

Status: Point in time view as at 30/11/2009.

Changes to legislation: Criminal Justice and Immigration Act 2008, SCHEDULE 3 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 3

TRANSFER OF YOUTH REHABILITATION ORDERS TO NORTHERN IRELAND

PART 1

MAKING OR AMENDMENT OF A YOUTH REHABILITATION ORDER WHERE OFFENDER RESIDES OR PROPOSES TO RESIDE IN NORTHERN IRELAND

Making of youth rehabilitation order where offender resides or will reside in Northern Ireland

- 1 (1) This paragraph applies where a court considering the making of a youth rehabilitation order is satisfied that the offender—
- (a) resides in Northern Ireland, or
 - (b) will reside there when the order takes effect.
- (2) The court may not make a youth rehabilitation order in respect of the offender unless it appears to the court that—
- (a) in the case of an order imposing a requirement mentioned in sub-paragraph (6), the conditions in sub-paragraphs (3), (4) and (5) are satisfied, or
 - (b) in any other case, that the conditions in sub-paragraphs (3) and (4) are satisfied.
- (3) The condition in this sub-paragraph is satisfied if the number of hours, days or months in respect of which any requirement of the order is imposed is no greater than the number of hours, days or months which may be imposed by a court in Northern Ireland in respect of a similar requirement in the order which the court proposes to specify as the corresponding order under paragraph 3(b).
- (4) The condition in this sub-paragraph is satisfied if suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland or any other body designated by the Secretary of State by order.
- (5) The condition in this sub-paragraph is satisfied in relation to an order imposing a requirement mentioned in sub-paragraph (6) if—
- (a) arrangements exist for persons to comply with such a requirement in the petty sessions district in Northern Ireland in which the offender resides, or will be residing when the order takes effect, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- (6) The requirements referred to in sub-paragraphs (2)(a) and (5) are—
- (a) an activity requirement (including an extended activity requirement);
 - (b) an unpaid work requirement;

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- (c) a programme requirement;
- (d) an attendance centre requirement;
- (e) a mental health treatment requirement;
- (f) a drug treatment requirement;
- (g) a drug testing requirement;
- (h) an education requirement;
- (i) an electronic monitoring requirement.

(7) The court may not by virtue of this paragraph require a local authority residence requirement or a fostering requirement to be complied with in Northern Ireland.

Commencement Information

II Sch. 3 para. 1 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Amendment of youth rehabilitation order where offender resides or proposes to reside in Northern Ireland

- 2
- (1) This paragraph applies where the appropriate court for the purposes of paragraph 13(2) of Schedule 2 (amendment by reason of change of residence) or the Crown Court is satisfied that an offender in respect of whom a youth rehabilitation order is in force is residing or proposes to reside in Northern Ireland.
 - (2) The power of the court to amend the order under Part 4 of Schedule 2 includes power to amend it by requiring it to be complied with in Northern Ireland if it appears to the court that—
 - (a) in the case of an order which once amended will impose a requirement mentioned in sub-paragraph (6), that the conditions in sub-paragraphs (3), (4) and (5) are satisfied, or
 - (b) in any other case, that the conditions in sub-paragraphs (3) and (4) are satisfied.
 - (3) The condition in this sub-paragraph is satisfied if the number of hours, days or months in respect of which any requirement of the order is imposed is no greater than the number of hours, days or months which may be imposed by a court in Northern Ireland in respect of a similar requirement in the order which the court proposes to specify as the corresponding order under paragraph 3(b).
 - (4) The condition in this sub-paragraph is satisfied if suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland or any other body designated by the Secretary of State by order.
 - (5) The condition in this sub-paragraph is satisfied in relation to an order that will impose a requirement mentioned in sub-paragraph (6) if—
 - (a) arrangements exist for persons to comply with such a requirement in the petty sessions district in Northern Ireland in which the offender resides, or will be residing when the amendment to the order takes effect, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
 - (6) The requirements referred to in sub-paragraphs (2)(a) and (5) are—
 - (a) an activity requirement (including an extended activity requirement);

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- (b) an unpaid work requirement;
- (c) a programme requirement;
- (d) an attendance centre requirement;
- (e) a mental health treatment requirement;
- (f) a drug treatment requirement;
- (g) a drug testing requirement;
- (h) an education requirement;
- (i) an electronic monitoring requirement.

(7) The court may not by virtue of this paragraph require a local authority residence requirement or a fostering requirement to be complied with in Northern Ireland.

Commencement Information

I2 Sch. 3 para. 2 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Further provisions regarding the making or amending of youth rehabilitation orders under paragraph 1 or 2

- 3 A youth rehabilitation order made or amended in accordance with paragraph 1 or 2 must—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment takes effect, and
 - (b) specify as the corresponding order for the purposes of this Schedule an order that may be made by a court in Northern Ireland,
- and paragraph 33 of Schedule 1 (local justice area to be specified in order) does not apply in relation to an order so made or amended.

Commencement Information

I3 Sch. 3 para. 3 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

- 4 (1) Before making or amending a youth rehabilitation order in accordance with paragraph 1 or 2, the court must explain to the offender in ordinary language—
- (a) the requirements of the legislation in Northern Ireland relating to the order to be specified under paragraph 3(b),
 - (b) the powers of the home court under that legislation, as modified by Part 2 of this Schedule, and
 - (c) its own powers under Part 2 of this Schedule.
- (2) The court which makes or amends the order must—
- (a) provide the persons mentioned in sub-paragraph (3) with a copy of the order as made or amended, and
 - (b) provide the home court with such other documents and information relating to the case as it considers likely to be of assistance to that court;
- and sub-paragraphs (1) to (3) of paragraph 34 of Schedule 1 (provision of copies of orders) do not apply.
- (3) The persons referred to in sub-paragraph (2)(a) are—

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- (a) the offender,
 - (b) where the offender is aged under 14—
 - (i) the offender's parent or guardian, or
 - (ii) if an authority in Northern Ireland has parental responsibility for, and is looking after, the offender, the authority,
 - (c) the body which is to make suitable arrangements for the offender's supervision under the order, and
 - (d) the home court.
- (4) In sub-paragraph (3)(b)(ii)—
- (a) “authority” has the meaning given by Article 2 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),
 - (b) references to an offender who is looked after by an authority are to be construed in accordance with Article 25 of that Order, and
 - (c) “parental responsibility” has the same meaning as in that Order.
- (5) In this paragraph, “home court” has the meaning given by paragraph 8.

Commencement Information

I4 Sch. 3 para. 4 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Modifications to Part 1

- 5 (1) Where a court is considering the making or amendment of a youth rehabilitation order by virtue of paragraph 1 or 2, Part 1 of this Act (youth rehabilitation orders) has effect subject to the following modifications.
- (2) The following provisions of Schedule 1 are omitted—
- (a) in paragraph 8(3)(a) (activity requirement: further provisions), the words “a member of a youth offending team or”,
 - (b) paragraphs 8(3)(c), 10(3)(b) and 12(3)(a) (availability of arrangements in local area: activity requirement, unpaid work requirement and attendance centre requirement),
 - (c) paragraph 16(7) (residence requirement: restriction on requiring residence at hostel or institution), and
 - (d) paragraphs 18(7), 22(4)(a), 23(3)(a) and 26(6) and (7) (availability of arrangements in local area: fostering requirement, drug treatment and testing requirements and electronic monitoring requirement).
- (3) In paragraph 12 of Schedule 1 (attendance centre requirement) any reference to an attendance centre has effect as a reference to an attendance centre as defined by Article 50(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)).
- (4) In paragraph 20 of that Schedule (mental health treatment requirement), for sub-paragraph (2)(a) there is substituted—
- “(a) treatment as a resident patient at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)), approved by the Department of Health, Social

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Services and Public Safety for the purposes of paragraph 4(3) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));”.

- (5) In paragraphs 25 (education requirement) and 34(4) (additional persons to whom court must give a copy of the order) of that Schedule, any reference to a local education authority (except in sub-paragraph (6) of paragraph 25) has effect as a reference to an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).
- (6) In paragraph 26 of that Schedule (electronic monitoring requirements: common provisions) sub-paragraph (5) is omitted.
- (7) Paragraph 36 of that Schedule has effect as if it required the Crown Court, where it makes a direction under that paragraph, to specify the youth court or other magistrates' court in England and Wales which is to be the relevant court in England or Wales for the purposes of Part 2 of this Schedule.
- (8) Any reference to the responsible officer has effect as a reference to the person who is to be responsible for the offender's supervision under the order.

Commencement Information

I5 Sch. 3 para. 5 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Meaning of “supervision”

- 6 In this Part of this Schedule “supervision”, in relation to a youth rehabilitation order which a court is considering making or amending in accordance with paragraph 1 or 2, means the performance of supervisory, enforcement and other related functions conferred by the legislation which has effect in Northern Ireland relating to corresponding orders of the kind which the court proposes to specify under paragraph 3(b).

Commencement Information

I6 Sch. 3 para. 6 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

PART 2

PROVISIONS RELATING TO AN ORDER MADE OR AMENDED UNDER PART 1

Application of this Part

- 7 This Part of this Schedule applies where a youth rehabilitation order is made or amended in accordance with Part 1 of this Schedule.

Commencement Information

I7 Sch. 3 para. 7 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

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Interpretation

- 8 In this Part of this Schedule, in relation to the youth rehabilitation order—
- “corresponding order” means the order specified under paragraph 3(b);
- “home court” means—
- (a) the court of summary jurisdiction acting for the petty sessions district in Northern Ireland in which the offender resides or proposes to reside, or
 - (b) where the youth rehabilitation order was made or amended by the Crown Court and the Crown Court in Northern Ireland has not made a direction under paragraph 11, the Crown Court in Northern Ireland;
- “supervision” means the performance of supervisory, enforcement and other related functions conferred by the legislation which has effect in Northern Ireland relating to the corresponding order;
- “the relevant court in England or Wales” means—
- (a) the court in England and Wales which made or which last amended the order, or
 - (b) if the order was made by the Crown Court and includes a direction under paragraph 36 of Schedule 1, such youth court or other magistrates' court as may be specified in the order;
- “the relevant officer” means the person responsible for the offender's supervision under the order.

Commencement Information

I8 Sch. 3 para. 8 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Effect of the youth rehabilitation order in Northern Ireland

- 9 (1) The youth rehabilitation order is to be treated in Northern Ireland as if it were a corresponding order and the legislation which has effect in Northern Ireland in relation to such orders applies accordingly.
- (2) Sub-paragraph (1) is subject to paragraphs 12 to 16.

Commencement Information

I9 Sch. 3 para. 9 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Duty of offender to keep in touch with relevant officer

- 10 In section 5(5) (duty of offender to keep in touch with responsible officer), references to the responsible officer are to be read as references to the relevant officer.

Commencement Information

I10 Sch. 3 para. 10 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

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Direction by Crown Court in Northern Ireland that proceedings in Northern Ireland be before a court of summary jurisdiction

- 11 Where the youth rehabilitation order was made or amended by the Crown Court, the Crown Court in Northern Ireland may direct that any proceedings in Northern Ireland in relation to the order be before the court of summary jurisdiction acting for the petty sessions district in which the offender resides or proposes to reside.

Commencement Information

I11 Sch. 3 para. 11 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Powers of the home court in respect of the youth rehabilitation order

- 12 The home court may exercise in relation to the youth rehabilitation order any power which it could exercise in relation to a corresponding order made by a court in Northern Ireland, by virtue of the legislation relating to such orders which has effect there, except the following—
- (a) any power to discharge or revoke the order (other than a power to revoke the order where the offender has been convicted of a further offence and the court has imposed a custodial sentence),
 - (b) any power to deal with the offender for the offence in respect of which the order was made, and
 - (c) in the case of a youth rehabilitation order imposing a curfew requirement, any power to vary the order by substituting for the period specified in it any longer period than the court which made the order could have specified.

Commencement Information

I12 Sch. 3 para. 12 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

- 13 (1) The home court may require the offender to appear before the relevant court in England or Wales if sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where it appears to the home court upon a complaint being made to a lay magistrate acting for the petty sessions district for the time being specified in the order that the offender has failed to comply with one or more requirements of the order.
- (3) This sub-paragraph applies where it appears to the home court, on the application of the offender or the relevant officer, that it would be in the interests of justice for a power conferred by any of paragraphs 11 to 14 of Schedule 2 to be exercised.

Commencement Information

I13 Sch. 3 para. 13 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

- 14 Where an offender is required by virtue of paragraph 13 to appear before the relevant court in England or Wales—
- (a) the home court must send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as

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may be specified in the certificate, together with such other particulars of the case as may be desirable, and

- (b) a certificate purporting to be signed by the clerk of the home court (or, if the home court is the Crown Court in Northern Ireland, by the chief clerk) is admissible as evidence of the failure before the relevant court in England or Wales.

Commencement Information

I14 Sch. 3 para. 14 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Powers of court in England or Wales before which the offender is required to appear

- 15 Where an offender is required by virtue of paragraph 13 to appear before the relevant court in England or Wales, that court may—
- (a) issue a warrant for the offender's arrest, and
- (b) exercise any power which it could exercise in respect of the youth rehabilitation order if the offender resided in England or Wales,
- and any enactment relating to the exercise of such powers has effect accordingly, and with any reference to the responsible officer being read as a reference to the relevant officer.

Commencement Information

I15 Sch. 3 para. 15 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

- 16 (1) Paragraph 15(b) does not enable the relevant court in England or Wales to amend the youth rehabilitation order unless it appears to the court that the conditions in paragraph 2(2)(a) and (b) are satisfied in relation to any requirement to be imposed.
- (2) The preceding paragraphs of this Schedule have effect in relation to the amendment of the youth rehabilitation order by virtue of paragraph 15(b) as they have effect in relation to the amendment of such an order by virtue of paragraph 2(2).

Commencement Information

I16 Sch. 3 para. 16 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

Power to amend provisions of Schedule in consequence of changes to the law in Northern Ireland

- 17 (1) This paragraph applies where a change is made to the law in Northern Ireland adding further descriptions of orders to the kinds of orders which a court in that jurisdiction may impose in dealing with an offender aged under 18 at the time of conviction.
- (2) The Secretary of State may by order make such amendments to any of the preceding provisions of this Schedule as appear expedient in consequence of the change.

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I17 Sch. 3 para. 17 in force at 30.11.2009 by S.I. 2009/3074, art. 2(o)

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