

STATUTORY INSTRUMENTS

1998 No. 1504 (N.I. 9)

The Criminal Justice (Children) (Northern Ireland) Order 1998 ^{F1}

- - - - - 24th June 1998

F1 functions transf. by SR 2003/137

Modifications etc. (not altering text)

C1 Order (except for Articles 45 and 46): transfer of functions from Secretary of State to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 4(1)(2), [Sch. 1](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)

PART I INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Criminal Justice (Children) (Northern Ireland) Order 1998.
(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint^{F2}.

F2 partly exercised by SR 1998/260;SR 1999/25

Interpretation

- 2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

- (2) In this Order —

“adult” means a person who has attained the age of^{F3} 18];

“appropriate authority” means, in relation to a child, the authority within whose area the child is ordinarily resident or, if that is not known, the authority within whose area the child is, and “authority” and “area” have the same meaning as in the Children (Northern Ireland) Order 1995;

F4

“attendance centre” has the meaning given by Article 50(1);

Status: This version of this Order contains provisions that are prospective.

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“attendance centre order” means an order under Article 37(1);

“child” means a person who is under the age of^{F3} 18];

[^{F3}“combination order”,] “community order”, “community sentence”^{F3}, “community service order”] and “custodial sentence” have the same meanings as in Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996;

[^{F3}“community responsibility order” means an order under Article 36E;]

“custody officer” has the meaning assigned to it by Article 6(4);

[^{F3}“Director” means the Director of Public Prosecutions for Northern Ireland;]

“doctor” means a fully registered medical practitioner;

“guardian” includes any person (including an authority) who has for the time being the care of a child;

“health” means physical or mental health;

“juvenile justice centre” has the meaning given by Article 51(1);

“juvenile justice centre order” means an order under Article 39(1);

“managers”, in relation to a juvenile justice centre, means the persons for the time being having the management or control of it;

“notice” means notice in writing;

[^{F3}“Order Book” means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984 (SR 1984 No. 225);]

“parental responsibility” has the meaning assigned to it by Article 6 of the Children (Northern Ireland) Order 1995;

[^{F3}“place of safety” has the same meaning as in Article 39(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (N.I. 12);

“police officer” and “police support staff” have the same meaning as in the Police (Northern Ireland) Act 2000 (c. 32);

“probation order” means an order under Article 10 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24);]

“relative”, in relation to a child, means a grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity), or step-parent;

[^{F3}“remand centre” has the same meaning as in the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.));

“reparation order” means an order under Article 36A;

“responsible officer”

- (a) in relation to an offender subject to a reparation order, has the meaning assigned to it by Article 36D(2);
- (b) in relation to an offender subject to a community responsibility order, has the meaning assigned to it by Article 36E(4); and
- (c) in relation to an offender subject to a youth conference order, has the meaning assigned to it by Article 36K(3);

“secure accommodation” means accommodation provided for the purpose of restricting liberty;]

“sexual offence” has the meaning assigned to it by Schedule 1;

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“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“violent offence” has the meaning assigned to it by Schedule 1.

[^{F3}“youth conference” has the meaning given by Article 3A, “diversionary youth conference” has the meaning given by Article 10A(2) and “court-ordered youth conference” has the meaning given by Article 33A(5);

“youth conference co-ordinator” means a person designated under Article 3A(3);

“youth conference order” has the meaning given by Article 36J(2);

“youth conference plan” has the meaning given by Article 3C.]

(3) References in this Order to findings of guilt and findings that an offence has been committed shall be construed as including references to pleas of guilty and admissions that an offence has been committed.

[^{F3}(4) References in this Order to an offence punishable, in the case of an adult, with imprisonment are to be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of adults who are under the age of 21.

(5) References in this Order to associated offences are to be construed in accordance with Article 2(7) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24).]

F3 2002 c. 26

F4 Art. 2(2): definitions of “arrestable offence” and “serious arrestable offence” repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 34(1), Sch. 2

PART II

GENERAL

Age of responsibility

3. It shall be conclusively presumed that no child under the age of 10 can be guilty of an offence.

[^{F5}Youth conferences

3A.—(1) In this Order “youth conference”, in relation to a child and an offence, means a meeting, or series of meetings, for considering how the child ought to be dealt with for the offence.

(2) A meeting does not constitute, or form part of, a youth conference unless the following persons participate in it—

- (a) a youth conference co-ordinator (as chairman);
- (b) the child;
- (c) a police officer; and
- (d) an appropriate adult.

(3) The Secretary of State must designate persons employed in—

- (a) the civil service of the United Kingdom; or
- (b) the civil service of Northern Ireland,

to be youth conference co-ordinators.

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(4) Except where the child is in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995 (N.I. 2)), “appropriate adult” means a parent or guardian of the child or, if no parent or guardian of the child is able and willing to participate in the meeting—

- (a) a social worker of the appropriate authority or a legal representative of the child; or
- (b) if no-one within sub-paragraph (a) is able and willing to participate in the meeting, any responsible person who has attained the age of 18 and is neither a police officer nor a member of the police support staff.

(5) Where the child is in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995), “appropriate adult” means a social worker of the authority.

(6) The following persons are entitled to participate in any meeting constituting, or forming part of, a youth conference—

- (a) the victim of the offence or, if the victim is not an individual, an individual representing the victim;
- (b) a legal representative of the child acting as his adviser; and
- (c) if a community order or youth conference order is in force in respect of the child or the child is subject to supervision under a juvenile justice centre order or custody care order, the supervising officer.

(7) The supervising officer is—

- (a) in the case of a probation order, the probation officer responsible for the child's supervision under the order;
- (b) in the case of a community service order, the person who is the relevant officer for the purposes of Articles 13 and 14 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) ;
- (c) in the case of a combination order, either of the persons mentioned in sub-paragraphs (a) and (b);
- (d) in the case of an attendance centre order, the officer in charge of the attendance centre specified in the order;
- (e) in the case of a community responsibility order, reparation order or youth conference order, the responsible officer; or
- (f) in the case of a juvenile justice centre order or custody care order, the probation officer or person designated by the Secretary of State who is supervising the child.

(8) A youth conference co-ordinator may allow other persons—

- (a) to participate in any meeting constituting, or forming part of, a youth conference; or
- (b) to attend any such meeting for any purpose specified by him,

if he considers that their participation, or attendance for that purpose, would be of value.

(9) Where a youth conference is convened with respect to a child and an offence, neither—

- (a) the fact that it has been convened; nor
- (b) anything said or done (or omitted to be said or done) in or in connection with any meeting constituting, or forming part of, the youth conference,

is admissible in any criminal proceedings as evidence that the child committed the offence.]

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[^{F6}Youth conference rules

3B.—(1) The Secretary of State may make rules about the procedure of youth conferences.

(2) The rules may, in particular, make provision—

- (a) conferring or imposing functions on youth conference co-ordinators (which may include power to exclude from a meeting constituting, or forming part of, a youth conference persons otherwise entitled to participate in it by virtue of Article 3A(6)); and
- (b) about the period within which youth conferences must be completed and functions of youth conference co-ordinators must be performed.

(3) Rules under this Article are subject to [^{F7}negative resolution].]

F6 2002 c. 26

F7 Words in art. 3B(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), Sch. 2 para. 19(2) (with arts. 28-31); S.I. 2010/977, art. 1(2)

[^{F8}Youth conference plans

3C.—(1) In this Order “youth conference plan”, in relation to a child and an offence, is a proposal made by a youth conference co-ordinator (after a youth conference convened with respect to the child and the offence has been completed) that the child be required to do one or more of the following—

- (a) apologise to the victim of the offence or any person otherwise affected by it;
- (b) make reparation for the offence to the victim or any such person or to the community at large;
- (c) make a payment to the victim of the offence not exceeding the cost of replacing or repairing any property taken, destroyed or damaged by the child in committing the offence;
- (d) submit himself to the supervision of an adult;
- (e) perform unpaid work or service in or for the community;
- (f) participate in activities (such as activities designed to address offending behaviour, offering education or training or assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs);
- (g) submit himself to restrictions on his conduct or whereabouts (including remaining at a particular place for particular periods); and
- (h) submit himself to treatment for a mental condition or for a dependency on alcohol or drugs.

(2) A youth conference plan may specify a requirement under paragraph (1)(e) only if the child has attained the age of 16.

(3) A youth conference plan may specify requirements applying only in specified circumstances.

(4) A youth conference plan must specify the period during which the child must comply with the requirements specified in it.

(5) That period must not be more than one year.

(6) A youth conference plan must specify the date on which (subject to Article 10D(2) or 36J(2)) the child must begin to comply with the requirements specified in it.

(7) The fact that a child has been subject to a youth conference plan in respect of an offence may be cited in criminal proceedings in the same circumstances as a finding that the child committed the offence may be so cited.