

SCHEDULES

SCHEDULE 8

Section 196

TRANSFER OF YOUTH REHABILITATION ORDERS TO NORTHERN IRELAND

PART 1

POWERS OF COURT IN ENGLAND AND WALES TO MAKE OR AMEND A YOUTH REHABILITATION ORDER WHERE OFFENDER RESIDES OR PROPOSES TO RESIDE IN NORTHERN IRELAND

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

- 1 (1) This paragraph applies where—
- (a) a youth rehabilitation order is available to a court dealing with an offender, and
 - (b) the court is satisfied that the offender—
 - (i) resides in Northern Ireland, or
 - (ii) if a youth rehabilitation order is made, will reside there when the order takes effect.
- (2) The court may make a youth rehabilitation order only if—
- (a) it appears to the court that suitable arrangements for the offender's supervision can be made by—
 - (i) the Probation Board for Northern Ireland, or
 - (ii) any other designated body, and
 - (b) the order will satisfy paragraphs 4 to 6.

Amendment of youth rehabilitation order where offender will reside in Northern Ireland

- 2 (1) This paragraph applies where—
- (a) a youth rehabilitation order is in force,
 - (b) the appropriate court (within the meaning given in paragraph 14 of Schedule 7) is satisfied that the offender—
 - (i) resides in Northern Ireland, or
 - (ii) proposes to reside there, and
 - (c) it appears to the court that suitable arrangements for the offender's supervision can be made by—
 - (i) the Probation Board for Northern Ireland, or
 - (ii) any other designated body.
- (2) The power of the appropriate court to amend the order under Part 4 of Schedule 7 (“the amendment power”) includes power to amend the order by requiring—
- (a) the order to be complied with in Northern Ireland, and

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- (b) the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(c).
- (3) But the appropriate court may exercise the amendment power in that way only if the order (as amended) will satisfy paragraphs 4 to 6.

PART 2

REQUIREMENTS ETC: AVAILABILITY AND MODIFICATIONS OF SCHEDULE 6

Requirements: availability and restrictions

- 3 This Part of this Schedule applies where a court makes or amends a youth rehabilitation order in accordance with Part 1 of this Schedule.
- 4 The order must not impose either of the following requirements—
 - (a) a local authority residence requirement;
 - (b) a fostering requirement.
- 5 (1) The order must not impose a locally based requirement unless it appears to the court that—
 - (a) arrangements exist for persons to comply with such a requirement in Northern Ireland, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- (2) For the purposes of this paragraph, “locally based requirement” means any of the following—
 - (a) an activity requirement (including an extended activity requirement);
 - (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.
- 6 The number of hours, days or months in respect of which any requirement of the order is imposed must not be greater than the number of hours, days or months in respect of which a court in Northern Ireland could impose a similar requirement in a corresponding order.

Further provisions where offender resides or will reside in Northern Ireland

- 7 In a case where a court makes or amends a youth rehabilitation order in accordance with Part 1 of this Schedule, Chapter 1 of this Part of this Code (youth rehabilitation orders) has effect as if—
 - (a) any reference to the responsible officer were a reference to the person who is to be responsible for the offender’s supervision under the order;

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- (b) section 188 (offender’s home local justice area to be specified in order) were omitted;
- (c) the following provisions of Schedule 6 were omitted—
 - (i) paragraph 8(a)(i) (consultation of member of youth offending team);
 - (ii) paragraphs 8(b), 11(1)(b) and 15(a) (availability of arrangements in local area: activity requirement, unpaid work requirement and attendance centre requirement);
 - (iii) paragraph 23(4) (residence requirement: restriction on requiring residence at hostel or other institution);
 - (iv) paragraphs 32(1)(b) and (3) and 35(2)(a) and (3) (availability of requirements to be notified by Secretary of State: drug treatment and testing and electronic monitoring);
 - (v) paragraph 42(2) (persons responsible for electronic monitoring);
 - (vi) paragraph 44(2) and (3) (availability of requirements for electronic monitoring);
- (d) in Part 5 of that Schedule (attendance centre requirement), any reference to an attendance centre were 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));
- (e) in paragraph 28 of that Schedule (mental health treatment requirement), in sub-paragraph (2), for the definition of “in-patient treatment” there were substituted—
 - ““in-patient treatment” means 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 in Northern Ireland 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));”;
- (f) in Part 16 of that Schedule (education requirement) references to a relevant authority were to the Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.)).

PART 3

MAKING OR AMENDMENT OF ORDER IN ACCORDANCE WITH PART 1 OF THIS SCHEDULE

Application

- 8 This Part of this Schedule applies in a case where a court makes or amends a youth rehabilitation order in accordance with Part 1 of this Schedule.

Explanation to be given by court before order is made or amended

- 9 Before making or amending the youth rehabilitation order, the court must explain to the offender in ordinary language—
- (a) the effect of paragraph 15(1) (order to be treated as corresponding order),

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- (b) the requirements of the legislation in Northern Ireland relating to corresponding orders,
- (c) the powers of the home court under that legislation, as modified by Part 4 of this Schedule, and
- (d) its own powers in relation to the youth rehabilitation order under Part 4 of this Schedule.

Matters to be specified in the order

- 10 (1) The youth rehabilitation order must specify as the corresponding order for the purposes of this Schedule an order that may be made by a court in Northern Ireland.
- (2) If the youth rehabilitation order is made by the Crown Court and includes a direction under section 189, the order must specify the youth court or other magistrates' court in England and Wales which is to be the relevant court in England and Wales for the purposes of this Schedule.

Provision of copies

- 11 (1) The court which makes or amends the youth rehabilitation order must forthwith—
- (a) provide each of the persons mentioned in sub-paragraph (2) with a copy of the order as made or amended, and
 - (b) provide the home court with—
 - (i) a copy of the order as made or amended, and
 - (ii) such other documents and information relating to the case as it considers likely to be of assistance to the home court.
- (2) Those persons are—
- (a) the offender,
 - (b) if 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, and
 - (c) the body which is to make suitable arrangements for the offender's supervision under the order.
- (3) In sub-paragraph (2)(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) the reference to an offender who is looked after by an authority is to be construed in accordance with Article 25 of that Order, and
 - (c) "parental responsibility" has the same meaning as in that Order.
- (4) If the court—
- (a) makes a youth rehabilitation order which imposes a requirement specified in column 1 of the following table, or
 - (b) amends a youth rehabilitation order so as to impose or amend such a requirement,
- the court must also forthwith provide the person specified in the corresponding entry in column 2 of the table with a copy of so much of the youth rehabilitation order or amending order as relates to the requirement—

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<i>Requirement</i>	<i>Person to whom copy of requirement is to be given</i>
An activity requirement which comprises or includes a specified place obligation.	The person in charge of each place specified under paragraph 3(1)(b) of Schedule 6
An activity requirement which comprises or includes a specified activities obligation.	The person in charge of each activity specified under paragraph 4(1)(b) of Schedule 6
An activity requirement which comprises or includes a specified residential exercise obligation.	The person in charge of each place or activity specified under paragraph 5(1)(b) of Schedule 6
An attendance centre requirement.	The officer in charge of the attendance centre specified under paragraph 14(2)(a) of Schedule 6
An exclusion requirement imposed for the purpose (or partly for the purpose) of protecting a person from being approached by the offender.	The person intended to be protected
A residence requirement requiring residence with an individual.	The individual specified under paragraph 22(2)(b) of Schedule 6
A place of residence requirement (within the meaning of paragraph 22 of Schedule 6) relating to residence in an institution.	The person in charge of the institution
A mental health treatment requirement.	The person in charge of the institution or place specified under sub-paragraph (3)(b)(i) or (ii) of paragraph 28 of Schedule 6, or the person specified under sub-paragraph (3)(b)(iii) of that paragraph
A drug treatment requirement.	The treatment director specified under paragraph 31(3)(b)(i) of Schedule 6
A drug testing requirement.	The treatment director specified under paragraph 31(3)(b)(i) of Schedule 6
An intoxicating substance treatment requirement.	The treatment director specified under paragraph 31(3)(b)(i) of Schedule 6
An education requirement.	The Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.))
An electronic monitoring requirement.	Any person who by virtue of paragraph 42(1) of Schedule 6 will be responsible for the electronic monitoring Any person without whose consent the requirement could not have been included in the order.

(5) This paragraph has effect in place of section 190.

PART 4

EFFECT OF ORDER MADE OR AMENDED IN ACCORDANCE WITH PART 1 OF THIS SCHEDULE

Application

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

Duty of offender to keep in touch with relevant officer

- 13 (1) The offender—
- (a) must keep in touch with the relevant officer in accordance with any instructions the relevant officer may give the offender from time to time, and
 - (b) must notify the relevant officer of any change of address.
- (2) This obligation has effect as if it were a youth rehabilitation requirement of the youth rehabilitation order.
- (3) This paragraph has effect in place of section 193.

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

- 14 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 a court of summary jurisdiction.

Effect of the youth rehabilitation order in Northern Ireland

- 15 (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 the following provisions of this Part of this Schedule.

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

- 16 (1) The home court may exercise any relevant local power in relation to the youth rehabilitation order, subject to the following restrictions.
- (2) A “relevant local power” means a power which the home court could exercise in relation to a corresponding order by virtue of the legislation that applies in Northern Ireland in relation to such orders.
- (3) The home court may not discharge or revoke the order.
- (4) But that does not prevent the home court from exercising a power to revoke the order where—
- (a) the offender has been convicted of a further offence, and
 - (b) the court has imposed a custodial sentence (and section 222(1) (meaning of “custodial sentence”) does not apply for this purpose).

- (5) The home court may not deal with the offender for the offence in respect of which the youth rehabilitation order was made.
 - (6) If the youth rehabilitation order imposes a curfew requirement, the home court may not vary the order so as to specify curfew periods (within the meaning of paragraph 18 of Schedule 6) that could not be specified by a court in England and Wales if, applying the relevant assumptions, it were imposing the requirement.
 - (7) For that purpose, “the relevant assumptions” are that the offender—
 - (a) has just been convicted by or before the court in England and Wales of the offence in respect of which the youth rehabilitation order was made, but
 - (b) is the same age as when in fact convicted of the offence.
- 17 (1) The home court may require the offender to appear before the relevant court in England and 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 in Northern Ireland that the offender has breached 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 any of the following powers to be exercised—
 - (a) a power conferred by Part 3 of Schedule 7 (revocation of order with or without re-sentencing);
 - (b) a power conferred by paragraph 15 of that Schedule (amendment by appropriate court).

Breach of requirement: certificate of home court

- 18 (1) Where the home court requires the offender to appear before the relevant court in England and Wales by virtue of paragraph 17(2) (breach of a requirement of the order) the home court must send the court in England and Wales—
 - (a) a certificate certifying that the offender has breached a requirement of the order specified in the certificate, and
 - (b) such other particulars of the case as may be desirable.
- (2) A certificate under sub-paragraph (1)(a) 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 breach before the relevant court in England or Wales.

Powers of court in England or Wales where offender required to appear under paragraph 17

- 19 (1) This paragraph applies where under paragraph 17 the home court requires the offender to appear before the relevant court in England and Wales.
- (2) The relevant court may issue a warrant for the offender’s arrest.
 - (3) The relevant court may exercise any power which it could exercise in respect of the youth rehabilitation order if the offender resided in England or Wales.
- This is subject to paragraph 20.

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- (4) Any enactment relating to the exercise of such powers has effect accordingly, with any reference in it to the responsible officer being read as a reference to the relevant officer.
- 20 (1) This paragraph applies where—
- (a) the relevant court in England and Wales is exercising a power to amend a youth rehabilitation order by virtue of paragraph 19(3), and
 - (b) the offender resides in Northern Ireland.
- (2) The court may not amend the youth rehabilitation order unless, in relation to any requirement that it proposes to impose, it appears to the court that suitable arrangements for the offender’s supervision can be made by—
- (a) the Probation Board for Northern Ireland, or
 - (b) any other designated body.
- (3) The court may not impose either of the following requirements—
- (a) a local authority residence requirement;
 - (b) a fostering requirement.
- (4) The court may not amend the youth rehabilitation order to impose a locally based requirement unless it appears to the court that—
- (a) arrangements exist for persons to comply with such a requirement in Northern Ireland, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- For the purposes of this paragraph, “locally based requirement” has the same meaning as it has for the purposes of paragraph 5.
- (5) The court may not—
- (a) impose a requirement, or
 - (b) amend a requirement imposed by the youth rehabilitation order,
- so that it is imposed in respect of more hours, days or months than the maximum number of hours, days or months in respect of which a court in Northern Ireland could impose a similar requirement in a corresponding order.
- (6) The following apply in relation to the amendment of the youth rehabilitation order by virtue of paragraph 19(3) as they apply in relation to the amendment of an order in accordance with Part 1 of this Schedule—
- (a) paragraph 7,
 - (b) paragraphs 8 to 17.

PART 5

INTERPRETATION

- 21 (1) For the purposes of this Schedule, in relation to a youth rehabilitation order—
- “breach”, in relation to a requirement of the order, means a failure to comply with it, and related expressions are to be read accordingly;
- “corresponding order” means the order specified under paragraph 10(1);
- “home court” means—

- (a) a court of summary jurisdiction in Northern Ireland, 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 14, 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 and 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 section 189, 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.

- (2) In this Schedule “designated body” means a body designated for the purposes of this Part of this Schedule by the Secretary of State by regulations.
- (3) Regulations under sub-paragraph (2) are subject to the negative resolution procedure.