

Status: Point in time view as at 30/11/2009.

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SCHEDULES

SCHEDULE 2

Section 2

BREACH, REVOCATION OR AMENDMENT OF YOUTH REHABILITATION ORDERS

Modifications etc. (not altering text)

- C1** Sch. 2 modified by Criminal Procedure (Scotland) Act 1995 (c. 46), s. 234(6A) (as inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 4 para. 44\(6\)](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074, art. 2\(p\)\(v\)](#))

PART 1

PRELIMINARY

Interpretation

- 1 (1) In this Schedule, “the offender”, in relation to a youth rehabilitation order, means the person in respect of whom the order is made.
- (2) In this Schedule—
- (a) any reference (however expressed) to an offender's compliance with a youth rehabilitation order is a reference to the offender's compliance with—
 - (i) the requirement or requirements imposed by the order, and
 - (ii) if the order imposes an attendance centre requirement, rules made under section 222(1)(d) or (e) of the Criminal Justice Act 2003 (c. 44) (“attendance centre rules”), and
 - (b) any reference (however expressed) to the offender's failure to comply with the order is a reference to any failure of the offender to comply—
 - (i) with a requirement imposed by the order, or
 - (ii) if the order imposes an attendance centre requirement, with attendance centre rules.
- (3) For the purposes of this Schedule—
- (a) a requirement falling within any paragraph of Part 2 of Schedule 1 is of the same kind as any other requirement falling within that paragraph, and
 - (b) an electronic monitoring requirement is a requirement of the same kind as any requirement falling within Part 2 of Schedule 1 to which it relates.

Commencement Information

- II** Sch. 2 para. 1 in force at 30.11.2009 by [S.I. 2009/3074, art. 2\(n\)](#)

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Orders made on appeal

- 2 Where a youth rehabilitation order has been made on appeal, for the purposes of this Schedule it is to be treated—
- (a) if it was made on an appeal from a magistrates' court, as having been made by a magistrates' court;
 - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, as having been made by the Crown Court.

Commencement Information

I2 Sch. 2 para. 2 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

PART 2

BREACH OF REQUIREMENT OF ORDER

Duty to give warning

- 3 (1) If the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with a youth rehabilitation order, the responsible officer must give the offender a warning under this paragraph unless under paragraph 4(1) or (3) the responsible officer causes an information to be laid before a justice of the peace in respect of the failure.
- (2) A warning under this paragraph must—
- (a) describe the circumstances of the failure,
 - (b) state that the failure is unacceptable, and
 - (c) state that the offender will be liable to be brought before a court—
 - (i) in a case where the warning is given during the warned period relating to a previous warning under this paragraph, if during that period the offender again fails to comply with the order, or
 - (ii) in any other case, if during the warned period relating to the warning, the offender fails on more than one occasion to comply with the order.
- (3) The responsible officer must, as soon as practicable after the warning has been given, record that fact.
- (4) In this paragraph, “warned period”, in relation to a warning under this paragraph, means the period of 12 months beginning with the date on which the warning was given.

Commencement Information

I3 Sch. 2 para. 3 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

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Breach of order

- 4 (1) If the responsible officer—
- (a) has given a warning (“the first warning”) under paragraph 3 to the offender in respect of a youth rehabilitation order,
 - (b) during the warned period relating to the first warning, has given another warning under that paragraph to the offender in respect of a failure to comply with the order, and
 - (c) is of the opinion that, during the warned period relating to the first warning, the offender has again failed without reasonable excuse to comply with the order,
- the responsible officer must cause an information to be laid before a justice of the peace in respect of the failure mentioned in paragraph (c).
- (2) But sub-paragraph (1) does not apply if the responsible officer is of the opinion that there are exceptional circumstances which justify not causing an information to be so laid.
- (3) If—
- (a) the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with a youth rehabilitation order, and
 - (b) sub-paragraph (1) does not apply (in a case not within sub-paragraph (2)),
- the responsible officer may cause an information to be laid before a justice of the peace in respect of that failure.
- (4) In this paragraph, “warned period” has the same meaning as in paragraph 3.

Commencement Information

I4 Sch. 2 para. 4 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Issue of summons or warrant by justice of the peace

- 5 (1) If at any time while a youth rehabilitation order is in force it appears on information to a justice of the peace that an offender has failed to comply with a youth rehabilitation order, the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it, or
 - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this paragraph must direct the offender to appear or be brought—
- (a) if the youth rehabilitation order was made by the Crown Court and does not include a direction under paragraph 36 of Schedule 1, before the Crown Court, and
 - (b) in any other case, before the appropriate court.
- (3) In sub-paragraph (2), “appropriate court” means—
- (a) if the offender is aged under 18, a youth court acting in the relevant local justice area, and

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- (b) if the offender is aged 18 or over, a magistrates' court (other than a youth court) acting in that local justice area.
- (4) In sub-paragraph (3), “relevant local justice area” means—
 - (a) the local justice area in which the offender resides, or
 - (b) if it is not known where the offender resides, the local justice area specified in the youth rehabilitation order.
- (5) Sub-paragraphs (6) and (7) apply where the offender does not appear in answer to a summons issued under this paragraph.
- (6) If the summons required the offender to appear before the Crown Court, the Crown Court may—
 - (a) unless the summons was issued under this sub-paragraph, issue a further summons requiring the offender to appear at the place and time specified in it, or
 - (b) in any case, issue a warrant for the arrest of the offender.
- (7) If the summons required the offender to appear before a magistrates' court, the magistrates' court may issue a warrant for the arrest of the offender.

Commencement Information

I5 Sch. 2 para. 5 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Powers of magistrates' court

- 6 (1) This paragraph applies where—
 - (a) an offender appears or is brought before a youth court or other magistrates' court under paragraph 5, and
 - (b) it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with the youth rehabilitation order.
- (2) The court may deal with the offender in respect of that failure in any one of the following ways—
 - (a) by ordering the offender to pay a fine of an amount not exceeding—
 - (i) £250, if the offender is aged under 14, or
 - (ii) £1,000, in any other case;
 - (b) by amending the terms of the youth rehabilitation order so as to impose any requirement which could have been included in the order when it was made—
 - (i) in addition to, or
 - (ii) in substitution for,
 any requirement or requirements already imposed by the order;
 - (c) by dealing with the offender, for the offence in respect of which the order was made, in any way in which the court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).
- (3) Sub-paragraph (2)(b) is subject to sub-paragraphs (6) to (9).
- (4) In dealing with the offender under sub-paragraph (2), the court must take into account the extent to which the offender has complied with the youth rehabilitation order.

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- (5) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (6) Any requirement imposed under sub-paragraph (2)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.
- (7) Where—
- (a) the court is dealing with the offender under sub-paragraph (2)(b), and
 - (b) the youth rehabilitation order does not contain an unpaid work requirement, paragraph 10(2) of Schedule 1 applies in relation to the inclusion of such a requirement as if for “40” there were substituted “ 20 ”.
- (8) The court may not under sub-paragraph (2)(b) impose—
- (a) an extended activity requirement, or
 - (b) a fostering requirement,
- if the order does not already impose such a requirement.
- (9) Where—
- (a) the order imposes a fostering requirement (the “original requirement”), and
 - (b) under sub-paragraph (2)(b) the court proposes to substitute a new fostering requirement (“the substitute requirement”) for the original requirement,
- paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.
- (10) Where—
- (a) the court deals with the offender under sub-paragraph (2)(b), and
 - (b) it would not otherwise have the power to amend the youth rehabilitation order under paragraph 13 (amendment by reason of change of residence),
- that paragraph has effect as if references in it to the appropriate court were references to the court which is dealing with the offender.
- (11) Where the court deals with the offender under sub-paragraph (2)(c), it must revoke the youth rehabilitation order if it is still in force.
- (12) Sub-paragraphs (13) to (15) apply where—
- (a) the court is dealing with the offender under sub-paragraph (2)(c), and
 - (b) the offender has wilfully and persistently failed to comply with a youth rehabilitation order.
- (13) The court may impose a youth rehabilitation order with intensive supervision and surveillance notwithstanding anything in section 1(4)(a) or (b).
- (14) If—
- (a) the order is a youth rehabilitation order with intensive supervision and surveillance, and
 - (b) the offence mentioned in sub-paragraph (2)(c) was punishable with imprisonment,
- the court may impose a custodial sentence notwithstanding anything in section 152(2) of the Criminal Justice Act 2003 (c. 44) (general restrictions on imposing discretionary custodial sentences).

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(15) If—

- (a) the order is a youth rehabilitation order with intensive supervision and surveillance which was imposed by virtue of sub-paragraph (13) or paragraph 8(12), and
- (b) the offence mentioned in sub-paragraph (2)(c) was not punishable with imprisonment,

for the purposes of dealing with the offender under sub-paragraph (2)(c), the court is to be taken to have had power to deal with the offender for that offence by making a detention and training order for a term not exceeding 4 months.

(16) An offender may appeal to the Crown Court against a sentence imposed under sub-paragraph (2)(c).

Commencement Information

I6 Sch. 2 para. 6 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Power of magistrates' court to refer offender to Crown Court

7 (1) Sub-paragraph (2) applies if—

- (a) the youth rehabilitation order was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and
- (b) a youth court or other magistrates' court would (apart from that sub-paragraph) be required, or has the power, to deal with the offender in one of the ways mentioned in paragraph 6(2).

(2) The court may instead—

- (a) commit the offender in custody, or
- (b) release the offender on bail,

until the offender can be brought or appear before the Crown Court.

(3) Where a court deals with the offender's case under sub-paragraph (2) it must send to the Crown Court—

- (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the youth rehabilitation order in the respect specified in the certificate, and
- (b) such other particulars of the case as may be desirable;

and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.

Commencement Information

I7 Sch. 2 para. 7 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Powers of Crown Court

8 (1) This paragraph applies where—

- (a) an offender appears or is brought before the Crown Court under paragraph 5 or by virtue of paragraph 7(2), and

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- (b) it is proved to the satisfaction of that court that the offender has failed without reasonable excuse to comply with the youth rehabilitation order.
- (2) The Crown Court may deal with the offender in respect of that failure in any one of the following ways—
- (a) by ordering the offender to pay a fine of an amount not exceeding—
 - (i) £250, if the offender is aged under 14, or
 - (ii) £1,000, in any other case;
 - (b) by amending the terms of the youth rehabilitation order so as to impose any requirement which could have been included in the order when it was made—
 - (i) in addition to, or
 - (ii) in substitution for,any requirement or requirements already imposed by the order;
 - (c) by dealing with the offender, for the offence in respect of which the order was made, in any way in which the Crown Court could have dealt with the offender for that offence.
- (3) Sub-paragraph (2)(b) is subject to sub-paragraphs (6) to (9).
- (4) In dealing with the offender under sub-paragraph (2), the Crown Court must take into account the extent to which the offender has complied with the youth rehabilitation order.
- (5) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (6) Any requirement imposed under sub-paragraph (2)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.
- (7) Where—
- (a) the court is dealing with the offender under sub-paragraph (2)(b), and
 - (b) the youth rehabilitation order does not contain an unpaid work requirement, paragraph 10(2) of Schedule 1 applies in relation to the inclusion of such a requirement as if for “40” there were substituted “ 20 ”.
- (8) The court may not under sub-paragraph (2)(b) impose—
- (a) an extended activity requirement, or
 - (b) a fostering requirement,
- if the order does not already impose such a requirement.
- (9) Where—
- (a) the order imposes a fostering requirement (the “original requirement”), and
 - (b) under sub-paragraph (2)(b) the court proposes to substitute a new fostering requirement (“the substitute requirement”) for the original requirement,
- paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.
- (10) Where the Crown Court deals with an offender under sub-paragraph (2)(c), it must revoke the youth rehabilitation order if it is still in force.

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- (11) Sub-paragraphs (12) to (14) apply where—
- (a) an offender has wilfully and persistently failed to comply with a youth rehabilitation order; and
 - (b) the Crown Court is dealing with the offender under sub-paragraph (2)(c).
- (12) The court may impose a youth rehabilitation order with intensive supervision and surveillance notwithstanding anything in section 1(4)(a) or (b).
- (13) If—
- (a) the order is a youth rehabilitation order with intensive supervision and surveillance, and
 - (b) the offence mentioned in sub-paragraph (2)(c) was punishable with imprisonment,
- the court may impose a custodial sentence notwithstanding anything in section 152(2) of the Criminal Justice Act 2003 (c. 44) (general restrictions on imposing discretionary custodial sentences).
- (14) If—
- (a) the order is a youth rehabilitation order with intensive supervision and surveillance which was imposed by virtue of paragraph 6(13) or sub-paragraph (12), and
 - (b) the offence mentioned in sub-paragraph (2)(c) was not punishable with imprisonment,
- for the purposes of dealing with the offender under sub-paragraph (2)(c), the Crown Court is to be taken to have had power to deal with the offender for that offence by making a detention and training order for a term not exceeding 4 months.
- (15) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the youth rehabilitation order is to be determined by the court and not by the verdict of a jury.

Commencement Information

18 Sch. 2 para. 8 in force at 30.11.2009 by [S.I. 2009/3074](#), art. 2(n)

Restriction of powers in paragraphs 6 and 8 where treatment required

- 9 (1) Sub-paragraph (2) applies where a youth rehabilitation order imposes any of the following requirements in respect of an offender—
- (a) a mental health treatment requirement;
 - (b) a drug treatment requirement;
 - (c) an intoxicating substance treatment requirement.
- (2) The offender is not to be treated for the purposes of paragraph 6 or 8 as having failed to comply with the order on the ground only that the offender had refused to undergo any surgical, electrical or other treatment required by that requirement if, in the opinion of the court, the refusal was reasonable having regard to all the circumstances.

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Commencement Information

I9 Sch. 2 para. 9 in force at 30.11.2009 by S.I. 2009/3074, art. 2(n)

Power to amend amounts of fines

- 10 (1) The Secretary of State may by order amend any sum for the time being specified in paragraph 6(2)(a)(i) or (ii) or 8(2)(a)(i) or (ii).
- (2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.
- (3) In sub-paragraph (2), “the relevant date” means—
- (a) if the sum specified in paragraph 6(2)(a)(i) or (ii) or 8(2)(a)(i) or (ii) (as the case may be) has been substituted by an order under sub-paragraph (1), the date on which the sum was last so substituted;
 - (b) otherwise, the date on which this Act was passed.
- (4) An order under sub-paragraph (1) (a “fine amendment order”) must not have effect in relation to any youth rehabilitation order made in respect of an offence committed before the fine amendment order comes into force.

Commencement Information

I10 Sch. 2 para. 10 in force at 30.11.2009 by S.I. 2009/3074, art. 2(n)

PART 3

REVOCATION OF ORDER

Revocation of order with or without re-sentencing: powers of appropriate court

- 11 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force in respect of any offender,
 - (b) the order—
 - (i) was made by a youth court or other magistrates' court, or
 - (ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and
 - (c) the offender or the responsible officer makes an application to the appropriate court under this sub-paragraph.
- (2) If it appears to the appropriate court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the appropriate court may—
- (a) revoke the order, or
 - (b) both—
 - (i) revoke the order, and

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- (ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the appropriate court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).
- (3) The circumstances in which a youth rehabilitation order may be revoked under sub-paragraph (2) include the offender's making good progress or responding satisfactorily to supervision or treatment (as the case requires).
- (4) In dealing with an offender under sub-paragraph (2)(b), the appropriate court must take into account the extent to which the offender has complied with the requirements of the youth rehabilitation order.
- (5) A person sentenced under sub-paragraph (2)(b) for an offence may appeal to the Crown Court against the sentence.
- (6) No application may be made by the offender under sub-paragraph (1) while an appeal against the youth rehabilitation order is pending.
- (7) If an application under sub-paragraph (1) relating to a youth rehabilitation order is dismissed, then during the period of three months beginning with the date on which it was dismissed no further such application may be made in relation to the order by any person except with the consent of the appropriate court.
- (8) In this paragraph, “the appropriate court” means—
 - (a) if the offender is aged under 18 when the application under sub-paragraph (1) was made, a youth court acting in the local justice area specified in the youth rehabilitation order, and
 - (b) if the offender is aged 18 or over at that time, a magistrates' court (other than a youth court) acting in that local justice area.

Commencement Information

III Sch. 2 para. 11 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Revocation of order with or without re-sentencing: powers of Crown Court

- 12 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force in respect of an offender,
 - (b) the order—
 - (i) was made by the Crown Court, and
 - (ii) does not contain a direction under paragraph 36 of Schedule 1, and
 - (c) the offender or the responsible officer makes an application to the Crown Court under this sub-paragraph.
- (2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made, the Crown Court may—
- (a) revoke the order, or
 - (b) both—
 - (i) revoke the order, and

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- (ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the Crown Court could have dealt with the offender for that offence.
- (3) The circumstances in which a youth rehabilitation order may be revoked under sub-paragraph (2) include the offender's making good progress or responding satisfactorily to supervision or treatment (as the case requires).
- (4) In dealing with an offender under sub-paragraph (2)(b), the Crown Court must take into account the extent to which the offender has complied with the youth rehabilitation order.
- (5) No application may be made by the offender under sub-paragraph (1) while an appeal against the youth rehabilitation order is pending.
- (6) If an application under sub-paragraph (1) relating to a youth rehabilitation order is dismissed, then during the period of three months beginning with the date on which it was dismissed no further such application may be made in relation to the order by any person except with the consent of the Crown Court.

Commencement Information

I12 Sch. 2 para. 12 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

PART 4

AMENDMENT OF ORDER

Amendment by appropriate court

- 13 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force in respect of an offender,
 - (b) the order—
 - (i) was made by a youth court or other magistrates' court, or
 - (ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and
 - (c) an application for the amendment of the order is made to the appropriate court by the offender or the responsible officer.
- (2) If the appropriate court is satisfied that the offender proposes to reside, or is residing, in a local justice area (“the new local justice area”) other than the local justice area for the time being specified in the order, the court—
- (a) must, if the application under sub-paragraph (1)(c) was made by the responsible officer, or
 - (b) may, in any other case,
- amend the youth rehabilitation order by substituting the new local justice area for the area specified in the order.
- (3) Sub-paragraph (2) is subject to paragraph 15.
- (4) The appropriate court may by order amend the youth rehabilitation order—
- (a) by cancelling any of the requirements of the order, or

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- (b) by replacing any of those requirements with a requirement of the same kind which could have been included in the order when it was made.
- (5) Sub-paragraph (4) is subject to paragraph 16.
- (6) In this paragraph, “the appropriate court” means—
- (a) if the offender is aged under 18 when the application under sub-paragraph (1) was made, a youth court acting in the local justice area specified in the youth rehabilitation order, and
 - (b) if the offender is aged 18 or over at that time, a magistrates' court (other than a youth court) acting in that local justice area.

Commencement Information

I13 Sch. 2 para. 13 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Amendment by Crown Court

- 14 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force in respect of an offender,
 - (b) the order—
 - (i) was made by the Crown Court, and
 - (ii) does not contain a direction under paragraph 36 of Schedule 1, and
 - (c) an application for the amendment of the order is made to the Crown Court by the offender or the responsible officer.
- (2) If the Crown Court is satisfied that the offender proposes to reside, or is residing, in a local justice area (“the new local justice area”) other than the local justice area for the time being specified in the order, the court—
- (a) must, if the application under sub-paragraph (1)(c) was made by the responsible officer, or
 - (b) may, in any other case,
- amend the youth rehabilitation order by substituting the new local justice area for the area specified in the order.
- (3) Sub-paragraph (2) is subject to paragraph 15.
- (4) The Crown Court may by order amend the youth rehabilitation order—
- (a) by cancelling any of the requirements of the order, or
 - (b) by replacing any of those requirements with a requirement of the same kind which could have been included in the order when it was made.
- (5) Sub-paragraph (4) is subject to paragraph 16.

Commencement Information

I14 Sch. 2 para. 14 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

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Exercise of powers under paragraph 13(2) or 14(2): further provisions

- 15 (1) In sub-paragraphs (2) and (3), “specific area requirement”, in relation to a youth rehabilitation order, means a requirement contained in the order which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the local justice area specified in the youth rehabilitation order.
- (2) A court may not under paragraph 13(2) or 14(2) amend a youth rehabilitation order which contains specific area requirements unless, in accordance with paragraph 13(4) or, as the case may be, 14(4), it either—
- (a) cancels those requirements, or
 - (b) substitutes for those requirements other requirements which can be complied with if the offender resides in the new local justice area mentioned in paragraph 13(2) or (as the case may be) 14(2).
- (3) If—
- (a) the application under paragraph 13(1)(c) or 14(1)(c) was made by the responsible officer, and
 - (b) the youth rehabilitation order contains specific area requirements,
- the court must, unless it considers it inappropriate to do so, so exercise its powers under paragraph 13(4) or, as the case may be, 14(4) that it is not prevented by sub-paragraph (2) from amending the order under paragraph 13(2) or, as the case may be, 14(2).
- (4) The court may not under paragraph 13(2) or, as the case may be, 14(2) amend a youth rehabilitation order imposing a programme requirement unless the court is satisfied that a programme which—
- (a) corresponds as nearly as practicable to the programme specified in the order for the purposes of that requirement, and
 - (b) is suitable for the offender,
- is available in the new local justice area.

Commencement Information

I15 Sch. 2 para. 15 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Exercise of powers under paragraph 13(4) or 14(4): further provisions

- 16 (1) Any requirement imposed under paragraph 13(4)(b) or 14(4)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.
- (2) Where—
- (a) a youth rehabilitation order imposes a fostering requirement (the “original requirement”), and
 - (b) under paragraph 13(4)(b) or 14(4)(b) a court proposes to substitute a new fostering requirement (“the substitute requirement”) for the original requirement,
- paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.

Status: Point in time view as at 30/11/2009.

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- (3) The court may not under paragraph 13(4) or 14(4) impose—
- (a) a mental health treatment requirement,
 - (b) a drug treatment requirement, or
 - (c) a drug testing requirement,
- unless the offender has expressed willingness to comply with the requirement.
- (4) If an offender fails to express willingness to comply with a mental health treatment requirement, a drug treatment requirement or a drug testing requirement which the court proposes to impose under paragraph 13(4) or 14(4), the court may—
- (a) revoke the youth rehabilitation order, and
 - (b) deal with the offender, for the offence in respect of which the order was made, in any way in which that court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).
- (5) In dealing with the offender under sub-paragraph (4)(b), the court must take into account the extent to which the offender has complied with the order.

Commencement Information

I16 Sch. 2 para. 16 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Extension of unpaid work requirement

- 17 Where—
- (a) a youth rehabilitation order imposing an unpaid work requirement is in force in respect of an offender, and
 - (b) on the application of the offender or the responsible officer, it appears to the appropriate court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,
- the court may, in relation to the order, extend the period of 12 months specified in paragraph 10(6) of Schedule 1.

Commencement Information

I17 Sch. 2 para. 17 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

PART 5

POWERS OF COURT IN RELATION TO ORDER FOLLOWING SUBSEQUENT CONVICTION

Powers of magistrates' court following subsequent conviction

- 18 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force in respect of an offender, and
 - (b) the offender is convicted of an offence (the “further offence”) by a youth court or other magistrates' court (“the convicting court”).
- (2) Sub-paragraphs (3) and (4) apply where—

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- (a) the youth rehabilitation order—
 - (i) was made by a youth court or other magistrates' court, or
 - (ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and
 - (b) the convicting court is dealing with the offender for the further offence.
- (3) The convicting court may revoke the order.
- (4) Where the convicting court revokes the order under sub-paragraph (3), it may deal with the offender, for the offence in respect of which the order was made, in any way in which it could have dealt with the offender for that offence (had the offender been before that court to be dealt with for the offence).
- (5) The convicting court may not exercise its powers under sub-paragraph (3) or (4) unless it considers that it would be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made.
- (6) In dealing with an offender under sub-paragraph (4), the sentencing court must take into account the extent to which the offender has complied with the order.
- (7) A person sentenced under sub-paragraph (4) for an offence may appeal to the Crown Court against the sentence.
- (8) Sub-paragraph (9) applies where—
 - (a) the youth rehabilitation order was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and
 - (b) the convicting court would, but for that sub-paragraph, deal with the offender for the further offence.
- (9) The convicting court may, instead of proceeding under sub-paragraph (3)—
 - (a) commit the offender in custody, or
 - (b) release the offender on bail,until the offender can be brought before the Crown Court.
- (10) Sub-paragraph (11) applies if the youth rehabilitation order was made by the Crown court and does not contain a direction under paragraph 36 of Schedule 1.
- (11) The convicting court may—
 - (a) commit the offender in custody, or
 - (b) release the offender on bail,until the offender can be brought or appear before the Crown Court.
- (12) Where the convicting court deals with an offender's case under sub-paragraph (9) or (11), it must send to the Crown Court such particulars of the case as may be desirable.

Commencement Information

I18 Sch. 2 para. 18 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

Powers of Crown Court following subsequent conviction

- 19 (1) This paragraph applies where—
 - (a) a youth rehabilitation order is in force in respect of an offender, and

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- (b) the offender—
 - (i) is convicted by the Crown Court of an offence, or
 - (ii) is brought or appears before the Crown Court by virtue of paragraph 18(9) or (11) or having been committed by the magistrates' court to the Crown Court for sentence.
- (2) The Crown Court may revoke the order.
- (3) Where the Crown Court revokes the order under sub-paragraph (2), the Crown Court may deal with the offender, for the offence in respect of which the order was made, in any way in which the court which made the order could have dealt with the offender for that offence.
- (4) The Crown Court must not exercise its powers under sub-paragraph (2) or (3) unless it considers that it would be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made.
- (5) In dealing with an offender under sub-paragraph (3), the Crown Court must take into account the extent to which the offender has complied with the order.
- (6) If the offender is brought or appears before the Crown Court by virtue of paragraph 18(9) or (11), the Crown Court may deal with the offender for the further offence in any way which the convicting court could have dealt with the offender for that offence.
- (7) In sub-paragraph (6), “further offence” and “the convicting court” have the same meanings as in paragraph 18.

Commencement Information

119 Sch. 2 para. 19 in force at 30.11.2009 by [S.I. 2009/3074](#), [art. 2\(n\)](#)

PART 6

SUPPLEMENTARY

Appearance of offender before court

- 20 (1) Subject to sub-paragraph (2), where, otherwise than on the application of the offender, a court proposes to exercise its powers under Part 3, 4 or 5 of this Schedule, the court—
- (a) must summon the offender to appear before the court, and
 - (b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.
- (2) Sub-paragraph (1) does not apply where a court proposes to make an order—
- (a) revoking a youth rehabilitation order,
 - (b) cancelling, or reducing the duration of, a requirement of a youth rehabilitation order, or
 - (c) substituting a new local justice area or place for one specified in a youth rehabilitation order.

Status: Point in time view as at 30/11/2009.

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Commencement Information

I20 Sch. 2 para. 20 in force at 30.11.2009 by S.I. 2009/3074, art. 2(n)

Warrants

- 21 (1) Sub-paragraph (2) applies where an offender is arrested in pursuance of a warrant issued by virtue of this Schedule and cannot be brought immediately before the court before which the warrant directs the offender to be brought (“the relevant court”).
- (2) The person in whose custody the offender is—
- (a) may make arrangements for the offender's detention in a place of safety for a period of not more than 72 hours from the time of the arrest, and
 - (b) must within that period bring the offender before a magistrates' court.
- (3) In the case of a warrant issued by the Crown Court, section 81(5) of the Supreme Court Act 1981 (c. 54) (duty to bring person before magistrates' court) does not apply.
- (4) A person who is detained under arrangements made under sub-paragraph (2)(a) is deemed to be in legal custody.
- (5) In sub-paragraph (2)(a) “place of safety” has the same meaning as in the Children and Young Persons Act 1933.
- (6) Sub-paragraphs (7) to (10) apply where, under sub-paragraph (2), the offender is brought before a court (“the alternative court”) which is not the relevant court.
- (7) If the relevant court is a magistrates' court—
- (a) the alternative court may—
 - (i) direct that the offender be released forthwith, or
 - (ii) remand the offender, and
 - (b) for the purposes of paragraph (a), section 128 of the Magistrates' Courts Act 1980 (c. 43) (remand in custody or on bail) has effect as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the relevant court.
- (8) If the relevant court is the Crown Court, section 43A of that Act (functions of magistrates' court where a person in custody is brought before it with a view to appearance before the Crown Court) applies as if, in subsection (1)—
- (a) the words “issued by the Crown Court” were omitted, and
 - (b) the reference to section 81(5) of the Supreme Court Act 1981 were a reference to sub-paragraph (2)(b).
- (9) Any power to remand the offender in custody which is conferred by section 43A or 128 of the Magistrates' Courts Act 1980 is to be taken to be a power—
- (a) if the offender is aged under 18, to remand the offender to accommodation provided by or on behalf of a local authority, and
 - (b) in any other case, to remand the offender to a prison.
- (10) Where the court remands the offender to accommodation provided by or on behalf of a local authority, the court must designate, as the authority which is to receive the offender, the local authority for the area in which it appears to the court that the offender resides.

Status: Point in time view as at 30/11/2009.

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Commencement Information

I21 Sch. 2 para. 21 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Adjournment of proceedings

- 22 (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in any proceedings under this Schedule.
- (2) The court may adjourn the hearing, and, where it does so, may—
- (a) direct that the offender be released forthwith, or
 - (b) remand the offender.
- (3) Where the court remands the offender under sub-paragraph (2)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
 - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
 - (b) if it does not do so, must not resume the hearing unless it is satisfied that the offender, the responsible officer and, if the offender is aged under 14, a parent or guardian of the offender have had adequate notice of the time and place of the resumed hearing.
- (5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980 (c. 43).
- (6) This paragraph—
- (a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
 - (b) is not to be taken to affect the application of that section to hearings of any other description.

Commencement Information

I22 Sch. 2 para. 22 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Restrictions on imposition of intensive supervision and surveillance or fostering

- 23 Subsection (4), and the provisions mentioned in subsection (6), of section 1 apply in relation to a power conferred by paragraph 6(2)(b), 8(2)(b), 13(4)(b) or 14(4)(b) to impose a requirement as they apply in relation to any power conferred by section 1 or Part 1 of Schedule 1 to make a youth rehabilitation order which includes such a requirement.

Status: Point in time view as at 30/11/2009.

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Commencement Information

I23 Sch. 2 para. 23 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Provision of copies of orders etc.

- 24 (1) Where a court makes an order under this Schedule revoking or amending a youth rehabilitation order, the proper officer of the court must forthwith—
- (a) provide copies of the revoking or amending order to the offender and, if the offender is aged under 14, to the offender's parent or guardian,
 - (b) provide a copy of the revoking or amending order to the responsible officer,
 - (c) in the case of an amending order which substitutes a new local justice area, provide copies of the amending order to—
 - (i) the local probation board acting for that area or (as the case may be) a provider of probation services operating in that area, and
 - (ii) the magistrates' court acting in that area,
 - (d) in the case of an amending order which imposes or cancels a requirement specified in the first column of the Table in paragraph 34(4) of Schedule 1, provide a copy of so much of the amending order as relates to that requirement to the person specified in relation to that requirement in the second column of that Table,
 - (e) in the case of an order which revokes a requirement specified in the first column of that Table, provide a copy of the revoking order to the person specified in relation to that requirement in the second column of that Table, and
 - (f) if the court is a magistrates' court acting in a local justice area other than the area specified in the youth rehabilitation order, provide a copy of the revoking or amending order to a magistrates' court acting in the local justice area specified in the order.
- (2) Where under sub-paragraph (1)(c) the proper officer of the court provides a copy of an amending order to a magistrates' court acting in a different area, the officer must also provide to that court such documents and information relating to the case as appear likely to be of assistance to a court acting in that area in the exercise of its functions in relation to the order.
- (3) In this paragraph “proper officer” means—
- (a) in relation to a magistrates' court, the designated officer for the court, and
 - (b) in relation to the Crown Court, the appropriate officer.

Commencement Information

I24 Sch. 2 para. 24 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Power to amend maximum period of fostering requirement

- 25 The Secretary of State may by order amend paragraph 6(9), 8(9) or 16(2) by substituting, for—
- (a) the period of 18 months specified in the provision, or

Status: Point in time view as at 30/11/2009.

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- (b) any other period which may be so specified by virtue of a previous order under this paragraph,
such other period as may be specified in the order.

Commencement Information

I25 Sch. 2 para. 25 in force at 30.11.2009 by [S.I. 2009/3074](#), **art. 2(n)**

Status:

Point in time view as at 30/11/2009.

Changes to legislation:

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