such persons and bodies must also have regard to the welfare of children affected by the exercise of their functions (and to the general principle that any delay in dealing with children is likely to prejudice their welfare), with a view (in particular) to furthering their personal, social and educational development.

(4) "Youth justice system" means the system of criminal justice in so far as it relates to children.

(5) "Offending" includes re-offending.

(6) "Children" means persons who are under the age of 18.

New orders

54 Reparation orders

After Article 36 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert—

"Reparation orders

36A **Reparation orders**

(1) Where a child is found guilty by or before any court of an offence, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a reparation order.

(2) A reparation order is an order requiring the offender to make such reparation for the offence, otherwise than by the payment of compensation, as is specified in the order—

(a) to a person or persons so specified; or

(b) to the community at large.

(3) Any person so specified must be a person identified by the court as—

(a) a victim of the offence; or

(b) a person otherwise affected by it.

(4) Before making a reparation order, the court must obtain and consider a written report by—

(a) a probation officer;

(b) a social worker of the appropriate authority; or

(c) such other person as the Secretary of State may designate.

(5) The report must indicate—

(a) the type of requirements that it would be appropriate to impose on the offender; and

(b) the attitude of the victim or victims of the offence to the requirements proposed to be included in the order.

36B **Restrictions on reparation orders**

(1) The court must not make a reparation order in respect of the offender unless he consents.

(2) The court must not make a reparation order in respect of the offender if it proposes—

(a) to pass on him a custodial sentence; or

(b) to make in respect of him a community service order, a community responsibility order or a combination order.

(3) The court must not make a reparation order unless—

(a) it has been given notice by the Secretary of State that arrangements for implementing such orders are available in the district proposed to be named in the order under Article 36D(1); and

(b) the notice has not been withdrawn.

(4) Before making a reparation order, the court must state in open court that it is of the opinion that Article 8(1) of the Criminal Justice (Northern Ireland) Order

1996 (N.I. 24) (restrictions on imposing community sentences) applies and why it is of that opinion.

(5) It must also explain to the offender in ordinary language—

(a) why it is making the order;

(b) the effect of the order and of the requirements proposed to be included in it;

(c) the consequences which may follow under Schedule 1A if he fails to comply with any of those requirements; and

(d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.

36C Requirements of reparation orders

(1) A reparation order must not require the offender—

(a) to make reparation for more than 24 hours; or

(b) to make reparation to any person without the consent of that person.

(2) Requirements specified in a reparation order must, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(3) The reparation required by a reparation order must be made—

(a) under the supervision of the responsible officer; and

(b) within the period of six months beginning with the date on which the order is made.

(4) But, unless revoked, the order remains in force until the offender has made the reparation required by the order.

(5) The Secretary of State may make rules for regulating the making of reparation by persons subject to reparation orders.

(6) Such rules may, in particular, make provision—

(a) regulating the functions of responsible officers;

(b) limiting the number of hours of making reparation on any one day;

(c) as to the reckoning of hours spent in complying with the requirements imposed by a reparation order;

(d) as to the keeping of records of such hours; and

(e) for the payment of travelling and other expenses incurred in connection with complying with such requirements.

(7) Rules under this Article are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules.

36D Supplementary provisions about reparation orders

(1) A reparation order must name the petty sessions district in which it appears to—
  (a) the court making the order; or
  (b) the court amending under Schedule 1A any provision included in the order,

that the offender resides or will reside.

(2) In this Order "responsible officer", in relation to an offender subject to a reparation order, means one of the following who is specified in the order—
  (a) a probation officer;
  (b) a social worker of the appropriate authority; and
  (c) such other person as the Secretary of State may designate.

(3) Where a reparation order specifies as the responsible officer a probation officer, the officer must be an officer appointed for or assigned to the petty sessions district named in the order.

(4) The court by which a reparation order is made must immediately give copies of the order to—
  (a) the offender subject to the order;
  (b) his parent or guardian; and
  (c) the responsible officer.

(5) Except where the court is itself a magistrates' court acting for the petty sessions district specified in the order, the court must send to the clerk of petty sessions for the petty sessions district so specified—
  (a) a copy of the order; and
  (b) such documents and information relating to the case as it considers likely to be of assistance to a youth court acting for that district in exercising its functions in relation to the order.

(6) A magistrates' court must cause a reason stated by it under Article 36B(4) or (5)(a) to be entered in the Order Book.

(7) The Secretary of State may pay any expenses of a person designated by him which are incurred under Article 36A or in performing any functions as the responsible officer of an offender subject to a reparation order.

(8) Schedule 1A (which makes provision for dealing with failures to comply with reparation orders and for their revocation and amendment) shall have effect."

55 Community responsibility orders

After Article 36D of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (inserted by section 54 of this Act) insert—

"Community responsibility orders

36E **Community responsibility orders**

(1) Where a child is found guilty by or before any court of an offence, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a community responsibility order.

(2) A community responsibility order is an order requiring the offender—
  (a) to attend at a place specified in the order for the number of hours so specified for relevant instruction in citizenship; and
  (b) to carry out for the number of hours specified in the order such practical activities as the responsible officer considers appropriate in the light of that instruction.

(3) "Relevant instruction in citizenship", in relation to an offender, means instruction dealing with—
  (a) citizenship (including, in particular, the responsibilities a person owes to the community);
  (b) the impact of crime on victims; and
  (c) any factors relating to the offender which may cause him to commit offences.

(4) In this Order "responsible officer", in relation to an offender subject to a community responsibility order, means one of the following who is specified in the order—
  (a) a probation officer;
  (b) a social worker of the appropriate authority; and
  (c) such other person as the Secretary of State may designate.

(5) The number of hours specified under paragraph (2)(a) must be not less than one half of the aggregate number of hours specified in the order.

(6) The aggregate number of hours specified in the order must be—
  (a) not less than 20; and
  (b) not more than 40.

(7) Where a court makes community responsibility orders in respect of two or more offences of which the offender has been found guilty by or before the court, it may direct that the hours specified in any of those orders be—
  (a) concurrent with those specified in any other of those orders; or
  (b) additional to those so specified.

(8) But the total number of hours which are not concurrent must not exceed the maximum specified in paragraph (6)(b).

(9) The Secretary of State may by order amend paragraph (6)(a) or (b) (or both).

(10) An order under paragraph (9) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory

instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such an order.

36F Restrictions on community responsibility orders

(1) The court must not make a community responsibility order in respect of the offender unless he consents.

(2) The court must not make a community responsibility order in respect of the offender if it proposes to deal with him for the offence in any other way.

(3) The court must not make a community responsibility order unless—

(a) it has been given notice by the Secretary of State that arrangements for implementing such orders are available in the district proposed to be named in the order under Article 36I(1); and

(b) the notice has not been withdrawn.

(4) Before making a community responsibility order, the court must state in open court that it is of the opinion that Article 8(1) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (restrictions on imposing community sentences) applies and why it is of that opinion.

(5) It must also explain to the offender in ordinary language—

(a) why it is making the order;

(b) the effect of the order and of the requirements proposed to be included in it;

(c) the consequences which may follow under Schedule 1A if he fails to comply with any of those requirements; and

(d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.

36G Requirements of community responsibility orders

(1) An offender in respect of whom a community responsibility order is in force must—

(a) attend the place specified in the order at such times as he may be instructed by the responsible officer; and

(b) carry out such activities as he may be instructed by the responsible officer to carry out at such times as he may be so instructed to carry them out.

(2) Such an offender must—

(a) keep in touch with the responsible officer in accordance with such instructions as he may be given by that officer; and

(b) give notice to him of any change of address.

(3) The instructions given by the responsible officer must, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(4) The obligations imposed by a community responsibility order must be performed within the period of six months beginning with the date on which the order is made.

(5) But, unless revoked, the order remains in force until the offender has performed the obligations contained in the order.

36H Rules relating to community responsibility orders

(1) The Secretary of State may make rules for regulating—
  (a) the attendance by persons subject to community responsibility orders at places for the purposes of those orders; and
  (b) the carrying out by such persons of practical activities for those purposes.

(2) Such rules may, in particular, make provision—
  (a) regulating the functions of responsible officers;
  (b) limiting the number of hours of attendance or of carrying out activities on any one day;
  (c) as to the reckoning of hours spent in complying with the requirements imposed by a community responsibility order;
  (d) as to the keeping of records of such hours; and
  (e) for the payment of travelling and other expenses incurred in connection with complying with such requirements.

(3) Rules under this Article are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules.

36I Supplementary provisions about community responsibility orders

(1) A community responsibility order must name the petty sessions district in which it appears to—
  (a) the court making the order; or
  (b) the court amending under Schedule 1A any provision included in the order,

  that the offender resides or will reside.

(2) Where a community responsibility order specifies as the responsible officer a probation officer, the officer must be an officer appointed for or assigned to the petty sessions district named in the order.

(3) The court by which a community responsibility order is made must immediately give copies of the order to—
  (a) the offender subject to the order;
  (b) his parent or guardian; and
  (c) the responsible officer.

(4) Except where the court is itself a magistrates' court acting for the petty sessions district specified in the order, the court must send to the clerk of petty sessions for the petty sessions district so specified—

(a) a copy of the order; and

(b) such documents and information relating to the case as it considers likely to be of assistance to a youth court acting for that district in exercising its functions in relation to the order.

(5) A magistrates' court must cause a reason stated by it under Article 36F(4) or (5)(a) to be entered in the Order Book.

(6) The Secretary of State may pay any expenses of a person designated by him which are incurred in performing any functions as the responsible officer of an offender subject to a community responsibility order.

(7) Schedule 1A (which makes provision for dealing with failures to comply with community responsibility orders and for their revocation and amendment) shall have effect."

56 Custody care orders

After Article 44 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert—

"Custody care orders

44A Custody care orders

(1) Where a child who has not attained the age of 14 is found guilty by or before any court of an offence punishable, in the case of an adult, with imprisonment, other than an offence the sentence for which is (in the case of an adult) fixed by law as imprisonment for life, the court (subject to Article 32(1)) may make a custody care order.

(2) A custody care order is an order that the child shall be placed in secure accommodation by the appropriate authority and be subject to a period of being kept in secure accommodation by the appropriate authority followed by a period of supervision.

(3) A custody care order shall be for a period of six months unless the court specifies in the order a longer period not exceeding two years.

(4) A court shall not make a custody care order unless, after taking into account any matters which it is required to take into account by Article 37 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (previous convictions etc.), it has formed the opinion under Articles 19 and 20 of that Order that a custodial sentence would be justified for the offence.

(5) Where a court makes a custody care order for a period longer than six months, it shall state in open court its reasons for doing so.

(6) Subject to paragraph (7), the period for which a child is to be kept in secure accommodation under a custody care order shall be one half of the period of the order; but the appropriate authority may, with the consent of the Secretary of State, at any time discharge a child who is being so kept.

(7) The length of the period for which the child is to be kept in secure accommodation shall be treated as reduced by any period which is a relevant

period within the meaning of section 26(2) and (2A) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)) (reduction of sentence).

(8) Where a court makes a custody care order in the case of a child who will attain the age of 14 at a time during the period for which he is to be kept in secure accommodation under the order, the court may provide that he shall be detained in a juvenile justice centre for the whole or any part of the period following that time.

(9) Any reference in any statutory provision to the length of the period of a custody care order shall, unless the context otherwise requires, be construed as a reference to the length of the period imposed by or under paragraph (3) and not the length of the period as reduced by paragraph (7).

44B Period in secure accommodation under custody care order

(1) This Article makes provision about the application of the Children (Northern Ireland) Order 1995 (N.I. 2) in relation to a child during any period for which he is kept in secure accommodation by the appropriate authority under a custody care order (or under any other order under this Order or as a place of safety).

(2) Of the provisions about a child looked after by an authority (within the meaning of Article 25) those specified in paragraph (3) (and no others) apply.

(3) Those provisions are—
- (a) Article 26 (duty to safeguard and promote welfare);
- (b) Article 27(1), (2)(b), (e) and (f), (8) and (9) and Article 28(2) (accommodation and maintenance);
- (c) Article 29(1), (2) and (4) to (6) (promotion and maintenance of contact with family);
- (d) Articles 30 and 31 (visits);
- (e) Article 34 (death);
- (f) Article 35(1) and Article 36(1) and (4) (advice, assistance and befriending);
- (g) Article 45 (reviews and representations); and
- (h) Articles 72 and 73 (provision of homes).

(4) In their application by virtue of paragraph (2)—
- (a) Article 29(4) has effect with the omission of sub-paragraph (a); and
- (b) Article 34(1)(a) has effect as if the reference to the Department were to the Department and the Secretary of State.

(5) The following provisions—
- (a) Article 5(7) (person having parental responsibility not to act inconsistently with order);
- (b) Article 52(3) to (6), (7)(a) and (9) (effect of care order); and
- (c) Article 53(1) to (9) (parental contact),

apply as if the custody care order (or the other order or the placing of the child in a place of safety) were a care order and the appropriate authority were the authority designated by it and in whose care the child is.

(6) Articles 8 to 14 (residence, contact etc. orders) and Articles 17 to 24 (children in need) do not apply.

(7) No care order or supervision order under Part 5 may be made or, if such an order has already been made, it does not have effect.

44C Escape from secure accommodation

(1) If a child who has been ordered to be kept in secure accommodation under a custody care order—

(a) escapes from secure accommodation in which he is being kept or from any hospital or institution in which he is receiving medical treatment;

(b) being absent from secure accommodation on temporary leave of absence or under supervision, runs away from the person in whose charge he is or fails to return to the secure accommodation at the end of his leave; or

(c) being absent from secure accommodation under supervision, fails to return to the secure accommodation on being recalled,

he may be arrested without warrant by a constable or any person authorised by the appropriate authority and taken to any secure accommodation, or (if he has attained the age of 14) to any juvenile justice centre, or returned to any hospital or institution from which he escaped or to any person in whose charge he was.

(2) A child arrested under paragraph (1) may at any time be brought with the authority of the Secretary of State before a court of summary jurisdiction having jurisdiction where the child is found or where the secure accommodation, hospital or institution is situated.

(3) Where a child is brought before a court under paragraph (2), the court—

(a) may order the period for which he is to be detained under the custody care order to be increased by a further period not exceeding 30 days; but

(b) if it does not do that, shall revoke the custody care order and deal with the child in any manner in which the court could deal with him if he had just been found guilty of the offence by the court.

(4) In dealing with a child under paragraph (3)(b) the court shall take into account the period for which the custody care order would, but for its revocation, have continued in effect.

(5) If any person—

(a) knowingly assists a child who escapes, runs away or fails to return as mentioned in paragraph (1) or knowingly induces any child to so escape, run away or fail to return;

(b) without lawful authority takes a child away from any accommodation, hospital, institution or person as is mentioned in that paragraph; or

(c) knowingly harbours or conceals a child who escapes, runs away or fails to return as mentioned in paragraph (1), or prevents him from returning,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding six months, or to both.

44D Taking of children to secure accommodation

(1) The court which makes a custody care order shall cause it to be delivered to the constable or other person responsible for taking the child to the secure accommodation in which he is to be placed, and the person who takes him there shall deliver the order to the appropriate authority.

(2) The court by which a custody care order is made shall cause a record, containing such information in the possession of the court with respect to the child as is in the opinion of the court likely to be of assistance to the appropriate authority, to be sent to that authority.

(3) Where a child is taken to a juvenile justice centre by virtue of Article 44A(8), the appropriate authority shall send a copy of the record sent to it under paragraph (2) to the managers or person for the time being in charge of the juvenile justice centre.

(4) Where a child has been ordered to be placed in secure accommodation, any person who harbours or conceals him after the time has come for him to go there shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.

(5) Where a constable or other person authorised to take a child to secure accommodation is, when the time has come for him to go there, unable to find him or unable to obtain possession of him, a lay magistrate, if satisfied by complaint on oath that there is a reasonable ground for believing that some person named in the complaint can produce the child, may issue a summons requiring the person so named to attend at a court of summary jurisdiction on such day as may be specified in the summons and produce the child.

(6) If the person required by the summons to produce the child fails without reasonable excuse to do so, he shall, in addition to any other liability to which he may be subject under the provisions of this Order, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

44E Supervision under custody care order

(1) During the period of supervision under a custody care order, the child shall be under the supervision of a probation officer or such other person as the Secretary of State may designate.

(2) Before the commencement of the period of supervision—
  (a) the appropriate authority shall give him a notice specifying—
    (i) the period of supervision; and
    (ii) the person under whose supervision he will be; and
  (b) the person under whose supervision he will be shall give him a notice specifying any requirements with which he must comply.

(3) During the period of supervision the person under whose supervision the offender is or another person designated by the Secretary of State may give

the child a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) or (b).

(4) The Secretary of State may make rules regulating the supervision of a child subject to a custody care order.

(5) Rules under paragraph (4) are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules.

(6) The Secretary of State may pay the expenses incurred by any person designated under paragraph (1) arising from the supervision of a child under this Article.

44F Breach of supervision requirements

(1) Where a custody care order has been made in respect of a child and it appears, on a complaint made to a lay magistrate, that the child has failed to comply with any requirements under Article 44E(2) or (3), the lay magistrate may—
   (a) issue a summons directed to the child requiring him to appear before a youth court specified in the summons; or
   (b) if the complaint is in writing and on oath, issue a warrant for the child's arrest requiring him to be brought before a youth court specified in the warrant.

(2) If it is proved to the satisfaction of the court before which the child appears or is brought under this Article that he has failed without reasonable excuse to comply with requirements under Article 44E(2) or (3), the court may—
   (a) if he has not attained the age of 14, deal with him as specified in paragraph (3); and
   (b) if he has attained that age, deal with him as specified in paragraph (4).

(3) If the child has not attained the age of 14, the court may either—
   (a) impose on him a fine not exceeding £200; or
   (b) order him to be placed in secure accommodation by the appropriate authority and kept there by the appropriate authority for a period not exceeding 30 days;

   but the appropriate authority may, with the consent of the Secretary of State, at any time discharge a child who is being so kept.

(4) If the child has attained the age of 14, the court may either—
   (a) impose on him a fine not exceeding £1,000; or
   (b) order him to be detained in a juvenile justice centre for a period not exceeding 30 days.

(5) Where the court imposes a fine on the child under paragraph (3)(a) or (4)(a), it shall order that the fine be paid by the parent or guardian of the child instead of by the child, unless it is satisfied that there is good reason for not so doing.

(6) A fine ordered under paragraph (5) to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence for which the custody care order was made.

(7) A parent or guardian may appeal to a county court against an order under paragraph (5).

(8) Any period of supervision shall not be reduced by any period during which the child is detained under this Article.

44G **Effect of subsequent conviction where custody care order is in effect**

(1) Where a child in respect of whom a custody care order is (or but for Article 44A(8) would be) in effect is convicted by or before a court of an offence and the court imposes a custodial sentence on the child for the offence, the court shall—

(a) revoke the order; and

(b) in dealing with the child for the offence take into account the period for which, but for the revocation, the order would have continued in effect.

(2) Where in such a case the court decides to make a custody care order, Article 44A shall have effect as if—

(a) in paragraph (3) for the words from "a period of six months" to "two years" there were substituted "such period not exceeding two years as the court specifies in the order"; and

(b) in paragraph (6) for the words "one half of the period of the order" there were substituted "such part of the period of the order as the court specifies in the order".

(3) Where in such a case the court decides to make a juvenile justice centre order, Article 39 shall have effect as if—

(a) in paragraph (2) for the words from "a period of six months" to "two years" there were substituted "such period not exceeding two years as the court specifies in the order"; and

(b) in paragraph (5) for the words "one half of the period of the order" there were substituted "such part of the period of the order as the court specifies in the order"."

Youth conferences

57 Youth conferences and youth conference plans

After Article 3 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert—

"3A **Youth conferences**

(1) In this Order "youth conference", in relation to a child and an offence, means a meeting, or series of meetings, for considering how the child ought to be dealt with for the offence.

(2) A meeting does not constitute, or form part of, a youth conference unless the following persons participate in it—

(a) a youth conference co-ordinator (as chairman);

(b) the child;

(c) a police officer; and

(d) an appropriate adult.

(3) The Secretary of State must designate persons employed in—

(a) the civil service of the United Kingdom; or

(b) the civil service of Northern Ireland,

to be youth conference co-ordinators.

(4) Except where the child is in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995 (N.I. 2)), "appropriate adult" means a parent or guardian of the child or, if no parent or guardian of the child is able and willing to participate in the meeting—

(a) a social worker of the appropriate authority or a legal representative of the child; or

(b) if no-one within sub-paragraph (a) is able and willing to participate in the meeting, any responsible person who has attained the age of 18 and is neither a police officer nor a member of the police support staff.

(5) Where the child is in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995), "appropriate adult" means a social worker of the authority.

(6) The following persons are entitled to participate in any meeting constituting, or forming part of, a youth conference—

(a) the victim of the offence or, if the victim is not an individual, an individual representing the victim;

(b) a legal representative of the child acting as his adviser; and

(c) if a community order or youth conference order is in force in respect of the child or the child is subject to supervision under a juvenile justice centre order or custody care order, the supervising officer.

(7) The supervising officer is—

(a) in the case of a probation order, the probation officer responsible for the child's supervision under the order;

(b) in the case of a community service order, the person who is the relevant officer for the purposes of Articles 13 and 14 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) ;

(c) in the case of a combination order, either of the persons mentioned in sub-paragraphs (a) and (b);

(d) in the case of an attendance centre order, the officer in charge of the attendance centre specified in the order;

(e) in the case of a community responsibility order, reparation order or youth conference order, the responsible officer; or

(f) in the case of a juvenile justice centre order or custody care order, the probation officer or person designated by the Secretary of State who is supervising the child.

(8) A youth conference co-ordinator may allow other persons—

(a) to participate in any meeting constituting, or forming part of, a youth conference; or

(b) to attend any such meeting for any purpose specified by him,

if he considers that their participation, or attendance for that purpose, would be of value.

(9) Where a youth conference is convened with respect to a child and an offence, neither—

(a) the fact that it has been convened; nor

(b) anything said or done (or omitted to be said or done) in or in connection with any meeting constituting, or forming part of, the youth conference,

is admissible in any criminal proceedings as evidence that the child committed the offence.

3B Youth conference rules

(1) The Secretary of State may make rules about the procedure of youth conferences.

(2) The rules may, in particular, make provision—

(a) conferring or imposing functions on youth conference co-ordinators (which may include power to exclude from a meeting constituting, or forming part of, a youth conference persons otherwise entitled to participate in it by virtue of Article 3A(6)); and

(b) about the period within which youth conferences must be completed and functions of youth conference co-ordinators must be performed.

(3) Rules under this Article are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules.

3C Youth conference plans

(1) In this Order "youth conference plan", in relation to a child and an offence, is a proposal made by a youth conference co-ordinator (after a youth conference convened with respect to the child and the offence has been completed) that the child be required to do one or more of the following—

(a) apologise to the victim of the offence or any person otherwise affected by it;

(b) make reparation for the offence to the victim or any such person or to the community at large;

(c) make a payment to the victim of the offence not exceeding the cost of replacing or repairing any property taken, destroyed or damaged by the child in committing the offence;

(d) submit himself to the supervision of an adult;

(e) perform unpaid work or service in or for the community;

(f) participate in activities (such as activities designed to address offending behaviour, offering education or training or assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs);

(g) submit himself to restrictions on his conduct or whereabouts (including remaining at a particular place for particular periods); and

(h) submit himself to treatment for a mental condition or for a dependency on alcohol or drugs.

(2) A youth conference plan may specify a requirement under paragraph (1)(e) only if the child has attained the age of 16.

(3) A youth conference plan may specify requirements applying only in specified circumstances.

(4) A youth conference plan must specify the period during which the child must comply with the requirements specified in it.

(5) That period must not be more than one year.

(6) A youth conference plan must specify the date on which (subject to Article 10D(2) or 36J(2)) the child must begin to comply with the requirements specified in it.

(7) The fact that a child has been subject to a youth conference plan in respect of an offence may be cited in criminal proceedings in the same circumstances as a finding that the child committed the offence may be so cited.

(8) The Secretary of State may make procedural rules about youth conference plans which may (in particular) include provision about the period within which functions of persons required to monitor compliance with youth conference plans must be performed.

(9) Rules under paragraph (8) are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules."

58 Diversionary youth conferences

After Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert—

"**PART 3A**

DIVERSIONARY YOUTH CONFERENCES

10A Diversionary youth conferences

(1) The Director may, where he considers it appropriate to do so, refer a case to a youth conference co-ordinator for him to convene a diversionary youth conference with respect to a child and an offence if—

(a) the Director has the conduct of proceedings instituted against the child in respect of the offence (whether by him or any other person); or

(b) he would (but for this Article) institute proceedings against the child in respect of the offence.

(2) A diversionary youth conference is a youth conference convened with a view to the making to the Director by a youth conference co-ordinator of one of the following recommendations—

(a) that no further action be taken against the child in respect of the offence;
(b) that proceedings against the child in respect of the offence be continued or instituted;
(c) that the child be subject to a youth conference plan in respect of the offence.

(3) The Director must not make a reference under this Article unless the child—
(a) admits to the Director that he has committed the offence; and
(b) agrees with the Director that he will participate in a diversionary youth conference with respect to the offence.

(4) The Director must not make a reference under this Article unless—
(a) he has been given notice by the Secretary of State that provision for youth conferences has been made for the area in which it appears to him that the child resides or will reside; and
(b) the notice has not been withdrawn.

(5) If the Director makes a reference under this Article, proceedings against the child in respect of the offence may not be continued or instituted—
(a) until he has received a report under Article 10C following the completion of the diversionary youth conference; or
(b) if the diversionary youth conference is terminated before completion or does not take place, until he has received a report under Article 10B(1)(b).

(6) If a recommendation under paragraph (2) is made to the Director, he must consider whether to accept or reject it.

(7) If the Director accepts a recommendation made under paragraph (2)(c), proceedings against the child in respect of the offence may not be continued or instituted unless the child has failed to comply with the requirements specified in the youth conference plan to a significant extent.

(8) In determining whether the child has failed to comply with the requirements specified in the youth conference plan to a significant extent the Director or a court must have regard to any report made by a youth conference co-ordinator under Article 10D with respect to the child and the youth conference plan.

(9) References in this Article to proceedings being continued against a child do not include adjournment of the proceedings or remanding the child on bail (or in custody).

(10) At any time after the Director makes a reference under this Article, he may require that, unless a court remands the child on bail (or in custody), it must adjourn any proceedings against the child in respect of the offence until such time (if any) as he continues the proceedings in accordance with this Article.

(11) At any time after the Director makes a reference under this Article but before such time (if any) as he continues proceedings against the child for the offence, a court may in the absence of the child—
(a) adjourn or further adjourn the proceedings; and
(b) where the child has been remanded on bail, order the child to be remanded on bail for such further period as may be deemed reasonable (in which case any recognisance requiring or conditioned for the

appearance of the child before the court shall be deemed to be varied so as to require his appearance at the time and place to which he is so remanded).

10B **References: supplementary**

(1) If a child withdraws an admission or agreement made under Article 10A(3) before the diversionary youth conference is completed—

(a) the diversionary youth conference is terminated (or, if not yet started, does not take place); and

(b) a youth conference co-ordinator must make to the Director a written report stating that the child has withdrawn such an admission or agreement (and nothing else).

(2) The fact that a child has made or withdrawn such an admission or agreement is not admissible in any criminal proceedings as evidence that he committed the offence.

(3) If proceedings against a child in respect of an offence are continued or instituted by virtue of Article 10A(7), a court dealing with the child for the offence must have regard to anything done by the child in compliance with the requirements specified in the youth conference plan.

(4) Where there is a limit on the time for instituting proceedings in respect of an offence with respect to which a reference is made under Article 10A, in calculating when that limit is reached there shall be disregarded the period—

(a) beginning with the making of the reference; and

(b) ending with the receipt by the Director of a report under paragraph (1)(b) or Article 10C or 10D in consequence of the reference or, if more than one such report is so received, with the receipt of the last of them.

(5) For the purposes of Article 10A and this Article proceedings are instituted in respect of an offence—

(a) where a summons is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981 (N.I. 26), when the complaint for the offence is made under that Article;

(b) where a warrant is issued for the arrest of any person under that Article, when the complaint for the offence is made under that Article;

(c) where a person is charged with the offence after being taken into custody without a warrant, when he is informed of the particulars of the charge; and

(d) where an indictment is presented under section 2 of the Grand Jury (Abolition) Act (Northern Ireland) 1969 (c. 15 (N.I.)) in a case falling within paragraph (c) or (e) of subsection (2) of that section, when the indictment is presented to the court.

(6) Where the application of paragraph (5) would result in there being more than one time for the institution of the proceedings, they are to be taken to have been instituted at the earliest of those times.

10C **Recommendations: supplementary**

(1) A youth conference co-ordinator may not make a recommendation under Article 10A(2)(c) unless—

(a) the child agrees to be subject to the youth conference plan;

(b) any person (other than the child) by whom any action falls to be taken under the youth conference plan agrees to take the action; and

(c) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.

(2) If a youth conference co-ordinator makes a recommendation under Article 10A(2)(b), he may also recommend anything which he could recommend to a court under paragraph (5) of Article 33A if the case had been referred by the court for him to convene a youth conference under that Article (after a finding that the child was guilty of the offence).

(3) A recommendation made to the Director by a youth conference co-ordinator under Article 10A(2) must be made in the form of a written report.

(4) If the recommendation is made under Article 10A(2)(c), the report must include details of the youth conference plan.

(5) If, after the completion of a diversionary youth conference, a youth conference co-ordinator is unable to make any recommendation under Article 10A(2), he must make a written report of that fact to the Director.

10D **Plans: compliance and variation**

(1) This Article applies when the Director has accepted a recommendation made under Article 10A(2)(c).

(2) The date on which the child must begin to comply with the requirements specified in the youth conference plan is the date specified in the youth conference plan under Article 3C(6) or such other date as the Director may, with the consent of the youth conference co-ordinator, determine.

(3) A youth conference co-ordinator, or other person, nominated by the Secretary of State must monitor compliance by the child with the requirements specified in the youth conference plan.

(4) If, during the period specified in the youth conference plan, the person required to monitor the child's compliance with the requirements specified in the youth conference plan considers that the child has not been complying with them, he must make a written report to the Director.

(5) The report must contain details of the respects in which he considers that the child has not been complying with the requirements.

(6) When the period specified in the youth conference plan ends, the person required to monitor the child's compliance with the requirements specified in the youth conference plan must make a written report to the Director.

(7) The report must contain—

(a) an assessment of the extent (if any) to which he considers that the child has complied with the requirements specified in the youth conference plan; and

(b) such further information as he thinks may assist in the exercise of the functions of the Director with respect to the child and the offence concerned.

(8) The person required to monitor the child's compliance with the requirements specified in the youth conference plan may, with the consent of the Director, vary the youth conference plan.

(9) But the youth conference plan may not be varied unless—

(a) the child agrees to the variation;

(b) if the variation relates to any action falling to be taken by any person (other than the child), that person agrees to the variation; and

(c) if the variation relates to any action required to be taken by the child in relation to another person, that person agrees to the variation.

(10) The Secretary of State may pay the expenses incurred by a person who is not a youth conference co-ordinator in performing functions under this Article."

59 Court-ordered youth conferences

After Article 33 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert—

"Youth conferences

33A **Court-ordered youth conferences**

(1) Subject to Articles 33B and 33C, a court must refer the case of a child who has been found guilty of an offence by or before the court to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence, unless the offence falls within paragraph (2).

(2) The offences falling within this paragraph are—

(a) offences the sentence for which is, in the case of an adult, fixed by law as imprisonment for life;

(b) offences which are, in the case of an adult, triable only on indictment; and

(c) offences which are scheduled offences for the purposes of Part 7 of the Terrorism Act 2000 (c. 11).

(3) If a child has been found guilty by or before a court of an offence which—

(a) falls within sub-paragraph (b) or (c) of paragraph (2); but

(b) does not fall within sub-paragraph (a) of that paragraph,

the court may, where it considers it appropriate to do so, refer the case to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence.

(4) Where a child—

(a) is in breach of a community order or youth conference order and falls to be dealt with by a court for the offence in respect of which the order was made as if he had just been found guilty of the offence; or

(b) appeals to a court against any sentence or order imposed on him in respect of an offence,

the court may, where it considers it appropriate to do so, refer the case to a youth conference co-ordinator for him to convene a court-ordered youth conference with respect to the child and the offence.

(5) A court-ordered youth conference is a youth conference convened with a view to the making to the court by a youth conference co-ordinator of one of the following recommendations—

(a) that the court exercise its powers (apart from Article 36J) to deal with the child for the offence;

(b) that the child be subject to a youth conference plan in respect of the offence; or

(c) that the court exercise its powers to deal with the child for the offence by imposing a custodial sentence and that the child be subject to a youth conference plan in respect of the offence.

(6) A court must not make a reference under this Article unless the child agrees that he will participate in a court-ordered youth conference with respect to the offence.

(7) And if the child withdraws his agreement before the court-ordered youth conference is completed, the court-ordered youth conference is terminated (or, if not yet started, does not take place).

(8) If a court makes a reference under this Article, the court may not deal with the child for the offence until the court has received a report under Article 33E(3) or (7) following the completion of the court-ordered youth conference (or the court-ordered youth conference is terminated before completion or does not take place).

(9) If a recommendation is made to a court under paragraph (5), the court must consider it before dealing with the child for the offence.

(10) The Secretary of State may by order amend paragraphs (1) to (3); and an order under this paragraph may include any incidental, consequential, transitional or supplementary provision (including the amendment, or repeal or revocation, of any statutory provision whenever passed or made, including any provision of this Order) which appears to the Secretary of State to be appropriate.

(11) An order under paragraph (10) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such an order.

33B **Associated offences**

(1) This Article applies where a child has been found guilty by or before a court of associated offences.

(2) If one or more of the offences is an offence which falls within sub-paragraph (a) of paragraph (2) of Article 33A, the court must not make a reference under that Article with respect to any of the offences.

(3) Subject to that, if—

(a) one or more of the offences is an offence which falls within sub-paragraph (b) or (c) of that paragraph; but

(b) the remaining offence, or (where more than one) each of the remaining offences, is not an offence which falls within either of those sub-paragraphs,

the court is not required to make a reference under Article 33A with respect to any of the offences but may make such a reference with respect to any or all of them.

33C **References: supplementary**

(1) A court must not make a reference under Article 33A unless—

(a) the Secretary of State has given the clerk of the court notice that provision for youth conferences has been made for the area in which it appears to the court that the child resides or will reside, and

(b) the notice has not been withdrawn.

(2) Paragraph (1) of Article 33A does not require the court by or before which a child is found guilty of an offence to make a reference under that Article if—

(a) a diversionary youth conference has been completed with respect to the child and the offence; and

(b) the youth conference co-ordinator made a recommendation under Article 10A(2)(c) or 10C(2);

but in such circumstances the court may make such a reference if it considers it appropriate to do so.

(3) Where a court does not make a reference under Article 33A in reliance on paragraph (2), the recommendation made under Article 10A(2)(c) or 10C(2) is to be regarded as having been made to the court under Article 33A(5).

(4) If a court does not refer a case to a youth conference co-ordinator where it has power to do so—

(a) it must give its reasons in open court; and

(b) if it is a magistrates' court, it must cause the reason to be entered in the Order Book.

(5) A court must not make a reference under Article 33A with respect to a child and an offence if it proposes to deal with the child for the offence by making an order discharging him absolutely or conditionally.

(6) But if a child falls to be dealt with by a court for an offence under Article 5(6), (7) or (8) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) (offences committed during period of conditional discharge), Article 33A applies as if he had been found guilty of the offence by or before the court.

(7) Where a court defers passing sentence on a child for an offence under Article 3 of the Criminal Justice (Northern Ireland) Order 1996, any duty imposed on the court by Article 33A(1) must be complied with before the passing of sentence.

(8) Where the case of a child found guilty of an offence is remitted to a youth court under Article 32(1), the youth court (and not the court remitting the case) is to be treated for the purposes of the provisions about court-ordered youth conferences as the court by or before which the child is found guilty of the offence.

33D **Termination of youth conference**

(1) This Article applies where a court has referred a case to a youth conference co-ordinator for him to convene a court-ordered youth conference.

(2) The court may, on the application of a youth conference co-ordinator, order that the youth conference be terminated (or, if not yet started, is not to take place).

(3) The court may so order only if satisfied that the court-ordered youth conference would serve no useful purpose.

(4) Before making an application under paragraph (2), the youth conference co-ordinator must consult the other persons specified in Article 3A(2).

33E **Recommendations: supplementary**

(1) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(b) unless—
   (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and
   (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.

(2) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(c) unless—
   (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and
   (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.

(3) A recommendation to the court by a youth conference co-ordinator under Article 33A(5) must be made in the form of a written report.

(4) If the recommendation is made under Article 33A(5)(a), the report—
   (a) where recommending that the court should exercise its powers by imposing a custodial sentence, must not specify what sort of custodial sentence the court should impose or for what period; and
   (b) where recommending that the court should exercise its powers otherwise than by imposing a custodial sentence, may include details of how it is recommended that the court should exercise its powers.

(5) If the recommendation is made under Article 33A(5)(b), the report must include details of the youth conference plan.

(6) If the recommendation is made under Article 33A(5)(c), the report—

(a) must not specify what sort of custodial sentence the court should impose or for what period; but

(b) must include details of the youth conference plan.

(7) If, after the completion of a court-ordered youth conference, a youth conference co-ordinator is unable to make any recommendation under Article 33A(5), he must make a written report of that fact to the court giving the reasons why he is unable to do so.

(8) A report under this Article must be accompanied by copies of any reports obtained for the purposes of the court-ordered youth conference."

60 Youth conference orders

After Article 36I of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (inserted by section 55 of this Act) insert—

"Youth conference orders

36J **Youth conference orders**

(1) Where a recommendation is made to a court under Article 33A(5)(b) or (c), the court may make a youth conference order in relation to the offender to whom the recommendation relates.

(2) A youth conference order is an order requiring the offender—

(a) to comply with the requirements specified in the youth conference plan; or

(b) to comply with those requirements as varied by the order;

and the order must specify as the date when the offender must begin so to comply either the date specified in the youth conference plan under Article 3C(6) or such other date as the court may, with the consent of the youth conference co-ordinator, determine.

(3) A court must not make a youth conference order unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant it.

(4) In forming any such opinion the court must take into account all information about the circumstances of the offence, or of the offence and the offence or offences associated with it, (including any aggravating or mitigating factors) which is available to it.

(5) The court must not make a youth conference order unless the offender consents.

(6) The court must not make a youth conference order under paragraph (2)(b) unless it has consulted the youth conference co-ordinator.

(7) If the court does not make a youth conference order under paragraph (2)(a) in a case where it has power to do so, it must give its reasons in open court.

(8) Where the court makes a youth conference order, it may not exercise any other power it has to deal with the offender for the offence.

(9) But if the recommendation to the court was made under Article 33A(5)(c) the court may, if the offender consents, also impose any custodial sentence which the court has power to impose for the offence.

36K Supplementary provisions about youth conference orders

(1) Before making a youth conference order, the court must state in open court that it is of the opinion that Article 36J(3) applies and why it is of that opinion.

(2) Before making a youth conference order, the court must explain to the offender in ordinary language—
   (a) why it is making the order;
   (b) the effect of the order and of the requirements proposed to be included in it;
   (c) the consequences which may follow under Schedule 1A if he fails to comply with those requirements; and
   (d) that the court has power under that Schedule to review the order on the application either of the offender or of the responsible officer.

(3) In this Order "responsible officer", in relation to an offender subject to a youth conference order, means the youth conference co-ordinator, or other person designated by the Secretary of State, who is specified in the order.

(4) If the court is a magistrates' court, it must cause any reasons given under Article 36J(7) or paragraph (1) or (2)(a) to be entered in the Order Book.

(5) A youth conference order must name the petty sessions district in which it appears to—
   (a) the court making the order; or
   (b) the court amending under Schedule 1A any provision included in the order,

   that the offender resides or will reside.

(6) The court by which a youth conference order is made must immediately give copies of the order to—
   (a) the offender subject to the order;
   (b) his parent or guardian; and
   (c) the responsible officer.

(7) Except where the court is itself a magistrates' court acting for the petty sessions district specified in the order, the court must send to the clerk of petty sessions for the petty sessions district so specified—
   (a) a copy of the order; and
   (b) such documents and information relating to the case as it considers likely to be of assistance to a youth court acting for that district in exercising its functions in relation to the order.

(8) Schedule 1A (which makes provision for dealing with failures to comply with youth conference orders and for their revocation and amendment) shall have effect.

36L **Monitoring compliance with youth conference orders**

(1) The responsible officer must monitor compliance by the offender with the youth conference order.

(2) The Secretary of State may make rules regulating the monitoring by the responsible officer of an offender subject to a youth conference order.

(3) Rules under paragraph (2) are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such rules.

(4) The Secretary of State may pay the expenses incurred by a person who is not a youth conference co-ordinator in performing functions as the responsible officer."

61 Legal aid for youth conferences

(1) The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) has effect subject to the following amendments.

(2) After Article 28 insert—

"28A **Free legal aid for diversionary youth conferences**

(1) Where a diversionary youth conference has been, or is to be, convened with respect to a child, he may make an application for free legal aid to a magistrates' court.

(2) An application under paragraph (1) shall be made—
(a) by a written statement in the prescribed form addressed to the clerk of petty sessions for a magistrates' court; or
(b) if an application under sub-paragraph (a) is refused, in person to a magistrates' court.

(3) If, on an application made under paragraph (1), it appears to the court that—
(a) the means of the child are insufficient to enable him to obtain legal aid; and
(b) it is desirable in the interests of justice that he should have free legal aid in preparing for and participating in the diversionary youth conference,

the court may grant in respect of him a criminal aid certificate.

(4) A person in respect of whom a criminal aid certificate has been granted under this Article shall be entitled to have—
(a) a solicitor; and
(b) subject to paragraph (5), counsel,

assigned to him for that purpose in such manner as may be prescribed by rules made under Article 36.

(5) Free legal aid given for the purposes of any diversionary youth conference shall not include representation by counsel except where—

(a) the offence with respect to which the diversionary youth conference is convened is an indictable offence; and

(b) the court is of the opinion that, because of circumstances which make the case unusually grave or difficult, representation by both solicitor and counsel would be desirable."

(3) After Article 35 insert—

"35A **Court-ordered youth conferences**

(1) In this Part references to—

(a) the preparation and conduct of a person's defence before a court or at a trial;

(b) the preparation and conduct of an appeal; and

(c) resisting an appeal,

include preparation for and participation in any court-ordered youth conference (but not any diversionary youth conference).

(2) In Article 29, as it applies by virtue of paragraph (5) of that Article, references to free legal aid to which a person appearing or brought before the Crown Court to be dealt with is entitled include free legal aid in the preparation for and participation in any court-ordered youth conference (but not any diversionary youth conference)."

Other provisions

62 Orders: enforcement etc.

After Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) insert the Schedule set out in Schedule 10 to this Act which makes provision about the enforcement etc. of reparation orders, community responsibility orders and youth conference orders.

63 Extension of youth justice system to 17 year olds

(1) Schedule 11 makes amendments of enactments and instruments for extending the youth justice system to 17 year olds.

(2) The Secretary of State may by order make provision amending any other enactments or instruments (whenever passed or made) for, or in connection with, extending the youth justice system to 17 year olds.

64 Juvenile justice centre orders for 17 year olds

In Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (juvenile justice centre orders for offences punishable in the case of an adult with imprisonment), after paragraph (3) insert—

"(3A) A court shall only make a juvenile justice centre order in the case of a child who has attained the age of 17 if—

(a) he will not become an adult during the period of the order;

(b) he has not had a custodial sentence imposed on him within the last two years; and

(c) the court, after considering a report made by a probation officer, considers that it is in his best interests to make such an order."

65 Consultation about detention

In Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (punishment of children convicted of certain grave crimes), after paragraph (2) insert—

"(2A) Before giving a direction under paragraph (1) or (2) in relation to a child who has not attained the age of 14, the Secretary of State must consult the appropriate authority."