

*Status: Point in time view as at 30/11/2009.*

**Changes to legislation:** Criminal Justice and Immigration Act 2008, Paragraph 8 is up to date with all changes known to be in force on or before 06 September 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 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 2

#### BREACH OF REQUIREMENT OF ORDER

##### *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
  - (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.

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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 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.
- (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,

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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.

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**Commencement Information**

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

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