



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 2

#### SENTENCING

##### *Referral orders*

### 35 Referral conditions

- (1) Section 17 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (the referral conditions) is amended as follows.
- (2) In subsection (1)—
  - (a) after “section 16(2) above” insert “ and subsection (2) below ”,
  - (b) insert “ and ” at the end of paragraph (a), and
  - (c) omit paragraph (c).
- (3) For subsections (1A) and (2) substitute—
  - “(2) For the purposes of section 16(3) above, the discretionary referral conditions are satisfied in relation to an offence if—
    - (a) the compulsory referral conditions are not satisfied in relation to the offence;
    - (b) the offender pleaded guilty—
      - (i) to the offence; or
      - (ii) if the offender is being dealt with by the court for the offence and any connected offence, to at least one of those offences; and
    - (c) subsection (2A), (2B) or (2C) below is satisfied in relation to the offender.

*Status: Point in time view as at 27/04/2009.*

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- (2A) This subsection is satisfied in relation to the offender if the offender has never been convicted by or before a court in the United Kingdom (“a UK court”) of any offence other than the offence and any connected offence.
- (2B) This subsection is satisfied in relation to the offender if the offender has been dealt with by a UK court for any offence other than the offence and any connected offence on only one previous occasion, but was not referred to a youth offender panel under section 16 above on that occasion.
- (2C) This subsection is satisfied in relation to the offender if—
- (a) the offender has been dealt with by a UK court for any offence other than the offence and any connected offence on one or more previous occasions, but has been referred to a youth offender panel under section 16 above on only one previous occasion;
  - (b) an appropriate officer recommends to the court as suitable for the offender a referral to a youth offender panel under that section in respect of the offence; and
  - (c) the court considers that there are exceptional circumstances which justify ordering the offender to be so referred.
- (2D) In subsection (2C)(b) above “appropriate officer” means—
- (a) a member of a youth offending team;
  - (b) an officer of a local probation board; or
  - (c) an officer of a provider of probation services.”
- (4) Omit subsection (5).

#### Commencement Information

II S. 35 in force at 27.4.2009 by S.I. 2009/860, art. 2(2)(a)

### 36 Power to revoke a referral order

- (1) Part 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (mandatory and discretionary referral of young offenders) is amended as follows.
- (2) After section 27 insert—

*“Referrals back to court in the interests of justice*

#### **27A Revocation of referral order where offender making good progress etc.**

- (1) This section applies where, having regard to circumstances which have arisen since a youth offender contract took effect under section 23 above, it appears to the youth offender panel to be in the interests of justice for the referral order (or each of the referral orders) to be revoked.
- (2) The panel may refer the offender back to the appropriate court requesting it—

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- (a) to exercise only the power conferred by sub-paragraph (2) of paragraph 5 of Schedule 1 to this Act to revoke the order (or each of the orders); or
  - (b) to exercise both—
    - (i) the power conferred by that sub-paragraph to revoke the order (or each of the orders); and
    - (ii) the power conferred by sub-paragraph (4) of that paragraph to deal with the offender for the offence in respect of which the revoked order was made.
- (3) The circumstances in which the panel may make a referral under subsection (2) above include the offender's making good progress under the contract.
- (4) Where—
- (a) the panel makes a referral under subsection (2) above in relation to any offender and any youth offender contract, and
  - (b) the appropriate court decides not to exercise the power conferred by paragraph 5(2) of Schedule 1 to this Act in consequence of that referral,
- the panel may not make a further referral under that subsection in relation to that offender and contract during the relevant period except with the consent of the appropriate court.
- (5) In subsection (4) above “the relevant period” means the period of 3 months beginning with the date on which the appropriate court made the decision mentioned in paragraph (b) of that subsection.”
- (3) In paragraph 1(1) of Schedule 1 (youth offender panels: further court proceedings), for “or 27(4)” substitute “, 27(4) or 27A(2) ”.

#### Commencement Information

I2 S. 36 in force at 27.4.2009 by S.I. 2009/860, art. 2(2)(b)

### 37 Extension of period for which young offender contract has effect

- (1) Part 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (mandatory and discretionary referral of young offenders) is amended as follows.
- (2) After section 27A (as inserted by section 36 above) insert—

#### “27B Extension of period for which young offender contract has effect

- (1) This section applies where at any time—
  - (a) a youth offender contract has taken effect under section 23 above for a period which is less than twelve months;
  - (b) that period has not ended; and
  - (c) having regard to circumstances which have arisen since the contract took effect, it appears to the youth offender panel to be in the interests of justice for the length of that period to be extended.

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- (2) The panel may refer the offender back to the appropriate court requesting it to extend the length of that period.
- (3) The requested period of extension must not exceed three months.”
- (3) In Schedule 1 (youth offender panels: further court proceedings), after Part 1 insert—

## “PART 1ZA

### REFERRAL BACK TO APPROPRIATE COURT: EXTENSION OF PERIOD FOR WHICH CONTRACT HAS EFFECT

#### Introductory

- 9ZB (1) This Part of this Schedule applies where a youth offender panel refers an offender back to the appropriate court under section 27B of this Act with a view to the court extending the period for which the offender's youth offender contract has effect.
- (2) For the purposes of this Part of this Schedule and that section the appropriate court is—
- (a) in the case of an offender aged under 18 at the time when (in pursuance of the referral back) the offender first appears before the court, a youth court 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) acting in that area.

#### Mode of referral back to court

- 9ZC The panel shall make the referral by sending a report to the appropriate court explaining why the offender is being referred back to it.

#### Power of court

- 9ZD (1) If it appears to the appropriate court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the contract took effect, the court may make an order extending the length of the period for which the contract has effect.
- (2) An order under sub-paragraph (1) above—
- (a) must not extend that period by more than three months; and
  - (b) must not so extend that period as to cause it to exceed twelve months.
- (3) In deciding whether to make an order under sub-paragraph (1) above, the court shall have regard to the extent of the offender's compliance with the terms of the contract.
- (4) The court may not make an order under sub-paragraph (1) above unless—
- (a) the offender is present before it; and

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- (b) the contract has effect at the time of the order.

### Supplementary

- 9ZE The following paragraphs of Part 1 of this Schedule apply for the purposes of this Part of this Schedule as they apply for the purposes of that Part—
- (a) paragraph 3 (bringing the offender before the court);
  - (b) paragraph 4 (detention and remand of arrested offender); and
  - (c) paragraph 9ZA (power to adjourn hearing and remand offender).”

### Commencement Information

**I3** S. 37 in force at 27.4.2009 by S.I. 2009/860, art. 2(2)(c)

**Status:**

Point in time view as at 27/04/2009.

**Changes to legislation:**

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