Status: *Point in time view as at 12/04/2010. This version of this Order contains provisions that are prospective.*
Changes to legislation: *The Criminal Justice (Children) (Northern Ireland) Order 1998 is up to date with all changes known to be in force on or before 14 May 2024. 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)*

STATUTORY INSTRUMENTS

1998 No. 1504

The Criminal Justice (Children) (Northern Ireland) Order 1998

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Children) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint[F1].

F1	partly exercised by SR 1998/260;SR 1999/25

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order —

"adult" means a person who has attained the age of**[**[F2] 18**]**;

"appropriate authority" means, in relation to a child, the authority within whose area the child is ordinarily resident or, if that is not known, the authority within whose area the child is, and "authority" and "area" have the same meaning as in the Children (Northern Ireland) Order 1995;

[F3] . . . . . .

"attendance centre" has the meaning given by Article 50(1);

"attendance centre order" means an order under Article 37(1);

"child" means a person who is under the age of**[**[F2] 18**]**;

[[F2]"combination order",**]** "community order", "community sentence"**[**[F2], "community service order"**]** and "custodial sentence" have the same meanings as in Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;

[[F2]"community responsibility order" means an order under Article 36E;**]**

"custody officer" has the meaning assigned to it by Article 6(4);

[[F2]"Director" means the Director of Public Prosecutions for Northern Ireland;**]**

"doctor" means a fully registered medical practitioner;

"guardian" includes any person (including an authority) who has for the time being the care of a child;

"health" means physical or mental health;

"juvenile justice centre" has the meaning given by Article 51(1);

"juvenile justice centre order" means an order under Article 39(1);

"managers", in relation to a juvenile justice centre, means the persons for the time being having the management or control of it;

"notice" means notice in writing;

[[F2]"Order Book" means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984 (SR 1984 No. 225);**]**

"parental responsibility" has the meaning assigned to it by Article 6 of the Children (Northern Ireland) Order 1995;

[[F2]"place of safety" has the same meaning as in Article 39(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (N.I. 12);

"police officer" and "police support staff" have the same meaning as in the Police (Northern Ireland) Act 2000 (c. 32);

"probation order" means an order under Article 10 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24);**]**

"relative", in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity), or step-parent;

[[F2]"remand centre" has the same meaning as in the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.));

"reparation order" means an order under Article 36A;

"responsible officer"

(a) in relation to an offender subject to a reparation order, has the meaning assigned to it by Article 36D(2);

(b) in relation to an offender subject to a community responsibility order, has the meaning assigned to it by Article 36E(4); and

(c) in relation to an offender subject to a youth conference order, has the meaning assigned to it by Article 36K(3);

"secure accommodation" means accommodation provided for the purpose of restricting liberty;**]**

"sexual offence" has the meaning assigned to it by Schedule 1;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"violent offence" has the meaning assigned to it by Schedule 1.

[[F2]"youth conference" has the meaning given by Article 3A, "diversionary youth conference" has the meaning given by Article 10A(2) and "court-ordered youth conference" has the meaning given by Article 33A(5);

"youth conference co-ordinator" means a person designated under Article 3A(3);

"youth conference order" has the meaning given by Article 36J(2);

"youth conference plan" has the meaning given by Article 3C.**]**

(3) References in this Order to findings of guilt and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.

[[F2](4) References in this Order to an offence punishable, in the case of an adult, with imprisonment are to be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of adults who are under the age of 21.

(5) References in this Order to associated offences are to be construed in accordance with Article 2(7) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24).**]**

F2 2002 c. 26
F3 Art. 2(2): definitions of "arrestable offence" and "serious arrestable offence" repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 34(1), **Sch. 2**

PART II

GENERAL

Age of responsibility

3. It shall be conclusively presumed that no child under the age of 10 can be guilty of an offence.

[[F4]Youth conferences

3A.—(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.**]**

F4 2002 c. 26

[[F5]Youth conference rules

3B.—(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 **[[F6]**negative resolution**].]**

F5 2002 c. 26

F6 Words in art. 3B(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

[[F7]Youth conference plans

3C.—(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 **[**[F8]negative resolution**].]**

F7 2002 c. 26

F8 Words in art. 3C(9) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Art.4 rep. by 2002 c. 26

Words not to be used in relation to children dealt with summarily

5.—(1) The words "conviction" and "sentence" shall not be used in relation to children dealt with summarily.

(2) Any reference in any statutory provision (whenever passed or made) to a person convicted, a conviction or a sentence shall in the case of a child be construed as including a reference to a child found guilty of an offence, a finding of guilt or an order made upon such finding, as the case may be.

PART III

ARREST AND DETENTION

Child arrested in pursuance of warrant to be released

6.—(1) A child arrested in pursuance of a warrant shall be released if the child or his parent or guardian (with or without sureties) enters into a recognizance for such amount as the custody officer considers will secure the attendance of the child at the hearing of the charge.

(2) A recognizance entered into in pursuance of paragraph (1) may be—

(a) taken before the officer;

(b) conditioned for the attendance of the parent or guardian at the hearing in addition to the child;

(c) enforced in the same manner as a recognizance to appear before a court may be enforced under Article 138 of the Magistrates' Courts (Northern Ireland) Order 1981.

(3) Paragraph (1) shall not apply if the custody officer considers that—

(a) the child was arrested for a **[**[F9]indictable**]** offence; or

(b) for the protection of the public the child should not be released.

(4) In this Order "custody officer" means a member of the Royal Ulster Constabulary performing the functions of custody officer (within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989) at the police station to which the child is brought.

F9 Words in art. 6(3)(a) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 34(2)**

Child apparently under 14 arrested without warrant for offence other than homicide to be released

7.—(1) This Article applies where a child apparently under the age of 14 is arrested without warrant for an offence other than homicide.

(2) If the child cannot forthwith be brought before a magistrates' court, the custody officer shall inquire into the case.

(3) Subject to paragraph (5), the child shall be released if the child or his parent or guardian (with or without sureties) enters into a recognizance for such amount as the custody officer considers will secure the attendance of the child at the hearing of the charge.

(4) A recognizance entered into in pursuance of paragraph (3) may be—

(a) taken before the officer;

(b) conditioned for the attendance of the parent or guardian at the hearing in addition to the child;

(c) enforced in the same manner as a recognizance to appear before a court may be enforced under Article 138 of the Magistrates' Courts (Northern Ireland) Order 1981.

(5) Paragraph (3) shall not apply if the custody officer considers that—

(a) the child was arrested for a **[**[F10]indictable**]** offence; or

(b) for the protection of the public the child should not be released.

F10 Words in art. 7(5)(a) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 34(3)**

Child not released under Article 7

8.—(1) Where a child apparently under the age of 14—

(a) is arrested without warrant for an offence other than homicide; and

(b) is not released under Article 7,

the child shall be brought before a magistrates' court as soon as is practicable and in any case within a period of 36 hours from the time of his arrest.

(2) Paragraph (1) shall not apply if a member of the Royal Ulster Constabulary of a rank not below that of superintendent certifies to a magistrates' court within the period of 36 hours from the time of the child's arrest that by reason of illness or accident the child cannot be brought before the court.

(3) The custody officer shall ensure that the child is moved to[F11] a juvenile justice centre until the child can be brought before a magistrates' court.

(4) Paragraph (3) shall not apply if the custody officer certifies—

(a) that it is impracticable to move the child to[F11] a juvenile justice centre; or

(b) that by reason of his character or his state of health it is inadvisable to do so.

(5) A certificate made under paragraph (4) in respect of a child shall be produced to the court before which he is first brought.

(6) Where under this Article—

(a) a child is brought before a magistrates' court; or

(b) a certificate made under paragraph (2) in respect of a child is produced in a magistrates' court,

the court may remand him.

F11 prosp. subst. by 2002 c. 26

Separation of child in police detention from adults charged with offences

9.—(1) Arrangements shall be made for preventing a child while he is detained in a police station from associating with a person who is charged with any offence other than an offence with which the child is jointly charged.

(2) Paragraph (1) shall not apply where the person is—

(a) a parent or guardian of the child;

(b) a relative of the child; or

(c) a child.

(3) Arrangements shall be made for ensuring that so far as practicable while a child who is a girl is detained in a police station she shall be under the care of a woman.

Duty to inform person responsible for welfare of child in police detention

10.—(1) Where a child is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare and inform him—

(a) that the child has been arrested;

(b) why he has been arrested; and

(c) where he is being detained.

(2) Where information falls to be given under paragraph (1), it shall be given as soon as it is practicable to do so.

(3) For the purposes of this Article the persons who may be responsible for the welfare of a child are—

(a) his parent or guardian; or

(b) any other person who has for the time being assumed responsibility for his welfare.

(4) If it appears that at the time of the child's arrest a supervision order under Part V of the Children (Northern Ireland) Order 1995 or a probation order is in force in respect of him, his supervisor or probation officer shall also be informed as described in paragraph (1) as soon as it is reasonably practicable to do so.

(5) The reference to a parent or guardian in paragraph (3)(a) is, in the case of a child being looked after by an authority (within the meaning of Article 25 of the Children (Northern Ireland) Order 1995), a reference to that authority and the parent or guardian of the child.

(6) The provisions of this Article are in addition to those of Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (right to have someone informed when arrested).

(7) In paragraph (1) the reference to a child who is in police detention includes a reference to a child who has been detained under the terrorism provisions; and the references to arrest include references to such detention.

(8) In paragraph (7) "the terrorism provisions" has the meaning assigned to it by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989.

[[F12]PART 3A

DIVERSIONARY YOUTH CONFERENCES

F12 2002 c. 26

[[F13]Diversionary youth conferences

10A.—(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).**]**

F13 2002 c. 26

[[F14]References: supplementary

10B.—(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.**]**

F14 2002 c. 26

[[F15]Recommendations: supplementary

10C.—(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.**]**

F15 2002 c. 26

[F16Plans: compliance and variation

10D.—(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.**]]**

F16 2002 c. 26

PART IV

CRIMINAL PROCEEDINGS

Notice of charges against child

11.—(1) Where a child is to be brought before a court in respect of an offence alleged to have been committed by him, the complainant shall as soon as reasonably practicable notify the date and the time when, and the nature of the charge on which, the child is to be brought before the court—

(a) to a probation officer assigned to the petty sessions district in which the court will sit; and

(b) to the appropriate authority.

(2) Where the probation officer receives a notification under paragraph (1), he may require the appropriate authority to make such investigations and make available to him such information as appears to him to be likely to assist the court.

Release on bail

12.—(1) Where a court remands or commits for trial a child charged with an offence, it shall release him on bail unless—

(a) the court considers that to protect the public it is necessary to remand him in custody; and

(b) paragraph (2) or (3) applies.

(2) This paragraph applies where the offence charged—

(a) is a violent or sexual offence; or

(b) is one where in the case of an adult similarly charged he would be liable on conviction on indictment to imprisonment for 14 years or more.

(3) This paragraph applies—

(a) where the offence charged is an **[**[F17]indictable**]** offence; and

(b) the child either—

(i) was on bail on any date on which he is alleged to have committed the offence; or

(ii) has been found guilty of an **[**[F18]indictable**]** offence within the period of two years ending on the date on which he is charged with the offence mentioned in sub-paragraph (a).

(4) This Article is subject to**[**[F19] section 67 of the Terrorism Act 2000**]**.

F17 Word in art. 12(3)(a) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 34(4)**

F18 Word in art. 12(3)(b)(ii) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 34(4)**

F19 2000 c. 11

Remand in custody

13.—**[**[F20](1) Where the court decides not to release a child as mentioned in Article 12(1), it shall give reasons for doing so in open court and—

(a) if the child has not attained the age of 17, shall (subject to paragraph (1A)) make an order committing him to a juvenile justice centre; and

(b) if the child has attained the age of 17, shall (subject to **[**[F21]paragraphs (1B) and (1BB)**]**) make an order committing him to a young offenders centre).**]**

[[F22](1A) In the case of a child who has attained the age of 15 but has not attained the age of 17 the court shall make an order committing him to a young offenders centre (and not an order committing him to a juvenile justice centre) if it considers that he is likely to injure himself or another person.

(1B) In the case of a child—

(a) who has attained the age of 17 but who, at the time of the court's first decision in respect of the offence in question not to release him on bail, has not attained the age of 17 years and six months; and

(b) who has not had a custodial sentence imposed on him within the last two years,

the court shall make an order committing him to a juvenile justice centre (and not an order committing him to a young offenders centre) if, after considering a report made by a probation officer, it considers that it is in his best interests to make such an order.

[
[F23](1BB) In the case of a child who has attained the age of 17, the court shall make an order committing the child to a juvenile justice centre (and not to a young offenders centre) if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre.**]**

(1C) An order under this Article shall commit the child for the period for which he is remanded or until he is brought back before the court.**]**

(2) Where a court remands a child for a further period such that the total period for which he is remanded in custody will exceed three months, the court shall give reasons for doing so in open court.

F20 2005 NI 15
F21 Words in art. 13(1)(b) substituted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **96(2)**
F22 2002 c. 26
F23 Art. 13(1BB) inserted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **96(3)**

Power to enforce attendance of child

14.—(1) Without prejudice to any other powers conferred by or under any statutory provision (including this Order), any justice of the peace may require by summons any parent or guardian of a child in relation to whom any proceedings are pending to produce the child before a court of summary jurisdiction.

(2) Any person who fails without reasonable excuse to comply with a summons under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) Where failure to comply with a summons under paragraph (1) is repeated or continued after conviction, that person shall be guilty of an offence and shall be liable to a further fine not exceeding

one-fifth of level 2 on the standard scale for every day subsequent to the day on which he is first convicted of an offence under this Article during which the failure is so repeated or continued.

Attendance of parent or guardian

15. Where a child is brought before a court in any proceedings against him or for any other reason—

(a) his parent or guardian may be required to attend the court before which the case is heard or determined during all the stages of the proceedings; and

(b) his parent or guardian shall be so required at any stage where the court thinks it desirable, unless the court is satisfied that it would be unreasonable to require his attendance.

Separation of child from adults charged with offences

16.—(1) Arrangements shall be made for preventing a child while he is waiting before or after attendance in any criminal court or while being taken to or from any criminal court, from associating with a person who is charged with any offence other than an offence with which the child is jointly charged.

(2) Paragraph (1) shall not apply where the person is—

(a) a parent or guardian of the child;

(b) a relative of the child; or

(c) a child.

(3) Arrangements shall be made for ensuring that so far as practicable while a child who is a girl is waiting before or after attendance in any criminal court or while she is being taken to or from any criminal court, she shall be under the care of a woman.

Summary trial of indictable offences

17.—(1) Where a child is charged with any indictable offence other than homicide and—

(a) a court of summary jurisdiction before which he is so charged thinks it expedient to deal with the case summarily;

(b) the parent or guardian of a child under the age of 14 or in any other case, the child so charged, is informed by the court of his right to have the case tried by a jury and consents to the case being dealt with summarily; and

(c) the prosecution consents,

the court may deal summarily with the offence.

(2) The court may on a finding of guilt—

(a) make any order which might have been made if the case had been tried on indictment; or

(b) impose a fine of such amount as the court may, subject to Article 34, think fit.

(3) Where the court is satisfied that it is expedient to deal with the case summarily, it shall cause the charge to be read—

(a) in the case of a child under the age of 14, to the parent or guardian (unless paragraph (5) applies); or

(b) in the case of any other child, to the child, and

shall then address to him a question to the following effect: “Do you wish the case to be tried by a jury or do you consent to the case being dealt with summarily?”.

(4) The court shall explain in ordinary language to the person to whom the question is addressed the meaning of the case being dealt with summarily and the explanation shall include a statement as to the Crown Court at which the case may be tried.

(5) Where the parent or guardian of a child under the age of 14 is not present when the child is charged with an indictable offence before a court of summary jurisdiction, the court may—

(a) if it thinks it just to do so, remand the child for the purpose of causing notice to be served on the parent or guardian, with a view, so far as is practicable, of securing his attendance at the hearing of the charge; or

(b) if it thinks it expedient to do so, deal with the case summarily without the consent of the parent or guardian.

(6) Every finding of guilt or dismissal under this Article—

(a) of a child under the age of 14 shall contain a statement as to the consent or otherwise of his parent or guardian;

(b) of any other child shall contain a statement of his consent,

to his being tried summarily.

(7) The provisions of Article 19(1)(b), paragraphs (1), (2), (3) and (5) of Article 46 of, and paragraph 4 of Schedule 5 to, the Magistrates' Courts (Northern Ireland) Order 1981 and so much of the procedure for dealing summarily with an indictable offence under Article 45 of that Order as magistrates' courts rules make applicable, shall apply in relation to offences authorised to be dealt with or dealt with under this Article in like manner as they apply to offences authorised to be dealt with or dealt with under Article 45 of that Order.

(8) Any reference in this Article to a court of summary jurisdiction shall include a reference to a resident magistrate sitting out of petty sessions under Article 18(2) of the Magistrates' Courts (Northern Ireland) Order 1981.

Exclusion of child from court during the trial of other persons

18.—(1) A court shall not permit—

(a) a child under the age of 14 (other than a baby); and

(b) a child who has attained that age in any proceedings in relation to any conduct of an indecent or immoral nature, where the court so directs,

to be present in court during the trial of any other person charged with an offence, or during any preliminary proceedings, except during such time as his presence is required as a witness or otherwise for the purposes of justice.

(2) Any child under the age of 14 present in court when under this Article he is not permitted to be so, and any child who has attained that age and who is so present while any such direction is in force, shall be ordered to be removed from the court.

Form of oath for use in youth court and by children in other courts

19.—(1) Subject to paragraphs (2) and (3), in relation to any oath administered to and taken by any person before a youth court or administered to and taken by any child before any other court, section 1 of the Oaths Act 1978 shall have effect as if the words “I promise before Almighty God” were set out in it instead of the words “I swear by Almighty God that”.

(2) Where, in any oath otherwise duly administered and taken, either of the forms mentioned in this Article is used instead of the other, the oath shall nevertheless be deemed to have been duly administered and taken.

(3) This Article shall not apply in proceedings to which Article 169 of the Children (Northern Ireland) Order 1995 applies (civil proceedings).

[F24]Evidence given unsworn by child

20.—(1) Evidence given by a child in criminal proceedings shall be given unsworn.

(2) A deposition of a child's unsworn evidence may be taken for the purposes of criminal proceedings as if that evidence had been given on oath.

(3) A child's evidence shall be received unless it appears to the court that the child is incapable of giving intelligible testimony.

(4) If any child whose evidence is received unsworn in any proceedings for an offence intentionally gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be guilty of an offence.

(5) A child guilty of an offence under paragraph (4) shall be liable on summary conviction to be dealt with as if he had been summarily convicted of an indictable offence punishable in the case of an adult with imprisonment.

(6) In this Article "child" means a person under the age of 14.

F24 prosp. rep. by 1999 NI 8

Power to clear court while child is giving evidence in certain cases

21.—(1) Where, in any criminal proceedings the court considers that the evidence of a child is likely to involve matter of an indecent or immoral nature, the court shall direct that during the taking of the evidence of that child all persons, not being members or officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court.

(2) Paragraph (1) is without prejudice to any power of the court to hear proceedings in private or to exclude a witness until his evidence is required.

[F25]Restrictions on reporting proceedings

22.—(1) Where a child is concerned in any criminal proceedings (other than proceedings to which paragraph (2) applies) the court may direct that—

(a) no report shall be published which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child; and

(b) no picture shall be published as being or including a picture of the child,

except in so far (if at all) as may be permitted by the direction of the court.

(2) Where a child is concerned in any proceedings in a youth court or on appeal from a youth court (including proceedings by way of case stated)—

(a) no report shall be published which reveals the name, address or school of the child or includes any particulars likely to lead to the identification of the child; and

(b) no picture shall be published as being or including a picture of any child so concerned,

except where the court or the Secretary of State, if satisfied that it is in the interests of justice to do so, makes an order dispensing with these prohibitions to such extent as may be specified in the order.

(3) If a court is satisfied that it is in the public interest to do so, it may, in relation to a child who has been found guilty of an offence, make an order dispensing with the prohibitions in paragraph (2) to such extent as may be specified in the order, in relation to—

(a) the prosecution of the offender for the offence or a finding of guilt;

(b) the manner in which he, or his parent or guardian, should be dealt with in respect of the offence;

(c) the enforcement, amendment, variation, revocation or discharge of any order made in respect of the offence;

(d) where an attendance centre order is made in respect of the offence, the enforcement of any rules made under Article 50(3); or

(e) where a juvenile justice centre order is made in respect of the offence, the enforcement of any requirements imposed under Article 40(2).

(4) A court shall not exercise its power under paragraph (3) without—

(a) affording the parties to the proceedings an opportunity to make representations; and

(b) taking into account any representations which are duly made.

(5) If a report or picture is published in contravention of a direction under paragraph (1) or of paragraph (2), the following persons—

(a) in the case of publication of a written report or a picture as part of a newspaper, any proprietor, editor or publisher of the newspaper;

(b) in the case of the inclusion of a report or picture in a programme service, any body corporate which provides the service and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) For the purposes of this Article a child is "concerned" in any proceedings whether as being the person by or against or in respect of whom the proceedings are taken or as being a witness in the proceedings.

(7) In this Article—

"picture" means a picture in a newspaper and a picture included in a programme service;

"programme service" has the same meaning as in the Broadcasting Act 1990;

"publish" includes—

(a) include in a programme service;

(b) cause to be published;

"report" means a report in a newspaper and a report included in a programme service.

F25 prosp. rep. by 1999 c. 23

Evidence of child in committal proceedings for violent or sexual offence

23.—(1) In any proceedings before a magistrates' court conducting a preliminary investigation into a violent or sexual offence—

(a) a child shall not be called as a witness for the prosecution; but

(b) any statement made by or taken from a child shall be admissible in evidence of any matter of which his oral testimony would be admissible,

except in a case where the application of this paragraph is excluded under paragraph (3).

(2) In this Article—

(a) "child", in relation to a violent offence, means a child under the age of 14; and

(b) any reference to a violent or sexual offence includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, a violent or sexual offence.

(3) Paragraph (1) does not apply—

(a) where the prosecution requires the attendance of a child for the purpose of establishing the identity of any person; or

(b) where the court is satisfied that it has not been possible to obtain from the child a statement that may be given in evidence under this Article; or

(c) where the investigation into the offence takes place after the court has discontinued to try it summarily and the child has given evidence in the summary trial.

(4) Where in the course of a preliminary investigation into a violent or sexual offence, a resident magistrate decides under Article 45 of the Magistrates' Courts (Northern Ireland) Order 1981 to deal with the offence summarily, a statement admitted in pursuance of this Article shall not be deemed to be evidence of the matters to which it relates.

(5) Nothing in Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply to a statement to which this Article applies.

Power to proceed with case in absence of child in certain proceedings

24. Where in any proceedings in relation to any of the offences mentioned in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968, the court is satisfied that the attendance before the court of any child in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Extension of power to take deposition of child

25.—(1) Where a justice of the peace is satisfied by the evidence of a doctor that the attendance before a court of any child in respect of whom any of the offences mentioned in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968 is alleged to have been committed would involve serious danger to his health, the justice may take in writing the deposition of the child on oath, and shall sign the deposition and add to it a statement of—

(a) his reason for taking it;

(b) the date when and place where it was taken; and

(c) the names of the persons, if any, present at the taking of the deposition.

(2) The justice taking any such deposition shall send it with his statement—

(a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed; and

(b) in any other case, to the clerk of the court before which proceedings are pending in respect of the offence.

Admission of deposition of child in evidence in certain proceedings

26.—(1) Where, in any proceedings in respect of any of the offences mentioned in Schedule 1 to the Children and Young Persons Act Northern Ireland) 1968, the court is satisfied by the evidence of a doctor that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to his health, any deposition of the child taken under the Magistrates' Courts (Northern Ireland) Order 1981 or under Article 25, shall be admissible

in evidence either for or against the accused person without further proof if it purports to be signed by the justice by or before whom it purports to have been taken.

(2) Any such deposition shall not be admissible in evidence either for or against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon the person (whether prosecution or accused) against whom it is proposed to be given in evidence and that he or his counsel or solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

PART V

YOUTH COURTS

Youth courts

27.—(1) A juvenile court (that is to say, a court of summary jurisdiction constituted in accordance with Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968) sitting for the purpose of hearing any charge against a child or for the purpose of exercising any other jurisdiction conferred on youth courts by or under this Order or any other statutory provision, may be known as a youth court.

(2) Youth courts shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on them.

(3) Directions given by the**[**[F26]Lord Chief Justice**]** under Article 11(3) of the Magistrates' Courts (Northern Ireland) Order 1981 shall make such provision as is necessary to ensure, so far as is reasonably practicable, that, where a youth court is held on the same day and in the same place as a court of summary jurisdiction which is not a youth court, the times at which the courts are held shall be so arranged that children who are to be brought before the youth court will not be present in the precincts of the court at the same time as adult defendants.

(4) No person shall be present at any sitting of a youth court except—

(a) members and officers of the court;

(b) parties to the case before the court, their solicitors and counsel, and witnesses and other persons directly concerned in that case;

(c) the parents or guardians of the child;

(d) representatives of newspapers or news agencies;

(e) such other persons as the court may authorise to be present.

F26 Words in art. 27(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148, Sch. 5 para. 112; S.I. 2006/1014, **art. 2(a)**, Sch. 1

Assignment of certain matters to youth courts

28.—(1) Subject to paragraphs (2) and (3), no charge against a child and no application the hearing of which is by magistrates' courts rules assigned to youth courts, shall be heard by a magistrates' court which is not a youth court.

(2) A charge shall be heard by a magistrates' court other than a youth court where the charge is made jointly against a child and an adult and where the court does not exercise the power conferred by Article 29.

(3) A charge may be heard by a magistrates' court other than a youth court—

(a) where a child is charged with an offence arising out of circumstances which are the same as or connected with those giving rise to an offence with which an adult is charged at the same time;

(b) where a child is charged with an offence, and an adult is charged at the same time with aiding, abetting, causing, counselling, procuring, allowing or permitting that offence;

(c) where an adult is charged with an offence, and a child is charged at the same time with aiding, abetting, causing, counselling, procuring, allowing or permitting that offence;

(d) where, in the course of any proceedings before any magistrates' court other than a youth court, it appears that the person to whom the proceedings relate is a child and the court thinks fit to proceed with the hearing and determination of those proceedings.

(4) No requirement contained in any statutory provision (including a provision of this Order), that a charge shall be brought before a youth court shall be construed as restricting the powers of any justice to entertain an application for bail or for a remand, and to hear such evidence as may be necessary for that purpose.

Power of magistrates' court to remit a child for trial to a youth court

29.—(1) This Article shall have effect where—

(a) a child appears or is brought before a magistrates' court other than a youth court on a complaint jointly charging him and one or more other persons with an offence; and

(b) that other person, or any of those other persons, is an adult,

and in this Article “the adult defendant” means such one or more of the accused as is an adult.

(2) If—

(a) the court hears the complaint or (as the case may be) deals summarily with the charge in the case of both or all of the accused, and the adult defendant or each of the adult defendants pleads guilty; or

(b) the court—

(i) in the case of the adult defendant or each of the adult defendants, conducts a preliminary investigation or preliminary inquiry and either commits him for trial or discharges him; and

(ii) in the case of the child, hears the complaint or (as the case may be) deals summarily with the charge,

then, if in either situation the child pleads not guilty, the court may, before any evidence is called in his case, remit him for trial to a youth court acting for the same place as the remitting court or for the place where he resides.

(3) A child remitted to a youth court under paragraph (2) shall be brought before and tried by a youth court accordingly.

(4) Where a child is so remitted to a youth court—

(a) he shall have no right of appeal against the order of remission; and

(b) the remitting court may give such directions as appear to be necessary with respect to his custody or for his release on bail until he can be brought before the youth court.

(5) This Article shall apply in relation to a corporation as if it were an adult.

Powers of youth courts in relation to persons who are not or who cease to be children

30.—(1) A youth court sitting for the purpose of hearing a charge against a person who is believed to be a child may, if it thinks fit to do so, proceed with the hearing and determination of the charge, notwithstanding that it is discovered that the person in question is not a child.

(2) Where any proceedings in respect of a child are commenced before a youth court and he attains the age of**[**[F27] 18**]** before the conclusion of the proceedings, the court may continue to deal with the case and make any order which it could have made if he had not attained that age; and for the purposes of this paragraph proceedings taken in consequence of any default shall be deemed to be part of the original proceedings.

(3) The attainment of the age of**[**[F27] 18**]** by a person in respect of whom a community order**[**[F27], a youth conference order**]** or an order for conditional discharge has been made, shall not deprive a youth court of jurisdiction either to enforce his attendance and deal with him in respect of any failure to comply with the requirements of the community order**[**[F27] or youth conference order**]** or the commission of a further offence, or to amend or discharge the community order**[**[F27] or youth conference order**]**.

(4) In this Article—

"default" means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing any thing required to be done or left undone;

"the original proceedings" means the proceedings in which the fine was imposed or other sum awarded or the thing was ordered to be done or left undone.

F27 2002 c. 26

[[F28]**Power of youth court in relation to remands**

30A. A youth court shall not be required to adjourn any proceedings for an offence at any stage by reason only of the fact—

(a) that the court commits the accused for trial for another offence; or

(b) that the accused is charged with another offence.**]**

F28 Art. 30A substituted (8.6.2008) by virtue of Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **97**

Remand for purpose of obtaining information

31.—(1) Where a youth court has remanded a child for information to be obtained with respect to him, any court of summary jurisdiction or resident magistrate acting for the same petty sessions district may in the absence of the child extend the period for which he is remanded.

(2) A child remanded under paragraph (1) shall be brought before a court of summary jurisdiction or a resident magistrate sitting out of petty sessions at least once every two weeks.

(3) When the required information has been obtained, any youth court acting for the same petty sessions district as the youth court which remanded the child or any other petty sessions district of the same county court division may deal with him finally.

PART VI

SENTENCING AND OTHER POWERS

Preliminary

Remission by other courts of offenders to youth courts

32.—(1) Any court by or before which a child is found guilty of an offence other than homicide,—

(a) if it is a magistrates' court other than a youth court shall; and

(b) if it is a court other than a magistrates' court may,

remit the case to a youth court acting for the place where the child was committed for trial, or, if he was not committed for trial, to a youth court acting either for the same place as the remitting court or for the place where the child resides.

(2) Where any case is remitted under paragraph (1), the child shall be brought before a youth court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

(3) Where any case is remitted under paragraph (1)—

(a) the child shall have the same right of appeal against any order of the court to which the case is remitted as if he had been found guilty by that court, but shall have no right of appeal against the order of remission; and

(b) any appeal against the finding of guilt shall, if the finding was made by a youth court or other court of summary jurisdiction, be made to the county court having jurisdiction to hear an appeal under sub-paragraph (a).

(4) A court by which an order remitting a case to a youth court is made under paragraph (1)—

(a) may give such directions as appear to be necessary with respect to the custody of the child or for his release on bail until he can be brought before the youth court; and

(b) shall cause to be transmitted to the clerk of the youth court a certificate stating—

(i) the nature of the offence;

(ii) that the child has been found guilty of the offence; and

(iii) that the case has been remitted for the purpose of being dealt with under this Article.

Power to notify appropriate authority if child's welfare requires it

33. Where a child is charged with an offence**[**[F29] the court before which he is charged may, if it**]** considers that his welfare requires it, notify the appropriate authority of such matters as the court thinks fit.

F29 Words in art. 33 substituted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **99(2)**

[[F30] *Youth conferences*

F30 2002 c. 26

[F31Court-ordered youth conferences

33A.—(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 **[**[F32]negative resolution**].]**

F31 2002 c. 26
F32 Words in art. 33A(11) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

[[F33]Associated offences

33B.—(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.**]**

F33 2002 c. 26

[[F34]References: supplementary

33C.—(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.**]**

F34 2002 c. 26

[F35Termination of youth conference

33D.—(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).**]**

F35 2002 c. 26

[F36Recommendations: supplementary

33E.—(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.**]]**

F36 2002 c. 26

Fines and recognizances

Fines

34. Notwithstanding anything contained in any statutory provision (including a provision of this Order), it shall not be lawful for a court of summary jurisdiction to impose a fine exceeding—

(a) in the case of a child under the age of 14, level 1 on the standard scale; or

(b) in the case of any other child, level 3 on the standard scale.

Parent or guardian to pay fine, etc., instead of child

35.—(1) Where a child is found guilty of any offence for the commission of which a fine may be imposed or costs, damages or payment of compensation may be awarded, if the court is of the opinion that the case would be best met by the imposition of a fine or by an award of costs, damages or compensation, whether with or without any other punishment, the court—

(a) shall if the child is under the age of 16, and

(b) may in any other case,

order that the fine, costs, damages or compensation be paid by the parent or guardian of the child instead of by the child, unless the court is satisfied that there is good reason for not so doing.

(2) Any sums ordered under this Article 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 with which the child was charged.

(3) A parent or guardian may appeal against an order under this Article or Article 36—

(a) if made by a magistrates' court, to the county court; and

(b) if made by the Crown Court, to the Court of Appeal in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980.

(4) In this Article "compensation" means any compensation for loss under Article 14 of the Criminal Justice (Northern Ireland) Order 1994.

Parent or guardian to enter into recognizance

36.—(1) In the case of a child found guilty of any offence, the court, either in addition to or in lieu of any other order which the court has power to make, may order his parent or guardian to enter into a recognizance as security for his good behaviour.

(2) Where the court makes an attendance centre order in respect of any child, it may order his parent or guardian to enter into a recognizance as security for his compliance with that order.

(3) An order under this Article may be made against a parent or guardian who, having been required to attend, has failed to do so, but, except in the circumstances mentioned, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) The Magistrates' Courts (Northern Ireland) Order 1981 shall apply in relation to recognizances under paragraph (1) or (2) as it applies in relation to recognizances to be of good behaviour, and where such a recognizance is ordered to be estreated, the court, instead of ordering the person bound thereby to pay the sum in which he is bound or part of that sum, may remit payment of it.

. . . . . .[F37]

F37 prosp. insertion by 2005 c. 15

PROSPECTIVE

[[F38]Parental compensation orders

36ZA.—(1) A magistrates' court may make an order under this Article (a "parental compensation order") if on the application of a person of a description specified for the purpose in an order made by the Secretary of State (referred to in this Article and in Articles 36ZB and 36ZC as the "applicant") the court is satisfied, on the civil standard of proof—

(a) that the condition mentioned in paragraph (2) is fulfilled with respect to a child under the age of 10; and

(b) that it would be desirable to make the order in the interests of preventing a repetition of the behaviour in question.

(2) The condition is that the child has taken, or caused loss of or damage to, property in the course of—

(a) committing an act which, if he had been aged 10 or over, would have constituted an offence; or

(b) acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself.

(3) A parental compensation order is an order which requires any person specified in the order who is a parent or guardian of the child to pay compensation of an amount specified in the order to any person or persons specified in the order who is, or are, affected by the taking of the property or its loss or damage.

(4) The amount of compensation specified may not exceed £5,000 in all.

(5) The Secretary of State may by order amend paragraph (4) so as to substitute a different amount.

(6) For the purposes of collection and enforcement, a parental compensation order is to be treated as if it were a sum adjudged to be paid on the conviction by the magistrates' court which made the order of the person or persons specified in the order as liable to pay the compensation.

(7) An order under paragraph (1) or (5) 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.

F38 Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 8** (with Sch. 10 para. 10)

PROSPECTIVE

Parental compensation orders: the compensation

36ZB.—(1) When specifying the amount of compensation for the purposes of Article 36ZA(3), the magistrates' court shall take into account—

(a) the value of the property taken or damaged, or whose loss was caused, by the child;

(b) any further loss which flowed from the taking of or damage to the property, or from its loss;

(c) whether the child, or any parent or guardian of his, has already paid any compensation for the property (and if so, how much);

(d) whether the child, or any parent or guardian of his, has already made any reparation (and if so, what it consisted of);

(e) the means of those to be specified in the order as liable to pay the compensation, so far as the court can ascertain them;

(f) whether there was any lack of care on the part of the person affected by the taking of the property or its loss or damage which made it easier for the child to take or damage the property or to cause its loss.

(2) If property taken is recovered before compensation is ordered to be paid in respect of it—

(a) the court shall not order any such compensation to be payable in respect of it if it is not damaged;

(b) if it is damaged, the damage shall be treated for the purposes of making a parental compensation order as having been caused by the child, regardless of how it was caused and who caused it.

(3) The court shall specify in the order how and by when the compensation is to be paid (for example, it may specify that the compensation is to be paid by instalments, and specify the date by which each instalment must be paid).

(4) For the purpose of ascertaining the means of the parent or guardian, the court may, before specifying the amount of compensation, order him to provide the court, within such period as it may specify in the order, such a statement of his financial circumstances as the court may require.

(5) A person who without reasonable excuse fails to comply with an order under paragraph (4) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If, in providing a statement of his financial circumstances pursuant to an order under paragraph (4), a person—

(a) makes a statement which he knows to be false in a material particular;

(b) recklessly provides a statement which is false in a material particular; or

(c) knowingly fails to disclose any material fact,

he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) Proceedings in respect of an offence under paragraph (6) may, despite anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months of its first discovery by the applicant, whichever period expires earlier.

(8) Paragraphs (1)(e) and (4) to (7) do not apply in the case of an order specifying an authority as liable to pay the compensation.

F38 Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 8** (with Sch. 10 para. 10)

PROSPECTIVE

Parental compensation orders: supplemental

36ZC.—(1) Before deciding whether or not to make a parental compensation order in favour of any person, the magistrates' court shall take into account the views of that person about whether a parental compensation order should be made in his favour.

(2) Before making a parental compensation order, the magistrates' court shall obtain and consider information about the child's family circumstances and the likely effect of the order on those circumstances.

(3) Before making a parental compensation order, a magistrates' court shall explain to the parent or guardian of the child in ordinary language—

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

(b) the consequences which may follow (under paragraph (4)(b)) as a result of failure to comply with any of those requirements;

(c) that the court has power (under paragraph (4)(a)) to review the order on the application either of the parent or guardian or of the applicant.

(4) A magistrates' court [F39]... may make an order under paragraph (5) if while the order is in force—

(a) it appears to the court, on the application of the applicant, or the parent or guardian subject to the order, that it is appropriate to make an order under paragraph (5); or

(b) it is proved to the satisfaction of the court, on the application of the applicant, that the parent or guardian subject to it has failed to comply with any requirement included in the order.

(5) An order under this paragraph is an order discharging the parental compensation order or varying it—

(a) by cancelling any provision included in it; or

(b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.

(6) Where an application under paragraph (4) for the discharge of a parental compensation order is dismissed, no further application for its discharge shall be made under that paragraph by any person except with the consent of the court which made the order.

[F40](7) . . . . . .

F38 Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 8** (with Sch. 10 para. 10)

F39 Words in art. 36ZC(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(4)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) This amendment cannot take effect until art. 36ZC comes into operation.

F40 Art. 36ZC(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 115(4)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) This amendment cannot take effect until art. 36ZC comes into operation.

PROSPECTIVE

Parental compensation orders: appeal

36ZD.—(1) If a magistrates' court makes a parental compensation order, the parent or guardian may appeal against the making of the order, or against the amount of compensation specified in the order.

(2) The appeal lies to the county court.

(3) On the appeal the county court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal;

(b) may also make such incidental or consequential orders as appear to it to be just.

(4) Any order of the county court made on an appeal under this Article (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes of Article 36ZC, be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the county court.

(5) A person in whose favour a parental compensation order is made shall not be entitled to receive any compensation under it until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

F38 Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 8** (with Sch. 10 para. 10)

PROSPECTIVE

Effect of parental compensation order on subsequent award of damages in civil proceedings

36ZE.—(1) This Article has effect where—

(a) a parental compensation order has been made in favour of any person in respect of any taking or loss of property or damage to it; and

(b) a claim by him in civil proceedings for damages in respect of the taking, loss or damage is then to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the parental compensation order, but the claimant may recover only an amount equal to the aggregate of the following—

(a) any amount by which they exceed the compensation; and

(b) a sum equal to any portion of the compensation which he fails to recover.

(3) The claimant may not enforce the judgment, so far as it relates to such a sum as is mentioned in paragraph (2)(b), without the leave of the court.**]**

F38 Arts. 36ZA-36ZE inserted (prosp.) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 144, 178(8), **Sch. 10 para. 8** (with Sch. 10 para. 10)

[F41 Reparation orders

F41 2002 c. 26

[F42 Reparation orders

36A.—(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.**]**

F42 2002 c. 26

[[F43]Restrictions on reparation orders

36B.—(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.**]**

F43 2002 c. 26

[[F44]Requirements of reparation orders

36C.—(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 **[**[F45]negative resolution**].]**

F44 2002 c. 26

F45 Words in art. 36C(7) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(5)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

[[F46]**Supplementary provisions about reparation orders**

36D.—(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**[**[F47] as soon as is practicable**]** 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.**]]**

F46 2002 c. 26
F47 2005 NI 15

[F48 Community responsibility orders

F48 2002 c. 26

[F49 Community responsibility orders

36E.—(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 **[**[F50]negative resolution**].]**

F49 2002 c. 26
F50 Words in art. 36E(10) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(6)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

[[F51]**Restrictions on community responsibility orders**

36F.—(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.**]**

F51 2002 c. 26

[[F52]**Requirements of community responsibility orders**

36G.—(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.**]**

F52 2002 c. 26

[[F53]Rules relating to community responsibility orders

36H.—(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 **[**[F54]negative resolution**].]**

F53 2002 c. 26
F54 Words in art. 36H(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(7)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

[[F55]Supplementary provisions about community responsibility orders

36I.—(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**[**[F56] as soon as is practicable**]** 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.**]]**

F55 2002 c. 26
F56 2005 NI 15

[[F57]*Youth conference orders*

F57 2002 c. 26

[[F58]Youth conference orders

36J.—(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.

[
[F59](2A) Unless revoked, a youth conference order remains in force until the offender has complied with the requirements mentioned in paragraph (2)(a) or (as the case may be) (b).**]**

(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.**]**

F58 2002 c. 26
F59 Art. 36J(2A) inserted (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **98(2)**

[F60Supplementary provisions about youth conference orders

36K.—(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**[**F61 as soon as is practicable**]** 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.**]**

F60 2002 c. 26
F61 2005 NI 15

[[F62]Monitoring compliance with youth conference orders

36L.—(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 **[**[F63]negative resolution**]**.

(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.**]]**

F62 2002 c. 26
F63 Words in art. 36L(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(8)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Attendance centre orders

Attendance centre orders

37.—(1) Where any court has power, or would but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968 or Article 47 have power, to impose imprisonment on a child or to deal with a child under Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 for failure to comply with any of the requirements of a community order, the court (subject to Articles 32(1) and 45(1)) may, if the clerk of the court has been notified by the Secretary of State that an attendance centre is available for the reception of children from that court, order the child to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.

(2) The aggregate number of hours for which a child may be required to attend at an attendance centre by virtue of an attendance centre order—

(a) shall not be less than 12 except where he is under the age of 14 and the court is of the opinion, having regard to his age or any other circumstances, that 12 hours would be excessive; and

(b) shall not exceed 12 except where the court is of the opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case shall not exceed 24 hours.

(3) A court shall not make an attendance centre order unless it is satisfied that the attendance centre to be specified in the order is reasonably accessible to the child concerned, having regard to his age, the means of access available to him and any other circumstances.

(4) The times at which a child is required to attend at an attendance centre under this Article shall**[**[F64], so far as practicable, be such as to avoid any conflict with the child's religious beliefs and any interference with the times, if any, at which he normally works or attends a school or other educational establishment.**]**

(5) The first time at which a child is required to attend shall be specified in the order (being a time at which the centre is available for the attendance of the child in accordance with the notification of the Secretary of State) and the subsequent times shall be fixed by the officer in charge of the centre, having regard to the child's circumstances.

(6) A child shall not be required under this Article to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

(7) A court may make an attendance centre order in respect of a child before a previous attendance centre order in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—

(a) to the number specified in the previous order; or

(b) to the fact that that order is still in effect.

(8) Where a court makes an attendance centre order, the clerk of the court shall serve a copy of the order on—

(a) the officer in charge of the attendance centre specified in the order; and

(b) the child; and

(c) his parent or guardian.

(9) Where a child has been ordered to attend at an attendance centre in default of the payment of any sum of money, then—

(a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;

(b) on the payment of a part of the sum to any such person, the total number of hours for which the child is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.

F64 2002 c. 26

Discharge, revocation or variation of attendance centre orders

38.—(1) A court of summary jurisdiction may, on an application made by complaint by the child or by the officer in charge of the attendance centre specified in an attendance centre order—

(a) discharge the order; or

(b) vary the day or hour specified in the order for the child's first attendance at the centre;

and where the application is made by the officer in charge of the attendance centre, the court may deal with it without summoning the child.

(2) Where an attendance centre order has been made and it appears upon a complaint made to a justice of the peace that the child—

(a) has failed to attend in accordance with the order; or

(b) while attending at the centre has committed a breach of the rules made under Article 50(3) which cannot be adequately dealt with under those rules;

the justice may—

(i) issue a summons directed to that child requiring him to appear before a youth court for the petty sessions district in which that child resides or in which the attendance centre specified in the order is situated; or

(ii) if the complaint is in writing and on oath, issue a warrant for that child's arrest requiring him to be brought before such a court.

(3) If it appears to the satisfaction of the court before which the child appears or is brought under paragraph (2) that—

(a) he has failed without reasonable excuse to attend as mentioned in paragraph (2)(a); or

(b) he has committed such a breach of rules as is mentioned in paragraph (2)(b),

that court may revoke the order and deal with him in any manner in which he could have been dealt with by the court which made the order, if the order had not been made.

(4) Where a child in respect of whom an attendance centre order is in effect is convicted by a court of an offence, the court may—

(a) revoke the order; and

(b) in passing sentence for the offence take into account the number of hours which, but for the revocation, the child would have had to attend at an attendance centre to comply with the order.

(5) The discharge, variation or revocation under this Article of an attendance centre order shall be by order of the court, and where a court makes an order under this Article the clerk of the court shall serve a copy of the order on—

(a) the officer in charge of the attendance centre specified in the attendance centre order which is discharged, varied or revoked; and

(b) the child; and

(c) his parent or guardian.

Juvenile justice centre orders

Juvenile justice centre orders

39.—(1) Where a child is found guilty by or before any court of an offence punishable in the case of an adult with imprisonment (other than an offence**[**[F65] 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)) shall have power to make a juvenile justice centre order, that is to say, an order that the child shall be sent to a juvenile justice centre and be subject to a period of detention in a juvenile justice centre followed by a period of supervision.

(2) A juvenile justice centre order shall be for a period of six months unless the court specifies in the order a longer period not exceeding two years.

(3) A court shall not make a juvenile justice centre 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 (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.

[[F66](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 either paragraph (3B) or (3C) applies in relation to the child.

(3B) This paragraph applies in relation to a child if—

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

(b) the child 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 the child's best interests to make such an order.

(3C) This paragraph applies in relation to a child if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre.**]**

(4) Where a court makes a juvenile justice centre order for a period longer than six months, it shall state in open court its reasons for doing so.

(5) Subject to paragraph (6), the period of detention which the child is liable to serve under a juvenile justice centre order shall be one half of the period of the order.

(6) The length of the period of detention 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 (reduction of sentence).

(7) Any reference in any statutory provision to the length of the period of a juvenile justice centre order shall, unless the context otherwise requires, be construed as a reference to the length of the period imposed by or under paragraph (2) and not the length of the period as reduced by paragraph (6).

[[F67](8) Where a court makes a juvenile justice centre order in respect of a child, it may, subject to Chapter 5 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008, impose a curfew requirement or an electronic monitoring requirement (within the meaning of that Chapter) during all or part of the period of supervision to which the child is subject under the order.**]**

F65 2002 c. 26
F66 Art. 39(3A)(3B)(3C) substituted (8.6.2008) for art. 39(3A) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3)(a), **96(4)**
F67 Art. 39(8) added (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(2)**; S.R. 2009/120, **art. 2(1)**

Supervision under a juvenile justice centre order

40.—(1) During the period of supervision under a juvenile justice centre order, the offender 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 managers of the juvenile justice centre where he is detained shall give him a notice specifying—

(i) the period of supervision; and

(ii) the person under whose supervision he will be;

[[F68](b) the person under whose supervision he will be shall give him a notice specifying—

(i) any requirements imposed by the court under Article 39(8); and

(ii) any other 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 offender a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) **[**[F69]or (b)(ii)**]**.

(4) The Secretary of State may make rules regulating the supervision of an offender subject to a juvenile justice centre order **[**[F70], but such rules may not regulate any matter which may be regulated by rules under Article 44 of the Criminal Justice (Northern Ireland) Order 2008**]**.

(5) Rules under paragraph (4) shall be subject to**[**[F71] negative resolution**]**.

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

F68 Art. 40(2)(b) substituted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(3)**; S.R. 2009/120, **art. 2(1)**

F69 Words in art. 40(3) substituted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(4)**; S.R. 2009/120, **art. 2(1)**

F70 Words in art. 40(4) added (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(5)**; S.R. 2009/120, **art. 2(1)**

F71 Words in art. 40(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 19(9)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Breach of supervision requirements

41.—(1) Where a juvenile justice centre order has been made and it appears upon a complaint made to a justice of the peace that the offender has failed to comply with any requirements under **[**[F72]Article 39(8) or**]** Article 40(2) or (3), the justice may—

(a) issue a summons directed to the offender 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 offender'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 offender appears or is brought under this Article that he has failed without reasonable excuse to comply with requirements under **[**[F73]Article 39(8) or**]** Article 40(2) or (3), the court may deal with him in respect of the failure in any of the following ways, namely—

(a) it may impose on him a fine not exceeding—

(i) £200 if he is under the age of 14; or

(ii) £1,000 in any other case;

(b) it may order him to be detained for a period not exceeding 30 days—

[[F74](i) in a juvenile justice centre if he has not attained the age of 17 or falls within paragraph (2A); or

(ii) in a young offenders centre in any other case.**]**

[[F74](2A) The offender falls within this paragraph if he—

(a) has attained the age of 17;

(b) has not attained the age of 18 and will not attain that age within the next 30 days; and

(c) has not had a custodial sentence (other than the juvenile justice centre order in question) imposed on him within the last two years,

and the court, after considering a report made by a probation officer, considers that it is in his best interests to order him to be detained in a juvenile justice centre (and not in a young offenders centre).

(2B) Where the court imposes a fine on the offender under paragraph (2)(a)—

(a) if he has not attained the age of 16, 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; and

(b) if he has attained that age but has not attained the age of 18, it may so order.

(2C) A fine ordered under paragraph (2B) 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 juvenile justice centre order was made.

(2D) A parent or guardian may appeal to a county court against an order under paragraph (2B).**]**

(3) Any period of supervision shall not be reduced by any period during which the offender is detained under paragraph (2).

F72 Words in art. 41(1) inserted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(6)**; S.R. 2009/120, **art. 2(1)**

F73 Words in art. 41(2) inserted (1.4.2009) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), **36(6)**; S.R. 2009/120, **art. 2(1)**

F74 2002 c. 26

Taking of children to juvenile justice centre

42.—(1) The court which makes a juvenile justice centre order shall cause it to be delivered to the constable or other person responsible for taking the child to the centre, and the person who takes him to the centre shall deliver the order to the person for the time being in charge of the centre.

(2) The court by which a juvenile justice centre 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 managers of the centre, to be sent to the managers or to the person for the time being in charge of the centre.

(3) Where a child has been ordered to be sent to a juvenile justice centre, any person who harbours or conceals him after the time has come for him to go to the centre 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.

(4) Where a constable or other person authorised to take a child to a juvenile justice centre is, when the time has come for him to go to the centre, unable to find him or unable to obtain possession of him, a justice of the peace, 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.

(5) 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.

Effect of juvenile justice centre order where care order is in force

43. [F75] . . . . . .

F75 Art. 43 repealed (8.6.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(3), 99(3), 102(2), **Sch. 6 Pt. 2**

Effect of subsequent conviction where juvenile justice centre order is in effect

44.—(1) Where a person in respect of whom a juvenile justice centre order is in effect is convicted by or before a court of an offence**[**[F76] and the court imposes a custodial sentence on the child for the offence**]**, the court shall—

(a) revoke the order; and

(b) in passing sentence 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 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 the words "such period not exceeding two years as the court specifies in the order";

(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".

F76 2002 c. 26

. . . . . [F77]

F77 prosp. insertion by 2002 c. 26

PROSPECTIVE

[[F78]*Custody care orders*

F78 Arts. 44A-44G and preceding cross-heading inserted (prosp.) by Justice (Northern Ireland) Act 2002 (c. 26), **ss. 56**, 87(1)

Custody care orders

44A.—(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 **[**[F79]Department of Justice**]**, 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).

F79 Words in art. 44A substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44A)

Period in secure accommodation under custody care order

44B.—(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 **[**[F80]Department of Justice**]**.

(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.

F80 Words in art. 44B substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44B)

Escape from secure accommodation

44C.—(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 **[**[F81]Department of Justice**]** 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.

F81 Words in art. 44C substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44C)

Taking of children to secure accommodation

44D.—(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.

Supervision under custody care order

44E.—(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 **[**[F82]Department of Justice**]** 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 **[**[F82]Department of Justice**]** may give the child a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) or (b).

(4) The **[**[F82]Department of Justice**]** may make rules regulating the supervision of a child subject to a custody care order.

(5) Rules under paragraph (4) are subject to **[**[F83]negative resolution**]**.

(6) The **[**[F82]Department of Justice**]** may pay the expenses incurred by any person designated under paragraph (1) arising from the supervision of a child under this Article.

F82 Words in art. 44E substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44E)

F83 Words in art. 44E(5) substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(3)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44E)

Breach of supervision requirements

44F.—(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 **[**[F84]Department of Justice**]**, 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.

F84 Words in art. 44F substituted by 2002 (c. 26), ss. 56, 87(1) (as amended (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 11, **Sch. 13 para. 11(2)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 1998/1504, art. 44F)

Effect of subsequent conviction where custody care order is in effect

44G.—(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".**]**

Grave crimes

Punishment of certain grave crimes

45.—(1) A person convicted of an offence who appears to the court to have been**[**[F85] a child**]** at the time the offence was committed shall not be sentenced to imprisonment for life nor shall a sentence of death be passed on him but the court shall instead (notwithstanding any other statutory provisions) sentence him to be detained during the pleasure of the **[**[F86]Minister of Justice**]** in such place and under such conditions as the **[**[F86]Minister of Justice**]** may direct.

(2) Where—

(a) a child is convicted on indictment of any offence punishable in the case of an adult with imprisonment for fourteen years or more, not being an offence the sentence for which is fixed by law; and

(b) the court is of the opinion that none of the other methods in which the case may be dealt with is suitable,

the court may sentence the child to be detained for such period as may be specified in the sentence; and where such a sentence has been passed the child shall, during that period, notwithstanding any other provisions of this Order, be liable to be detained in such place and under such conditions as the **[**[F86]Minister of Justice**]** may direct.

(3) A person detained pursuant to the directions of the **[**[F86]Minister of Justice**]** under this Article shall, while so detained, be deemed to be in legal custody.

(4) The **[**[F86]Minister of Justice**]** may by order direct that a**[**[F85] child**]** in respect of whom the **[**[F86]Minister of Justice**]** is authorised to give directions under paragraph (2) shall be transferred and detained in a juvenile justice centre specified in the order.

(5) An order under paragraph (4) shall be an authority for the detention in that centre or in such other centre as the **[**[F86]Minister of Justice**]** may determine of the**[**[F85] child**]** to whom it relates until such date as may be specified in the order.

(6) The date to be specified under paragraph (5) shall not be later than—

(a) the date on which the**[**[F85] child will, in the opinion of the **[**[F86]Minister of Justice**]**, become an adult**]**; or

(b) the date on which his detention under paragraph (2) would have expired.

(7) Nothing in paragraphs (4) to (6) shall prejudice the power of the **[**[F86]Minister of Justice**]** to give directions under paragraph (2).

[[F87](8) In this Article and Article 46 "the Minister of Justice" means the Minister in charge of the Department of Justice.**]**

F85 2002 c. 26

F86 Words in art. 45 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F87 Art. 45(8) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Modifications etc. (not altering text)

C1 mod. (temp.) 2000 c. 11

Discharge on licence

46.—(1) Any person detained pursuant to the directions of the **[**[F88]Minister of Justice**]** under**[**[F89] Article 45(2)**]** may, at any time, be discharged by the **[**[F88]Minister of Justice**]** on licence.

(2) Such a licence may be in such form and may contain such conditions as the **[**[F88]Minister of Justice**]** may direct, and may at any time be revoked or varied by the **[**[F88]Minister of Justice**]**.

(3) Where such a licence is revoked the person to whom the licence related may be arrested without warrant by any constable and taken to such place as the **[**[F88]Minister of Justice**]** may direct.

F88 Words in art. 46 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 41** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F89 2001 NI 2

Miscellaneous

Limitation on punishment for contempt of court or default of payment of fine, etc.

47.—(1) A child shall not be ordered to be detained in custody—

(a) for contempt of court; or

(b) in default of payment of a fine, costs, damages or compensation.

(2) Paragraph (1) shall not apply in the case of a child who has attained the age of 16 if the court certifies that his behaviour is such that no other method of dealing with him is appropriate.

Power of courts on committal of offender

48.—(1) Where a child would, if he were an adult, be liable to be committed to prison for any default, the court shall, in addition to any other powers exercisable by virtue of any other statutory provision (including a provision of this Order), have power to commit him to custody in a young offenders centre if he has attained the age of 16 and the court considers that no other method of dealing with him is suitable.

(2) The term for which a child may be committed to custody in a young offenders centre under this Article shall not exceed the maximum term for which he could (or could if he were an adult) have been committed to prison and shall not on any occasion exceed one month.

(3) This Article applies in relation to the fixing of a custodial sentence to be served in the event of default of payment of a fine or other sum of money as it applies in relation to committal to prison in default of such payment.

(4) Where a court commits a child to custody in a young offenders centre under this Article and at the time the warrant issued by the court for that committal falls to be executed the child is detained in any other place pursuant to the directions of the Secretary of State under Article 45, that committal shall have effect as if it were a committal to that other place in which he is detained.

(5) In this Article "default" means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing anything required to be done or left undone.

Duty of parent or guardian to notify change of address

49.—(1) The parent or guardian of a child who is subject to an attendance centre order shall keep the officer in charge of the centre informed of the parent or guardian's address.

(2) The parent or guardian of a child who is subject to a juvenile justice centre order shall keep the managers of the centre informed of the parent or guardian's address.

(3) Where a child is transferred from one juvenile justice centre to another, the managers of the centre from which he is transferred shall, where possible, inform his parent or guardian of the transfer; and until his parent or guardian has been so informed, the parent's or guardian's duty under paragraph (2) shall be deemed to be duly discharged if he keeps the managers of the first-mentioned centre informed of his address.

(4) A parent or guardian of a child who, knowing that that child is subject to an attendance centre order or a juvenile justice centre order, contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) In any proceedings under paragraph (4) it shall be a defence for a parent to prove that he was residing at the same address as the other parent and had reasonable cause to believe that the other

parent had kept the officer in charge of the attendance centre or the managers of the juvenile justice centre informed of the address of both.

PART VII

ATTENDANCE CENTRES AND JUVENILE JUSTICE CENTRES

Attendance centres

Attendance centres

50.—(1) The Secretary of State may provide attendance centres, that is to say, places where offenders in respect of whom attendance centre orders have been made shall be required to attend.

(2) The Secretary of State may make arrangements with other bodies or persons for the provision of attendance centres.

(3) The Secretary of State may make rules for the regulation and management of attendance centres and for the classification, treatment, employment, discipline and control of offenders required to attend attendance centres.

Juvenile justice centres

Juvenile justice centres

51.—(1) The Secretary of State may provide juvenile justice centres, that is to say, places in which offenders in respect of whom juvenile justice centre orders have been made may be detained and given training and education and prepared for their release.

(2) The Secretary of State may make arrangements with other bodies or persons for the provision of juvenile justice centres.

(3) Schedule 2 (which makes further provision relating to juvenile justice centres) shall have effect.

Supervising powers of Secretary of State

52.—(1) The Secretary of State may make rules for the management and discipline of juvenile justice centres.

(2) If it appears to the Secretary of State that the provision made in any juvenile justice centre with regard to any matter relating to—

(a) the education, training, treatment or welfare of children detained by the managers of the centre;

(b) the premises or equipment of the centre; or

(c) the number, qualifications or grades of the staff employed in the centre,

is inadequate or unsuitable, the Secretary of State may give to the managers such directions as he thinks necessary for securing that proper provision is made.

(3) No substantial addition to, or diminution or alteration of, the buildings or grounds of a juvenile justice centre shall be made without the approval of the Secretary of State.

Parental responsibility for children in juvenile justice centres

53. While a**[**[F90] child is being detained by the managers of a juvenile justice centre**]**, they shall—

(a) have parental responsibility for him; and

(b) if they are satisfied that it is necessary to do so in order to safeguard or promote his welfare, have the power to determine the extent to which a parent of his may meet his parental responsibility for him.

F90 2002 c. 26

Escapes from juvenile justice centres

54.—(1) Any child who has been ordered to be sent to a juvenile justice centre and—

(a) escapes from a centre in which he is detained, or from any hospital or institution in which he is receiving medical treatment; or

(b) being absent from a centre on temporary leave of absence or under supervision, runs away from the person in whose charge he is, or fails to return to a centre upon the expiration of his leave; or

(c) being absent from a centre under supervision, fails to return to the centre upon being recalled,

may be arrested without warrant by a constable or any person authorised by the managers of a juvenile justice centre and, if he is**[**[F91] still a child**]**, be taken to any juvenile justice centre or in any case be returned to the hospital or institution from which he escaped ortothe personinwhose charge he was.

(2) A person 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 that person is found or where the juvenile justice centre, hospital or institution mentioned in sub-paragraph (a), (b) or (c) of that paragraph is situated.

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

(a) may, if he is a child, order the period for which he is to be detained under the order referred to in paragraph (1) to be increased by a further period not exceeding 30 days;

Sub-para. (b) rep. by 2002 c. 26

(c) shall, in any other case, revoke the order referred to in paragraph (1) and deal with him in any manner in which the court could deal with him if he had just been convicted by the court of the offence.

(4) In fixing the sentence under**[**[F91] paragraph (3)(c)**]** the court shall take into account the period for which the order referred to in paragraph (1) 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)(a), (b) and (c) or knowingly induces any child to so escape, run away or fail to return; or

(b) without lawful authority takes a child away from any such centre, hospital, institution or person as is mentioned in paragraph (1)(a) and (b); or

(c) knowingly harbours or conceals a child who escapes, runs away or fails to return as mentioned in paragraph (1)(a), (b) and (c), 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.

F91 2002 c. 26

Inspection

[F92]Power to inspect attendance centres and juvenile justice centres

55.—(1) A person authorised by the Secretary of State may at any reasonable time enter any attendance centre or juvenile justice centre to—

(a) inspect the centre; and

(b) make such examination into the state and management of the centre and the welfare and treatment of children there as he thinks fit.

(2) An authorised person exercising his powers under this Article shall, if so required, produce some duly authenticated document showing his authority to do so.

(3) A person who intentionally obstructs another in the execution of his powers under this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F92 prosp. rep. by 2002 c. 26

PART VIII

MISCELLANEOUS AND GENERAL

Art. 56 rep. by 2004 c.4

Grants for juvenile justice centres, attendance centres and the Juvenile Justice Board

57.—(1) The Secretary of State may pay grants to any person towards expenditure incurred or to be incurred in relation to attendance centres and juvenile justice centres.
Para. (2) rep. by 2004 c.4

(3) Grants payable under this Article shall be paid at such times and in such manner and subject to such conditions as the Secretary of State may determine.

(4) Any sum which falls to be paid to the Secretary of State by virtue of any conditions attached to a grant may be recovered by the Secretary of State as a debt due to him.

Art. 58 rep. by 2005 c. 12

Inquiries and investigations

58. The Secretary of State may cause an inquiry to be held or an investigation to be made in any case where it appears to him advisable to do so in connection with any matter arising under this Order.

Acquisition and disposal of land

59.—(1) For the purposes of this Order the Secretary of State may acquire land by agreement or compulsorily.

(2) Where the Secretary of State in exercise of the power conferred by paragraph (1) desires to acquire any land otherwise than by agreement, the Secretary of State may make an order (“a vesting order”) vesting the land in the Secretary of State.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order under that Act subject to the modifications set out in Schedule 3.

(4) Any land held by the Secretary of State for the purposes of this Order may, if in his opinion it is no longer required for those purposes, be disposed of by the Secretary of State or be appropriated by him for other purposes.

(5) Where the Secretary of State proposes to dispose of any land and is of the opinion that it is necessary, in order to facilitate that disposal, to acquire land adjoining that land, then, notwithstanding that the acquisition of that adjoining land is not required for the purposes of this Order, the Secretary of State may acquire by agreement that adjoining land.

Power to enter on lands

60. Section 98 of the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of this Order as if any reference to a council were a reference to the Secretary of State.

Proof of documents

61.—(1) A document purporting to be a copy of an order made by a court under any of the provisions of this Order shall, if it purports to be certified as a true copy by the clerk of the court, be evidence of the order.

(2) An order or other document may be authenticated on behalf of the managers of a juvenile justice centre by the signature of one of the managers or their secretary, or of the person for the time being in charge.

Presumption and determination of age

62.—(1) This Article applies where in any proceedings against a child or any other person for an offence, a person is brought before a court otherwise than for the purpose of giving evidence and it appears to the court that he is a child.

(2) The court shall make due inquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case.

(3) An order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Order, be deemed to be the true age of that person.

Appeals

63.—(1) Where a person appeals against an order made under this Order by a court of summary jurisdiction without convicting him, the county court shall have the like powers on the appeal as if it had been against both conviction and sentence.

(2) An appeal by a child in respect of whom an order has been made under this Order by a court of summary jurisdiction, whether the appeal is against the order or against the finding upon which the order was made, may be brought by him or by his parent or guardian on his behalf.

Transitional provisions and savings

64.—(1) The Secretary of State may by order make such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient.

(2) Without prejudice to paragraph (1), Schedule 4 shall have effect.

Article 65—Amendments and repeals

Status:
Point in time view as at 12/04/2010. This version of this Order contains provisions that are prospective.

Changes to legislation:
The Criminal Justice (Children) (Northern Ireland) Order 1998 is up to date with all changes known to be in force on or before 14 May 2024. 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.