

Status: Point in time view as at 30/09/1998.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Presence of offender in court, remands etc. is up to date with all changes known to be in force on or before 25 June 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 5

ENFORCEMENT ETC. OF REPARATION AND ACTION PLAN ORDERS

Commencement Information

- II** Sch. 5 wholly in force; Sch. 5 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

Presence of offender in court, remands etc.

- 4 (1) Where the responsible officer makes an application under paragraph 2 or 3 above to the appropriate court, he may bring the offender before the court and, subject to sub-paragraph (9) below, the court shall not make an order under that paragraph unless the offender is present before it.
- (2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, the court to which an application under paragraph 2 or 3 above is made may issue a summons or warrant for the purpose of securing the attendance of the offender before it.
- (3) Subsections (3) and (4) of section 55 of the 1980 Act (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section and as if in subsection (3) after the word “summons” there were inserted the words “cannot be served or”.
- (4) Where the offender is arrested in pursuance of a warrant under sub-paragraph (2) above and cannot be brought immediately before the appropriate court, the person in whose custody he is—
- (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
 - (b) shall within that period bring him before a youth court.
- (5) Where an offender is, under sub-paragraph (4) above, brought before a youth court other than the appropriate court, that court may—
- (a) direct that he be released forthwith; or
 - (b) subject to sub-paragraph (6) below, remand him to local authority accommodation.
- (6) Where the offender is aged 18 or over at the time when he is brought before the court, he shall not be remanded to local authority accommodation but may instead be remanded—

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- (a) to a remand centre, if the court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or
 - (b) to a prison, if it has not been so notified.
- (7) Where an application is made to a court under paragraph 2(1) above, the court may remand (or further remand) the offender to local authority accommodation if—
- (a) a warrant has been issued under sub-paragraph (2) of this paragraph for the purpose of securing the attendance of the offender before the court; or
 - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 2(1) above.
- (8) A court remanding an offender to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the local authority for the area in which the offender resides or, where it appears to the court that he does not reside in the area of a local authority, the local authority—
- (a) specified by the court; and
 - (b) in whose area the offence or an offence associated with it was committed.
- (9) A court may make an order under paragraph 2 above in the absence of the offender if the effect of the order is one or more of the following, that is to say—
- (a) discharging the reparation order or action plan order;
 - (b) cancelling a requirement included in the reparation order or action plan order;
 - (c) altering in the reparation order or action plan order the name of any area;
 - (d) changing the responsible officer.

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