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STATUTORY INSTRUMENTS

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**1998 No. 1504 (N.I. 9)**

**NORTHERN IRELAND**

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

*Made - - - - 24th June 1998  
Coming into operation on days to be appointed under  
Article 1(2)*

At the Court at Buckingham Palace, the 24th day of June 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**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.

**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 17;

“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;

“arrestable offence” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 and “serious arrestable offence” has the meaning assigned to it by Article 87 of that Order;

“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 17;

“community order”, “community sentence” and “custodial sentence” have the same meanings as in Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;

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

“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;

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

“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;

“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.

(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.

## 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.

### **Child’s welfare**

4. In any proceedings for an offence, the court shall have regard to—

- (a) the welfare of any child brought before it; and
- (b) the general principle that any delay in dealing with a child is likely to prejudice his welfare.

### **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 serious arrestable 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.

#### **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 serious arrestable offence; or
- (b) for the protection of the public the child should not be released.

**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 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 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.

**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.

## 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 arrestable 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 arrestable 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 section 3 of the Northern Ireland (Emergency Provisions) Act 1996.

### **Remand in custody**

13.—(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 shall make an order committing the child—

- (a) to a juvenile justice centre; or
- (b) if he is aged 15 or over and the court considers that he is likely to injure himself or other persons, to a young offenders centre,

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.

### **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).

### **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.



### **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.

### **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.

### **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 Lord Chancellor 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.

#### **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 17 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 17 by a person in respect of whom a community 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 or the commission of a further offence, or to amend or discharge the community 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.

### **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 and a court—

- (a) finds him not guilty; or
- (b) finds him guilty but does not pass a custodial sentence or a community sentence,

the court may, if the court considers that his welfare requires it, notify the appropriate authority of such matters as the court thinks fit.

### *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.

*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 be such as to avoid interference, so far as practicable, with his school hours or working hours.

(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.

### **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 to which Article 45(1) applies), 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.

(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).

**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;

(b) the person under whose supervision he will be shall give him a notice specifying any requirements with which he must comply.

(3) During the period of supervision the person under whose supervision the offender is or another person designated by the Secretary of State may give the offender a notice specifying any alteration to the matters mentioned in paragraph (2)(a)(ii) or (b).

(4) The Secretary of State may make rules regulating the supervision of an offender subject to a juvenile justice centre order.

(5) Rules under paragraph (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(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.

### **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 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 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—
  - (i) in a juvenile justice centre; or
  - (ii) in a young offenders centre if he has attained the age of 17 or was detained in a young offenders centre before the period of supervision began.

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

### **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.**—(1) Where a juvenile centre order is made with respect to a child who is subject to a care order under the Children (Northern Ireland) Order 1995, the care order shall be of no effect while he is detained in a juvenile justice centre.

(2) Where a child has ceased to be in the care of an authority by virtue of paragraph (1), the authority shall, where practicable, while the child is detained in a juvenile justice centre, cause him to be visited and befriended, and may, in exceptional circumstances, give him assistance in kind or in cash.

(3) Paragraphs (7) to (9) of Article 18 of the Children (Northern Ireland) Order 1995 shall apply to assistance under this Article as they apply to assistance under that Article.

#### **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, 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”.

#### *Grave crimes*

#### **Punishment of certain grave crimes**

**45.**—(1) A person convicted of an offence who appears to the court to have been under the age of 18 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 Secretary of State in such place and under such conditions as the Secretary of State may direct.

(2) Where—

- (a) a child is convicted on indictment of any offence punishable in the case of an adult with imprisonment for 14 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 Secretary of State may direct.

(3) A person detained pursuant to the directions of the Secretary of State under this Article shall, while so detained, be deemed to be in legal custody.

(4) The Secretary of State may by order direct that a person in respect of whom the Secretary of State 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 Secretary of State may determine of the person 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 person will, in the opinion of the Secretary of State, attain the age of 18; 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 Secretary of State to give directions under paragraph (2).

#### **Discharge on licence**

**46.**—(1) Any person detained pursuant to the directions of the Secretary of State under Article 45 may, at any time, be discharged by the Secretary of State on licence.

(2) Such a licence may be in such form and may contain such conditions as the Secretary of State may direct, and may at any time be revoked or varied by the Secretary of State.

(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 Secretary of State may direct.

#### *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 person detained by the managers of a juvenile justice centre is under the age of 18, 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.

#### **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 under the age of 18, be taken to any juvenile justice centre or

in any case be returned to the hospital or institution from which he escaped or to the person in whose 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;
- (b) may, if he is not a child but is under the age of 18,—
  - (i) 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; or
  - (ii) 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;
- (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 paragraph (3)(b)(ii) or (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.

### *Inspection*

#### **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.



## PART VIII

### MISCELLANEOUS AND GENERAL

#### **Juvenile Justice Board**

**56.**—(1) The name of the body corporate established under section 1 of the Malone and Whiteabbey Training Schools Act (Northern Ireland) 1956 is hereby changed to the Juvenile Justice Board.

(2) In section 2 of that Act (functions of Board)—

- (a) in subsection (2), for the words “all the functions of managers of training schools under the Act of 1968”, and
- (b) in subsection (3), for the words “all the functions of managers of a training school under the Act of 1968”,

there shall in each case be substituted the words “the functions of managers of a juvenile justice centre under the Criminal Justice (Children) (Northern Ireland) Order 1998”.

(3) In section 14 of that Act (expenses of members of Board), after the words “any member” there shall be inserted the words “such remuneration and such”.

(4) In paragraph 1(2) of the First Schedule to that Act (appointment of members), for the words from “twelve members” to “women” there shall be substituted the words “not more than twelve members”.

(5) The Secretary of State may by order provide for the functions of the Juvenile Justice Board to include power, subject to the approval of the Secretary of State,—

- (a) to make and give effect to schemes for children who are subject to attendance centre orders or juvenile justice centre orders and schemes for the prevention of crime by children;
  - (b) to enter into arrangements with voluntary organisations or any other persons (including government departments and public bodies) whereby those organisations or persons undertake, on such terms (including terms as to payment by the Board to those organisations or persons) as may be specified in the arrangements, to give effect to such schemes as are mentioned in sub-paragraph (a);
  - (c) to provide voluntary organisations or any other persons with facilities for the purposes of such schemes as are mentioned in sub-paragraph (a) on such terms (including payment to the Board by those organisations or persons) as the Board may think fit.
- (6) The Secretary of State may by order—
- (a) transfer such functions, assets and liabilities of the Juvenile Justice Board as are specified in the order to any body or person so specified (including the Secretary of State);
  - (b) make provision for, or in connection with, the winding up and dissolution of the Board (including provision for the transfer of the functions, assets and liabilities of the Board to any such body or person);
  - (c) establish a body for the purpose of transferring functions, assets and liabilities to it by order under this Article and provide for the payment of such remuneration or allowances of such amounts as the Secretary of State may determine, to members of that body by the Secretary of State.

(7) An order under this Article may contain such incidental, consequential, transitional or supplementary provisions (including the amendment or repeal of the Malone and Whiteabbey Training Schools Act (Northern Ireland) 1956 or any other statutory provision including a provision of this Order) as appear to the Secretary of State to be necessary or expedient for giving full effect to the provisions of any order under this Article.

(8) An order under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly. 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.

(2) The Secretary of State may pay grants to the Juvenile Justice Board in respect of expenditure incurred or to be incurred in the discharge of functions conferred on the Board by order under Article 56.

(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.

### **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.

### **Amendments and repeals**

**65.**—(1) The statutory provisions specified in Schedule 5 shall have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 6 are hereby repealed to the extent specified in the third column of that Schedule.

*N.H. Nicholls*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 2(2).

#### DEFINITIONS OF “SEXUAL OFFENCE” AND “VIOLENT OFFENCE”

1. In this Order “sexual offence” means the commonlaw offence of rape or an offence under any of the following provisions—

- (a) sections 52 to 55, 61 and 62 of the Offences Against the Person Act 1861;
- (b) sections 2 to 8, 11 and 13 of the Criminal Law Amendment Act 1885;
- (c) section 1 of the Vagrancy Act 1898;
- (d) sections 1 and 2 of the Punishment of Incest Act 1908;
- (e) section 7(4) of the Criminal Law Amendment Act 1912;
- (f) section 2 of the Attempted Rape, etc. Act (Northern Ireland) 1960;
- (g) sections 21 and 22 of the Children and Young Persons Act (Northern Ireland) 1968;
- (h) Article 3 of the Protection of Children (Northern Ireland) Order 1978;
- (i) Article 9 of the Criminal Justice (Northern Ireland) Order 1980;
- (j) Articles 7 and 8 of the Homosexual Offences (Northern Ireland) Order 1982;
- (k) Articles 122 and 123 of the Mental Health (Northern Ireland) Order 1986.

2. In this Order “violent offence” means an offence which leads or is intended or likely to lead to a person’s death or to physical injury to a person, and includes an offence under section 20 of the Children and Young Persons Act (Northern Ireland) 1968 or an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).

### SCHEDULE 2

Article 51(3).

#### JUVENILE JUSTICE CENTRES

1.—(1) A juvenile justice centre order or any other order under which a person is to be detained in a juvenile justice centre shall be authority for his detention in any juvenile justice centre and the juvenile justice centre in which that person is to be detained at any time shall be determined by the Secretary of State.

(2) Sub-paragraph (1) applies to an order under Article 13 but sub-paragraph

(3) does not apply to a person detained under an order under that Article.

(3) The Secretary of State may at any time order a person detained by the managers of a juvenile justice centre to be discharged.

(4) Where a person detained in a juvenile justice centre is transferred to another centre, he shall be taken to his new centre by and at the expense of the managers of the first-mentioned centre.

2. A minister of the religious persuasion to which a person in a juvenile justice centre belongs may visit him at the centre for the purpose of affording him religious assistance and instruction.

3. If it appears to the managers of a juvenile justice centre—
- (a) that a person who has been ordered to be sent to their centre requires medical attention before he can properly be received into the centre; or
  - (b) that a person detained in the centre requires such attention,

they may make arrangements for him to be received into and detained in any hospital or other institution where he can receive the necessary attention; and that person, while so detained, shall for the purposes of this Order be deemed to be detained in the juvenile justice centre.

4. At any time during the period of a person's detention in a juvenile justice centre the managers of the centre may grant leave to him to be absent from it in the charge of such person and for such period as they think fit, but during such period he shall, for the purposes of this Order, be deemed to be detained by the managers of the centre, and the managers may at any time require him to return to the centre.

5.—(1) If in the case of a person detained in a juvenile justice centre who has attained the age of 16 the Secretary of State is satisfied by the samereports as are required for the purposes of Article 53 of the Mental Health (Northern Ireland) Order 1986 that that person is suffering from mental disorder of a nature or degree which warrants his reception into guardianship under that Order, the Secretary of State may, if he is of the opinion having regard to the public interest and to all the circumstances that it is expedient to do so, by warrant direct that that person be placed under the guardianship of a Board or HSS trust or such other person approved by a Board or HSS trust as may be specified in the direction.

(2) A direction shall not be given under this paragraph placing a person under the guardianship of a Board or HSS trust or other person unless the Secretary of State is satisfied as to the willingness of that Board, trust or person to receive that person into guardianship.

(3) A direction under this paragraph with respect to any person shall have the same effect as a guardianship order made in his case.

(4) Expressions used in this paragraph and in the Mental Health (Northern Ireland) Order 1986 have the same meanings in this paragraph as in that Order.

6.—(1) If a person detained in a juvenile justice centre has attained the age of 15 and the managers of the centre consider that he is likely to injure himself or other persons, the managers may bring him before a court of summary jurisdiction.

(2) A court may order a person brought before it under this paragraph to be transferred to a young offenders centre for the unexpired part of the period for which he is liable to be detained in a juvenile justice centre.

- (3) In relation to a person who is transferred to a young offenders centre under this paragraph—
- (a) an order under which he was detained in the juvenile justice centre shall continue to have effect (subject to the order made under this paragraph);
  - (b) Article 54 (escapes) shall have effect as if references to a juvenile justice centre were references to a young offenders centre and references to the order referred to in paragraph (1) were references to the order under which he was detained in a juvenile justice centre as it has effect by virtue of this paragraph;
  - (c) the references in Articles 40(2)(a), 49 and 54(1) to the managers of the juvenile justice centre shall be construed as references to the governor of the young offenders centre.

(4) The Secretary of State may at any time order a person who is transferred to a young offenders centre under this paragraph to be discharged.

7. Every person who—

*Status: This is the original version (as it was originally made).*

- (a) is authorised by the managers of a juvenile justice centre to take charge of a person detained by them, or to apprehend such a person and bring him back to the centre; or
- (b) is authorised by the Secretary of State or, being a probation officer, is authorised by a court, to take to a juvenile justice centre a person ordered to be detained there;

shall, for the purposes of this duty, have all the powers, protection and privileges of a constable.

### SCHEDULE 3

Article 59(3).

#### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 59(3)

1. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
2. References to the council or the Department shall be construed as references to the Secretary of State.
3. Paragraph 1 shall be omitted.
4. In paragraph 2—
  - (a) for the words from the beginning to “directs,” there shall be substituted the words “Where the Secretary of State proposes to acquire land otherwise than by agreement, he shall give notice of his intention to do so and such notice”;
  - (b) in sub-paragraph (c) for the words “as may be prescribed” there shall be substituted the words “as the Secretary of State thinks fit”.
5. In paragraph 3—
  - (a) in sub-paragraph (1)(i) for the words “any modifications of the council’s proposal that the Ministry thinks proper” there shall be substituted the words “such modifications to his proposal as he thinks fit”;
  - (b) in sub-paragraph (1)(ii) for the word “refuse” there shall be substituted the words “decide not”;
  - (c) in sub-paragraph (2) for the words “making or refusing” there shall be substituted the words “deciding whether to make”.
6. In paragraph 4 the words from “and may provide” to the end of the paragraph shall be omitted.
7. In paragraph 5—
  - (a) in sub-paragraph (1)(a) the words “in the prescribed form and manner” shall be omitted;
  - (b) in sub-paragraph (1)(b) for the two references to the said Act of 1972 there shall be substituted references to this Order;
  - (c) in sub-paragraph (1)(d) the words “in the prescribed form” shall be omitted;
  - (d) in sub-paragraph (2) for the words “as may be prescribed” there shall be substituted the words “as the Secretary of State thinks fit”.
8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” there shall be substituted the words “Consolidated Fund of the United Kingdom” and for the words “out of the compensation fund” there shall be substituted the words “made by the Secretary of State”.
9. In paragraph 11(3) the words “in the prescribed form” shall be omitted.

10. In paragraph 12—
  - (a) in sub-paragraph (1) the word “such” and the words “as may be prescribed” shall be omitted;
  - (b) in sub-paragraph (2) for the words from “clerk” to “directs,” there shall be substituted the words “Secretary of State as correct, and publish”.
11. In paragraph 14(1) the words “in the prescribed form,” shall be omitted.
12. In paragraph 15(1) for the words “in the prescribed form” there shall be substituted “in such form as may be approved by the Secretary of State”.
13. In paragraph 18—
  - (a) in sub-paragraph (2) for the words “Ministry of Finance” there shall be substituted “Treasury”;
  - (b) after that sub-paragraph there shall be added the following sub-paragraph—

“(3) Section 143 shall not apply to an order made by the Treasury under this paragraph but such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”.
14. Paragraph 19 shall be omitted.
15. In paragraph 20, sub-paragraph (2) shall be omitted.

#### SCHEDULE 4

Article 64(2).

#### TRANSITIONAL PROVISIONS AND SAVINGS

1. Each of Articles 35, 36, 37, 39, 44, 45, 47 and 48 shall apply in relation to offenders convicted (but not sentenced) before the commencement of that Article as it applies to offenders convicted afterwards.
2. Any training school which at the commencement of this paragraph is approved or provided under the Act of 1968 shall be deemed to be a juvenile justice centre provided under Article 51.
3. Where at the commencement of this paragraph there is in force in relation to any person any of the following orders under the Act of 1968—
  - (a) a supervision order;
  - (b) a training school order; or
  - (c) an order committing a person to the care of a fit person,the repeal by this Order of any provision of the Act of 1968 or of any other statutory provision shall not have effect in relation to that order.
4. In this Schedule the “Act of 1968” means the Children and Young Persons Act (Northern Ireland) 1968.

SCHEDULE 5

Article 65(1).

AMENDMENTS

*Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))*

1. In section 47(1A) (interpretation), for paragraphs (c) and (d) substitute—  
“or  
(c) a juvenile justice centre”.

*Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10 (N.I.))*

2. In section 2 (costs of prosecution in cases of conviction), after subsection (1) insert the following subsection—  
“(1A) The amount of any costs ordered by a magistrates' court under this section to be paid by a person under the age of seventeen shall not exceed the amount of any fine imposed on him.”.

*Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))*

3. In section 2 (young offenders centres and remand centres)—  
(a) in paragraph (a)(ii) for “14” substitute “fifteen”;  
(b) in paragraph (b)(i) for “fourteen” substitute “fifteen”.
4. In section 5 (detention in a young offenders centre), in subsections (1) and (3), for “section 72(3) of the Children and Young Persons Act (Northern Ireland) 1968” substitute “Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.
5. In section 9(1) (remand and committal of persons under 21) after “a person” insert “not being less than seventeen but”.

*Northern Ireland (Emergency Provisions) Act 1973 (c. 53)*

6. In section 1 (punishment for murder)—  
(a) in subsection (1), for the words from “section 73(1)” to “pleasure)” substitute “Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (detention of children at Secretary of State’s pleasure)”;  
(b) in subsection (3), for “section 73(1)” substitute “Article 45(2)”.

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

7. In Part II of Schedule 1 (bodies all members of which are disqualified), at the appropriate place in alphabetical order insert—  
“The Juvenile Justice Board”.

*Judicature (Northern Ireland) Act 1978 (c. 23)*

8. In Part II of Schedule 5 (minor and consequential amendments), in the entry amending section 136(4) of the Children and Young Persons Act (Northern Ireland) 1968, for “sections 136(4) and” substitute “section”.



*Sexual Offences (Northern Ireland) Order 1978 (NI 5)*

9. In Article 5(3) (restrictions on evidence at committal proceedings), for the words from “section 79(1)” to “young person” substitute “Article 17(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which provides for the summary trial in certain cases of a child)”.

*Protection of Children (Northern Ireland) Order 1978 (NI 17)*

10. In Article 9(2) (amendments), for the words from the beginning to “174)” substitute “References in the Children and Young Persons Act (Northern Ireland) 1968 (except in section 174) and the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27)*

11. In Article 6 (rehabilitation periods for particular sentences)—

- (a) in paragraph (1)(d), for the words from “section 73” to “(young offenders)” substitute “Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (children”;
- (b) in paragraph (2), in Table B, for the words from “section 73” to “1968” substitute “Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998” and for “that section 73” substitute “that Article 45”;
- (c) in paragraph (6), for sub-paragraphs (b) and (c) substitute the following sub-paragraphs—
  - “(b) a juvenile justice centre order under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998;
  - (c) an attendance centre order under Article 37 of that Order of 1998.”;
- (d) in paragraph (9)(c), for the words from “section 73” to “1968” substitute “Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Perjury (Northern Ireland) Order 1979 (NI 19)*

12. In Article 18(2) (savings), for the words from “section” to “1968” substitute “Article 20 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

13. In section 9(3)(a) (appeal against sentence), for the words from “section 76” to the end substitute “Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8)*

14. In Article 34 (free legal aid for children and young persons), for the words from “or young person” in the first place where they occur to “1968” substitute “within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)*

15. In Article 2(3) (interpretation)—

- (a) for the definition of “children or young persons” substitute the following definition—
  - ““child” has the same meaning as in Article 2(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”;

(b) in the definition of “summary offence”, for the words from “or young person” to “1968” substitute “, under Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

16. In Article 24(1) (plea of guilty), for “juvenile” substitute “youth”.

17. In Article 28(4) (power of court of summary jurisdiction to authorise taking deposition of person sick or unable to attend), for the words from “sections 61” to the end substitute “Articles 25 and 26 of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

18. In Article 30(1) (preliminary investigation of indictable offences) for the words from “section” to “1968” substitute “Articles 28 and 29 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

19. In Article 47(6) (remand), for sub-paragraph (b) substitute the following sub-paragraph—

“(b) a juvenile justice centre order within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

20. In Article 127(8) (power to bind over) for the words from “section 76(2)” to “1968” substitute “Article 36(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

#### *Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (NI 13)*

21. In Article 10(3) (exemptions from liability for conspiracy), for the words from “section” to “1968” substitute “Article 3 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

#### *Repatriation of Prisoners Act 1984 (c. 47)*

22. In section 2(4)(b)(iii) (warrant for transfer out of the United Kingdom)—

(a) for the words from “section 73” to “1968” substitute “Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998”;

(b) for “young persons” substitute “children”.

#### *Child Abduction (Northern Ireland) Order 1985 (NI 17)*

23. In Article 3(7) (offence of abduction of child by parent, etc.), for “training school” substitute “juvenile justice centre”.

24. In the Schedule (modifications of Article 3 for children in certain cases), in paragraph 4—

(a) in sub-paragraph (1) for “training school” substitute “juvenile justice centre”;

(b) in sub-paragraph (2)(a) for “training school” substitute “juvenile justice centre”;

(c) for sub-paragraph (3) substitute—

“(3) In this paragraph, “juvenile justice centre order” has the same meaning as in Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

#### *Mental Health (Northern Ireland) Order 1986 (NI 4)*

25. In Article 44(8) (power of courts to order hospital admission or guardianship), for the words from “section 74(1)(a)” to the end substitute “Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 sending a child under the age of 17 to a juvenile justice centre.”.

26. In Article 50A(7) (powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.)—

(a) for sub-paragraph (d) substitute—

- “(d) to a juvenile justice centre.”;
- (b) for “remand home” substitute “juvenile justice centre”.
- 27.** In Article 53(5)(a) (removal to hospital of persons serving sentences of imprisonment), for the words from “section 74(1)(a)” to “remand home” substitute “Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 sending a child to a juvenile justice centre”.
- 28.** In Article 56 (further provisions as to prisoners under sentence)—
- (a) in paragraph (1)—
- (i) for “remand home or training school” in both places where they occur substitute “or juvenile justice centre”;
- (ii) in sub-paragraph (b), for “training school” substitute “juvenile justice centre”;
- (b) in paragraph (3), for “remand home or training school” substitute “or juvenile justice centre”.
- 29.** In Article 61 (interpretation)—
- (a) for paragraph (1) substitute the following paragraphs—
- “(1) In this Part the following words and expressions have the same meaning as in the Criminal Justice (Children) (Northern Ireland) Order 1998, namely—
- (a) child;
- (b) guardian;
- (c) juvenile justice centre.
- (1A) In this Part “place of safety” in relation to a child means any juvenile justice centre, any police station, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive a child.”;
- (b) at the end of paragraph (8) add “and Article 62 of the Criminal Justice (Children) (Northern Ireland) Order 1998 shall apply for the purposes of this Part as it applies for the purposes of that Order.”.

*Adoption (Northern Ireland) Order 1987 (NI 22)*

- 30.** In Article 16(5) (parental agreement), for sub-paragraph (a) substitute the following sub-paragraph—
- “(a) Article 53 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which relates to parental responsibility for children ordered to be sent to juvenile justice centres);”.

*Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (NI 17)*

- 31.** In Article 13(3) (abolition of requirement of corroboration for unsworn evidence of children), for the words from “Article” to “1995” substitute “Article 20 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)*

- 32.** In Article 2 (interpretation), for paragraph (5) substitute the following paragraph—
- “(5) In this Order “custodial establishment” includes a prison, a young offenders centre, a juvenile justice centre and a remand centre.”.

**33.** In Article 19(1)(ca) (entry for purpose of arrest), for the words from “training school” to “1968” substitute “juvenile justice centre or in any other place in pursuance of Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

**34.** In Article 39 (duties of custody officer after charge), for paragraph (8) substitute the following paragraph—

“(8) In paragraph (6) “place of safety” means any juvenile justice centre, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive the arrested juvenile.”.

**35.** In Article 52 (children), for the words from “section” to the end substitute “Articles 7 and 8 of the Criminal Justice (Children) (Northern Ireland) Order 1998 accordingly apply”.

**36.** In Article 70(1) (interpretation) in the definition of “sexual offence” for the words from “section 58(5)” to the end substitute “Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

**37.** In Article 81 (evidence through television links), in paragraphs (1A)(b) and (7) for “juvenile” substitute “magistrates”.

**38.** In Article 81A(1)(c) (video recordings of testimony from child witnesses), for “juvenile” substitute “magistrates”.

*Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)*

**39.** In section 15(7) (provisions supplementary to power of arrest), for paragraph (c) substitute the following paragraph—

“(c) Article 8(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

*Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)*

**40.** In Schedule 9 (exclusions from entitlement to child benefit) in paragraph 1(1)—

(a) in paragraph (b)—

(i) for sub-paragraphs (i) and (ii) substitute “the Criminal Justice (Children) (Northern Ireland) Order 1998”;

(ii) for the words from “training school” to “licence” substitute “juvenile justice centre, and is not out under supervision”;

(b) in paragraph (c), for “section 73 of that Act of 1968” substitute “Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998”;

(c) in paragraph (d), for “Act of 1968” substitute “Order of 1998”.

*Criminal Justice (Northern Ireland) Order 1994 (NI 15)*

**41.** In Article 14 (compensation orders against convicted persons)—

(a) after paragraph (9) insert the following paragraph—

“(9A) For the purposes of any order under Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 against the parent or guardian of a child—

(a) paragraphs (9)(a) and (10)(b) shall have effect (so far as applicable) as if any reference to the means of the person against whom the compensation order is made were a reference to the means of the parent or guardian; but

(b) for the purposes of any such order made against an authority (within the meaning of that Order) paragraphs (9) and (10) shall not apply.”;

- (b) in paragraph (11), after “£5,000” insert “or, if the offender is under the age of 17, £1,000”.

*Children (Northern Ireland) Order 1995 (NI 2)*

42. In Article 2(9)(b) (interpretation), for “or section 74 of the Children and Young Persons Act (Northern Ireland) 1968” substitute “or with a juvenile justice centre order”.

43. In Article 70(7) (refuges for children at risk), for sub-paragraph (b) substitute the following sub-paragraph—

“(b) Article 54(5) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (escapes from juvenile justice centres);”.

44. In Articles 74(2)(e) and 91(2)(e) (definitions), for “training school” substitute “juvenile justice centre”.

45. In Article 107(5) (privately fostered children further defined), for sub-paragraphs (a) and (b) substitute “he is living with any person in compliance with a juvenile justice centre order”.

46. In Schedule 4 (education supervision orders), in paragraph 4—

- (a) in sub-paragraph (1)(b), for the words from “an order” to “guilt,” substitute “a juvenile justice centre order”;
- (b) in sub-paragraph (2), after “failing to comply with” insert “a requirement of or”.

*Northern Ireland (Emergency Provisions) Act 1996 (c. 22)*

47. For section 14 (treatment of young persons convicted of scheduled offences) substitute the following section—

**“14 Treatment of children convicted of scheduled offences.**

14. Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (under which a court may sentence a child convicted on indictment of an offence punishable in the case of an adult with imprisonment for fourteen years or more to detention for a period specified in the sentence) shall have effect in relation to a child convicted of a scheduled offence committed while this section is in force with the substitution of the word “five” for “14”.

48. In section 16(3) (conviction of scheduled offence during period of remission), for the words from “section 73(1)” to “1968” substitute “Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998”.

*Juries (Northern Ireland) Order 1996 (NI 6)*

49. In Schedule 2 (persons ineligible for jury service) for paragraph (b) of the entry relating to governors, chaplains and other officers of, and members of boards of visitors or visiting committees for various establishments substitute the following—

“(b) a juvenile justice centre or attendance centre within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998; or”.

*Proceeds of Crime (Northern Ireland) Order 1996 (NI 9)*

50. In Article 13(4) (application of procedure for enforcing fines), for the words from “section 76” to “offenders” substitute “Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (parent or guardian to pay fine instead of child)”.

*Criminal Justice (Northern Ireland) Order 1996 (NI 24)*

**51.** In Article 2(2) (interpretation)—

- (a) in the definition of “attendance centre order”, for the words from “section” to the end substitute “Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998;”;
- (b) in the definition of “custodial sentence”, in paragraph (b) for sub-paragraphs (ii) and (iii) substitute the following sub-paragraphs—
  - “(ii) a sentence of detention in a young offenders centre or a sentence of detention during the Secretary of State’s pleasure under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998;
  - (iii) an order under Article 39 of that Order sending the offender to a juvenile justice centre;”;
- (c) in the definition of “sexual offence”, for the words from “section” to the end substitute “Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998;”.

**52.** In Article 7, for paragraph (1) (supplementary provisions as to probation and discharge) substitute the following paragraph—

“(1) Without prejudice to Article 36(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (which enables a court to order the parent or guardian of a child found guilty of an offence to give security for his good behaviour), a court may, on the making of an order for conditional discharge or a probation order, if it thinks it expedient for the purpose of the reformation of the offender, require the offender, or—

- (a) if the offender is under the age of 16 years, his parent or guardian; or
- (b) if the offender has attained the age of 14 years but is under the age of 17 years, the offender or his parent or guardian,

to give security for the good behaviour of the offender.”.

**53.** In Article 18(1) (restriction on imposing sentences of imprisonment or detention on persons not legally represented), for the words from “section” to “training school order” substitute “Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 on, or make a juvenile justice centre order”.

**54.** In Article 29 (fixing of fines)—

- (a) in paragraph (4), after sub-paragraph (b) insert the following sub-paragraph—

“or

- (c) the parent or guardian of an offender who is under the age of 17 years—

- (i) has failed to comply with an order under Article 30(2A); or
- (ii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances;”;

- (b) after paragraph (5) insert the following paragraph—

“(5A) For the purposes of any order under Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 against a parent or guardian of an offender (parent or guardian to pay fine, etc., instead of child)—

- (a) this Article and Article 32 shall have effect (so far as applicable) as if any reference to the financial circumstances of the offender were a reference to the financial circumstances of the parent or guardian; but
- (b) for the purposes of any such order made against the appropriate authority (within the meaning of that Order) paragraph (1) shall not apply.”.

**55.** In Article 30 (statements as to offenders' means), after paragraph (2) insert the following paragraph—

“(2A) Before making an order under Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 against a parent or guardian, the court may make a financial circumstances order with respect to him.”.

**56.** At the end of Article 31 (false statements as to financial circumstances) add the following paragraph—

“(3) Where a person who is charged with an offence is under the age of 17 years, this Article shall also apply to his parent or guardian and accordingly this Article shall have effect in relation to the parent or guardian of such a person as if—

- (a) any reference to his financial circumstances were a reference to the financial circumstances of his parent or guardian;
- (b) the reference in paragraph (1) to a person who is charged with an offence were a reference to his parent or guardian;
- (c) the reference in paragraph (2) to his being convicted were a reference to his being convicted and the court's deciding to make an order under Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 against his parent or guardian.”.

**57.** In Article 34(1) (reports of probation officers) for “juvenile” substitute “youth”.

**58.** In Schedule 2—

- (a) in paragraph 3(1)(c) (powers of court of summary jurisdiction), for the words from “section”, where it first occurs to “section” where it occurs for the second time, substitute “Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 applies, it may make an order under that Article”;
- (b) in paragraph 4(1)(c) (powers of Crown Court), for the words from “section”, where it first occurs to “section” where it occurs for the second time, substitute “Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 applies, it may make an order under that Article”;
- (c) in paragraph 11(3) (supplemental provisions)—
  - (i) for the words from “training school” to “1968” substitute “juvenile justice centre under the Criminal Justice (Children) (Northern Ireland) Order 1998”;
  - (ii) for “managers of the school” substitute “managers of the juvenile justice centre”;
- (d) in paragraph 18(3) (supplemental provision)—
  - (i) for the words from “training school” to “1968” substitute “juvenile justice centre under the Criminal Justice (Children) (Northern Ireland) Order 1998”;
  - (ii) for “managers of the school” substitute “managers of the juvenile justice centre”.

*Status: This is the original version (as it was originally made).*

## SCHEDULE 6

Article 65(2).

## REPEALS

Chapter or Number	Short title	Extent of repeal
1956 c. 4 (N.I.).	Malone and Whiteabbey Training Schools Act (Northern Ireland) 1956.	In section 2, in subsection (3) the words “subject to subsection (4)” and subsection (4).  In section 19, the definitions of “the Act of 1968” and “training school”.
1968 c. 29 (N.I.).	Treatment of Offenders Act (Northern Ireland) 1968.	In section 9, in subsection (1) the words from “then” to “mentioned in paragraph (b)” and paragraph (b), and subsection (3).
1968 c. 34 (N.I.).	Children and Young Persons Act (Northern Ireland) 1968.	Sections 48 to 62.  Sections 64 to 79.  Sections 81 to 91.  Section 97.  Sections 99 to 102.  Sections 132 to 148.  Sections 150 and 151.  Sections 163, 167, 168, 170, 172, 173, 174(1), 176, 177 and 179.  In section 180(1) the definitions of “Board”, “clerk”, “compulsory school age”, “guardian”, “HSS trust”, “local education authority”, “managers”, “the Minister”, “the Ministry”, “notice”, “order for conditional discharge”, “parental responsibility”, “place of safety”, “prescribed”, “probation order”, “relative”, “remand centre”, “remand home”, “school”, “supervision order”, “the 1986 Order”, “training school”, “training school order” and “young offenders centre”.  Section 181(1).



Chapter or Number	Short title	Extent of repeal
		Schedules 3 to 6.
		Schedule 7, except paragraph 39.
1973 c. 53.	Northern Ireland (Emergency Provisions) Act 1973.	Section 9(1) to (5).
S.I. 1973 No. 2163.	Northern Ireland (Modification of Enactments – No. 1) Order 1973.	Article 2(2).
		In Schedule 5, paragraph 57(a), (b), (d) and (e).
1978 c. 19.	Oaths Act 1978.	Section 2.
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	In Part II of Schedule 5, the amendments relating to sections 65(2), 67(b), 76(6)(b) and 79(2) of the Children and Young Persons Act (Northern Ireland) 1968.
1978 NI 17.	Protection of Children (Northern Ireland) Order 1978.	Article 9(2)(b).
1978 NI 27.	Rehabilitation of Offenders (Northern Ireland) Order 1978.	In Article 6— (a) paragraph (5)(a) and (b); (b) paragraph (6)(a); (c) in paragraph (10), the words “or supervision order under the Children and Young Persons Act (Northern Ireland) 1968”.
1980 NI 5.	Domestic Proceedings (Northern Ireland) Order 1980.	In Schedule 3, paragraph 10.
1980 NI 6.	Criminal Justice (Northern Ireland) Order 1980.	In Part II of Schedule 1, paragraph 48.
1980 NI 10.	Treatment of Offenders (Northern Ireland) Order 1980.	In Schedule 2, paragraphs 2 to 4.
1981 c. 49.	Contempt of Court Act 1981.	Section 14(3) (as set out in Schedule 4).
1981 NI 8.	Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Article 34, the words “or young person” in the second and third places where they occur.  In Part I of Schedule 1, in paragraph 3(f) the words from “sections” to “1968 and”.

*Status:* This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
1981 NI 26.	Magistrates' Courts (Northern Ireland) Order 1981.	In Article 15(2) the words “or young persons” where they twice occur.  Article 47(6)(c).  In Part II of Schedule 6, paragraphs 96 to 102, 105, 108, 109, 113 and 114.
1984 NI 3.	Fines and Penalties Northern Ireland) Order 1984.	In Article 17(2), sub- ( paragraph (d).  In Schedule 2, paragraph 5.  In Schedule 3, the amendments to the Children and Young Persons Act (Northern Ireland) 1968.
1985 c. 60.	Child Abduction and Custody Act 1985.	Section 25(4).
1985 NI 17.	Child Abduction (Northern Ireland) Order 1985.	In Article 3(7) the words “or committed to the care of a fit person”.  In the Schedule— (a) in the cross-heading immediately preceding paragraph 1 the words “or committed to the care of a fit person”; (b) in paragraph 1(1) the words “or committed to the care of a fit person in Northern Ireland.”; (c) in paragraph 1(2)(a) the words “or the fit person in whose care the child is”; (d) paragraph 2.
1986 NI 3.	Education and Libraries (Northern Ireland) Order 1986.	In Schedule 18, the entry relating to section 180 of the Children and Young Persons Act (Northern Ireland) 1968.
1986 NI 4.	Mental Health (Northern Ireland) Order 1986.	In Articles 60(2)(b) and 61(2) the words “or young person”.  In Article 61(4) the words “or young persons”.  In Part II of Schedule 5 the entries relating to section 58(4) of, and Schedules 3 and 5

Chapter or Number	Short title	Extent of repeal
		to, the Children and Young Persons Act (Northern Ireland) 1968.
1986 NI 15.	Criminal Justice (Northern Ireland) Order 1986.	Article 5.
1988 NI 17.	Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.	Article 12.
1989 NI 12.	Police and Criminal Evidence (Northern Ireland) Order 1989.	In Article 2(2) in the definition of “parent or guardian” the words “or young person”. Article 38(13)— (a) sub-paragraph (a); (b) the words “the person responsible for the arrested juvenile’s supervision or”. Article 58. In Schedule 2 the entry relating to the Children and Young Persons Act (Northern Ireland) 1968. In Schedule 6, paragraph 6(2) to (5).
1989 NI 15.	Treatment of Offenders (Northern Ireland) Order 1989.	Articles 4 to 6. In Schedule 1, paragraphs 15 to 19 and 26.
1990 c. 42.	Broadcasting Act 1990.	In Schedule 20, paragraph 15(3) and (4).
1992 c. 7.	Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In Schedule 9, paragraph 1(1) (e).
1994 NI 2.	Health and Personal Social Services (Northern Ireland) Order 1994.	In Schedule 1, in the amendments to the Children and Young Persons Act (Northern Ireland) 1968, the entry relating to Schedule 5.
1994 NI 15.	Criminal Justice (Northern Ireland) Order 1994.	Article 3(3). In Schedule 2, paragraph 5.
1995 NI 2.	Children (Northern Ireland) Order 1995.	In Article 2(2) the definition of “training school”.

**Status:** This is the original version (as it was originally made).

Chapter or Number	Short title	Extent of repeal
		In Article 50(8)(b)(ii) the words from “or an order” to the end.
		In Schedule 9, paragraphs 26 to 37, 39 to 52, 55 to 57 and 118.
1995 NI 3.	Children’s Evidence (Northern Ireland) Order 1995.	Article 3.
		In Schedule 2, paragraphs 2 and 3.
1995 NI 17.	Police (Amendment) (Northern Ireland) Order 1995.	In Schedule 1 the entry relating to Article 2(5) of the Police and Criminal Evidence (Northern Ireland) Order 1989.
1996 NI 24.	Criminal Justice (Northern Ireland) Order 1996.	In Article 2(2)— (a) in the definition of “community order”, paragraph (d); (b) the definition of “supervision order”.
		In Article 9(3), subparagraph (d) and the immediately preceding “and”.
		In Article 20(1) the words from “or an order” to the end.
		In Schedule 5, paragraph 3.
		In Schedule 7 the entry relating to section 72(3) of the Children and Young Persons Act (Northern Ireland) 1968.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order replaces those provisions of the Children and Young Persons Act (Northern Ireland) 1968 which deal with children and young persons concerned in criminal proceedings (except Part II of that Act which contains some miscellaneous cruelty offences in respect of children). The Order removes the distinction between a child and a young person and defines a child as a person who is under seventeen.

Part II contains general provisions about the age of criminal responsibility and the duty of a court to have regard to the welfare of a child brought before it in any proceedings for an offence. Part III contains provisions relating to the arrest and detention of a child and Part IV provides for criminal proceedings involving children.

Part V deals with the youth court (a juvenile court hearing a charge against a child).

Part VI contains sentencing and other powers (including power to make attendance centre orders and juvenile justice centre orders). Part VII makes provision for attendance centres and juvenile justice centres.

Part VIII contains miscellaneous and general provisions (including Article 56 which provides for the renaming of the Rathgael and Whiteabbey Schools Management Board as the Juvenile Justice Board and provides for the conferring of additional functions on that Board).