

## STATUTORY INSTRUMENTS

# 1998 No. 1504

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

### PART VI

#### SENTENCING AND OTHER POWERS

##### *[<sup>F1</sup> Youth conferences*

**F1** 2002 c. 26

##### **[<sup>F2</sup> Court-ordered youth conferences**

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

(2) The offences falling within this paragraph are—

- (a) offences the sentence for which is, in the case of an adult, fixed by law as imprisonment for life;
- (b) offences which are, in the case of an adult, triable only on indictment; and
- (c) offences which are scheduled offences for the purposes of Part 7 of the Terrorism Act 2000 (c. 11).

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

- (a) falls within sub-paragraph (b) or (c) of paragraph (2); but
- (b) does not fall within sub-paragraph (a) of that paragraph,

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

(4) Where a child—

- (a) is in breach of a community order or youth conference order and falls to be dealt with by a court for the offence in respect of which the order was made as if he had just been found guilty of the offence; or
- (b) appeals to a court against any sentence or order imposed on him in respect of an offence,

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

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

- (a) that the court exercise its powers (apart from Article 36J) to deal with the child for the offence;
  - (b) that the child be subject to a youth conference plan in respect of the offence; or
  - (c) that the court exercise its powers to deal with the child for the offence by imposing a custodial sentence and that the child be subject to a youth conference plan in respect of the offence.
- (6) A court must not make a reference under this Article unless the child agrees that he will participate in a court-ordered youth conference with respect to the offence.
- (7) And if the child withdraws his agreement before the court-ordered youth conference is completed, the court-ordered youth conference is terminated (or, if not yet started, does not take place).
- (8) If a court makes a reference under this Article, the court may not deal with the child for the offence until the court has received a report under Article 33E(3) or (7) following the completion of the court-ordered youth conference (or the court-ordered youth conference is terminated before completion or does not take place).
- (9) If a recommendation is made to a court under paragraph (5), the court must consider it before dealing with the child for the offence.
- (10) The Secretary of State may by order amend paragraphs (1) to (3); and an order under this paragraph may include any incidental, consequential, transitional or supplementary provision (including the amendment, or repeal or revocation, of any statutory provision whenever passed or made, including any provision of this Order) which appears to the Secretary of State to be appropriate.
- (11) An order under paragraph (10) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and, accordingly, section 5 of the Statutory Instruments Act 1946 (c. 36) applies to such an order.]

**F2** 2002 c. 26

### [<sup>F3</sup> Associated offences

**33B.**—(1) This Article applies where a child has been found guilty by or before a court of associated offences.

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

(3) Subject to that, if—

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

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

**F3** 2002 c. 26

#### [<sup>F4</sup>References: supplementary

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

- (a) the Secretary of State has given the clerk of the court notice that provision for youth conferences has been made for the area in which it appears to the court that the child resides or will reside, and
- (b) the notice has not been withdrawn.

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

- (a) a diversionary youth conference has been completed with respect to the child and the offence; and
- (b) the youth conference co-ordinator made a recommendation under Article 10A(2)(c) or 10C(2);

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

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

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

- (a) it must give its reasons in open court; and
- (b) if it is a magistrates' court, it must cause the reason to be entered in the Order Book.

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

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

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

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

**F4** 2002 c. 26

#### [<sup>F5</sup>Termination of youth conference

**33D.**—(1) This Article applies where a court has referred a case to a youth conference co-ordinator for him to convene a court-ordered youth conference.

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

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

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

**F5** 2002 c. 26

**[<sup>F6</sup>Recommendations: supplementary**

**33E.—**(1) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(b) unless—

- (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and
- (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.

(2) A youth conference co-ordinator may not make a recommendation under Article 33A(5)(c) unless—

- (a) any person, other than the child, by whom any action falls to be taken under the youth conference plan agrees to take the action; and
- (b) any person in relation to whom the child is required by the youth conference plan to take any action agrees to the taking of the action by the child.

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

(4) If the recommendation is made under Article 33A(5)(a), the report—

- (a) where recommending that the court should exercise its powers by imposing a custodial sentence, must not specify what sort of custodial sentence the court should impose or for what period; and
- (b) where recommending that the court should exercise its powers otherwise than by imposing a custodial sentence, may include details of how it is recommended that the court should exercise its powers.

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

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

- (a) must not specify what sort of custodial sentence the court should impose or for what period; but
- (b) must include details of the youth conference plan.

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

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

**F6** 2002 c. 26

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, Cross Heading: Youth conferences.