

SCHEDULES

SCHEDULE 10

Section 62

YOUTH JUSTICE ORDERS: ENFORCEMENT ETC.

The Schedule to be inserted after Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) is as follows—

“SCHEDULE 1A

Articles 36D, 36I and 36K

BREACH, REVOCATION AND AMENDMENT OF REPARATION ORDERS, COMMUNITY RESPONSIBILITY ORDERS AND YOUTH CONFERENCE ORDERS

Introductory

- 1 (1) In this Schedule “relevant order” means a reparation order, a community responsibility order or a youth conference order.
- (2) In this Schedule “the appropriate court”, in relation to a relevant order, means a youth court acting for the petty sessions district for the time being named in the order under Article 36D(1), 36I(1) or 36K(5).
- (3) For the purposes of this Schedule a relevant order made on an appeal brought from a magistrates' court is to be treated as if made by the magistrates' court; and a relevant order made on appeal brought from the Crown Court or from the Court of Appeal is to be treated as if made by the Crown Court.

Breach of relevant order

- 2 (1) Paragraphs 3 and 4 make provision for dealing with an offender if, while a relevant order is in force in respect of him, it is proved to the satisfaction of the appropriate court, on the application of the responsible officer, that the offender has failed to comply with any requirement of the order.
- (2) But nothing in those paragraphs prevents the appropriate court from making an order revoking, amending or extending the relevant order under paragraph 5 in such circumstances.
- (3) In dealing with an offender under paragraph 3 or 4, a court must take into account the extent to which he has complied with the requirements of the relevant order.
- (4) An offender who is required by a youth conference order to submit to treatment for a mental condition, or for a dependency on drugs or alcohol, is not to be treated for the purposes of paragraph 3 or 4 as having failed to comply with that requirement on the ground only that he has refused to undergo any treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.

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Order as punishment for breach

- 3 (1) The court may—
- (a) in the case of a reparation order, make an attendance centre order in respect of the offender; or
 - (b) in the case of a community responsibility order or a youth conference order, make an attendance centre order or a community service order in respect of him.
- (2) The court may make an order under sub-paragraph (1) whether or not it also makes an order revoking, amending or extending the relevant order under paragraph 5.
- (3) Articles 37 and 38 of this Order have effect in relation to attendance centre orders under sub-paragraph (1), but as if the references in paragraph (1) of Article 37 to any court having (or, but for certain provisions, having) the power mentioned in that paragraph were to the appropriate court.
- (4) Article 13(1), (4), (6), (7)(b) to (9) and (11) and Article 14 of the [Criminal Justice \(Northern Ireland\) Order 1996 \(N.I. 24\)](#) have effect in relation to community service orders under sub-paragraph (1)(b), but as if—
- (a) the reference in paragraph (1) of Article 13 to a court by or before which a person is convicted of an offence punishable with imprisonment were to the appropriate court; and
 - (b) the reference in that paragraph to the age of a person when convicted were to his age when the appropriate court determines that he has failed to comply with any requirement in a community responsibility order or youth conference order.
- (5) Article 13(2) of that Order has effect in relation to community service orders under sub-paragraph (1)(b), but as if for sub-paragraphs (a) and (b) there were substituted “not more than 60 hours”.
- (6) Schedule 2 to that Order has effect in relation to a community service order under sub-paragraph (1)(b), but as if references to the offence were to the failure to comply with the order in respect of which the community service order was made.
- (7) Article 8(1) and (2) and Article 9 of that Order do not apply to any order under sub-paragraph (1).

Re-sentencing for breach

- 4 (1) Where the relevant order was made by a magistrates' court, the appropriate court may (instead of making an order under paragraph 3)—
- (a) revoke the order (if it is still in force); and
 - (b) deal with the offender, for the offence in respect of which it was made, in any way in which it could deal with him if he had just been found guilty of the offence by the court.
- (2) Where the relevant order was made by the Crown Court, the appropriate court may (instead of making an order under paragraph) commit the offender to custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where the appropriate court deals with an offender under sub-paragraph (2), it must send to the Crown Court a certificate signed by a resident magistrate giving—

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- (a) particulars of the offender's failure to comply with the requirement in question; and
 - (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.
- (4) Where it is proved to the satisfaction of the Crown Court that an offender brought or appearing before the court by virtue of sub-paragraph (2) has failed to comply with the requirement in question, the court may—
- (a) revoke the order (if it is still in force); and
 - (b) deal with the offender, for the offence in respect of which it was made, in any way in which it could deal with him if he had just been found guilty of the offence by or before the court.
- (5) In proceedings before the Crown Court under sub-paragraph (4) any question whether the offender has failed to comply with the requirements of the relevant order is to be determined by the Crown Court and not by the verdict of a jury.
- (6) In dealing under this paragraph with an offender who has wilfully and persistently failed to comply with a requirement, the court may assume that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent or a youth conference order.

Revocation, amendment and extension of relevant order

- 5 (1) If, while a relevant order is in force in respect of an offender, it appears to the relevant court, on the application of the responsible officer or the offender, that it is appropriate to do so, the court may—
- (a) make an order revoking the relevant order;
 - (b) make an order amending the relevant order; or
 - (c) make an order extending the period specified in Article 3C(5), 36C(3)(b) or 36G(4).
- (2) In this paragraph “the relevant court” means—
- (a) the appropriate court, if the relevant order was made by a magistrates' court; and
 - (b) the Crown Court, if the relevant order was made by the Crown Court.
- (3) The relevant court may make an order under paragraph (c) of sub-paragraph (1) whether or not it also makes an order under paragraph (b) of that sub-paragraph.
- (4) An order under sub-paragraph (1)(b) may amend a relevant order by—
- (a) cancelling any provision of it; or
 - (b) inserting in it (either in addition to or in substitution for any of its provisions) any provision which the relevant court could include if it were then making the order.
- (5) The relevant court must not make an order under sub-paragraph (1)(b) or (c) unless the offender consents.
- (6) But sub-paragraph (5) does not apply to an order—
- (a) cancelling a requirement of the relevant order;
 - (b) reducing the period of any requirement;

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- (c) substituting a new petty sessions district for the one specified in the relevant order; or
 - (d) substituting a new responsible officer for the one specified in the relevant order.
- (7) The relevant court must not make an order under sub-paragraph (1) amending a youth conference order on the application of the offender unless the relevant court has consulted the responsible officer.
- (8) The relevant court must not make an order under sub-paragraph (1)(b) or (c) in relation to a reparation order or youth conference order which affects any action required to be taken by the offender in relation to another person unless that other person agrees.
- (9) The relevant court must not make an order under sub-paragraph (1)(b) or (c) in relation to a youth conference order which affects any action falling to be taken by a person other than the offender unless that person agrees.
- (10) Where an application under sub-paragraph (1)(a) for the revocation of a relevant order is dismissed, no further application for its revocation may be made under that sub-paragraph by any person except with the consent of the relevant court.

Dealing with relevant order when sentencing after subsequent conviction

- 6
- (1) This paragraph applies where an offender in respect of whom a relevant order is in force is dealt with for an offence by the appropriate court, a court of summary jurisdiction other than the appropriate court or the Crown Court.
 - (2) The court may do anything which it could do under paragraph 5 in relation to the order if an application were made to it by the responsible officer (and, in the case of a court which is not the relevant court, it were the relevant court).
 - (3) If the court is the appropriate court or a court of summary jurisdiction other than the appropriate court and the order was made by the Crown Court, sub-paragraph (2) does not apply but the court may commit the offender to custody or release him on bail until he can be brought or appear before the Crown Court.
 - (4) Where a court deals with an offender's case under sub-paragraph (3), it must send to the Crown Court such particulars of the case as may be desirable.
 - (5) Where by virtue of that sub-paragraph an offender is brought or appears before the Crown Court, the Crown Court may do anything which it could do under paragraph 5 if an application were made to it by the responsible officer.

Copies of revoking, amending or extending order

- 7
- (1) On the making of an order under this Schedule revoking, amending or extending a relevant order, the clerk to the court must immediately give a copy of the revoking, amending or extending order to the responsible officer.
 - (2) The responsible officer must give a copy of the revoking, amending or extending order to—
 - (a) the offender subject to the relevant order; and

- (b) his parent or guardian or, if he is in the care of an authority (within the meaning of the [Children \(Northern Ireland\) Order 1995 \(N.I. 2\)](#)), a social worker of the authority.
- (3) Where an amending order amends a relevant order by substituting a new petty sessions district for the one specified in the relevant order, the clerk to the court must also send to the clerk of petty sessions for the new district—
- (a) a copy of the amending order; and
 - (b) such documents and information relating to the case as he considers likely to be of assistance to a youth court acting for that district in exercising its functions in relation to the order.

Presence of offender in court, remands etc.

- 8
- (1) Where the responsible officer makes an application to a court under paragraph 2 or 5, he may bring the offender before the court; and, subject to sub-paragraph (8), a court must not make an order under paragraph 3, 4, 5 or 6 unless the offender is present before the court.
 - (2) The court to which an application under paragraph 2 or 5 is made, or which is considering exercising its powers under paragraph 6, may issue a summons or warrant for the purpose of securing the attendance of the offender before it.
 - (3) Where the offender has failed to appear in answer to a summons, the court must not issue a warrant under sub-paragraph (2) for his arrest unless it is proved that—
 - (a) the summons was duly served on him;
 - (b) he is evading service; or
 - (c) the summons cannot be served on him.
 - (4) Where the offender has failed to appear at an adjourned hearing, the court must not issue a warrant under sub-paragraph (2) unless it is satisfied that reasonable steps have been taken to bring to his attention notice of the time and place of the adjourned hearing.
 - (5) Where the offender is arrested under a warrant issued under sub-paragraph (2) and cannot be brought immediately before the court by which the warrant was issued, the person in whose custody he is—
 - (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it is lawful for him to be detained under the arrangements); and
 - (b) must within that period bring him before the Crown Court (if the warrant was issued by that court and it is reasonably practicable to bring him before that court within that period) or (otherwise) a youth court.
 - (6) Where an offender is brought under sub-paragraph (5)(b) before a youth court which is not the court by which the warrant was issued, that youth court may—
 - (a) direct that he be immediately released on bail until he can appear before the court by which the warrant was issued; or
 - (b) remand him to the place to which it would remand him if making an order under Article 13, or (if he is aged 18 or over) to a remand centre, until he can be brought before that court.

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- (7) Where an application is made to a court under paragraph 2 or 5, or a court is considering exercising its powers under paragraph 6, the court may remand (or further remand) the offender as specified in sub-paragraph (6)(b) if—
- (a) a warrant has been issued under sub-paragraph (2) for the purpose of securing his attendance before the court; or
 - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers.
- (8) A court may make an order under paragraph 5 in the absence of the offender if the effect of the order is confined to one or more of the following—
- (a) revoking the relevant order;
 - (b) cancelling a requirement of the relevant order;
 - (c) reducing the period of any requirement;
 - (d) substituting a new petty sessions district for the one specified in the relevant order; and
 - (e) substituting a new responsible officer for the one specified in the relevant order.”