Draft Order laid before Parliament under section 147(5) of the Criminal Justice and Immigration Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

CRIMINAL LAW, ENGLAND AND WALES

The Youth Rehabilitation Order (Review by Specified Courts) Order 2010

Made - - - -	***
Coming into force - -	***

The Secretary of State makes the following Order in exercise of the powers conferred by paragraph 35(1) of Schedule 1 to, and section 147(2) of, the Criminal Justice and Immigration Act 2008(**1**).

In accordance with section 147(5) of the Criminal Justice and Immigration Act 2008, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Youth Rehabilitation Order (Review by Specified Courts) Order 2010 and shall come into force on the day after the day on which it is made.

(2) In this Order "the Act" means the Criminal Justice and Immigration Act 2008.

Reviews by specified courts of specified youth rehabilitation orders

2.—(1) Subject to paragraph (3), a court specified in the Schedule to this Order may —

(a) when making a youth rehabilitation order containing any or all of the provisions specified in paragraph (2) provide for that order to be reviewed periodically by that or another court specified in the Schedule;

(b) amend a youth rehabilitation order containing any or all of the provisions specified in paragraph (2) so as to include or remove a provision specified in that paragraph for review by that or another court specified in the Schedule.

(2) This paragraph applies where a court by or before which a person under 18 is convicted makes an order which consists of or includes a youth rehabilitation order with any or all of the following:

(a) a drug treatment requirement;

(b) a drug testing requirement;

(**1**) 2008 c.4

(c) an intoxicating substance treatment requirement;

(d) with intensive supervision and surveillance; and

(e) with a fostering requirement.

(3) Nothing in this article shall enable a youth court to include provision for review by the Crown Court when making a youth rehabilitation order.

3.—(1) A youth rehabilitation order which provides for a review by a court may provide —

(a) for the order to be reviewed periodically at specified intervals;

(b) for each review to be made, subject to article 4(6), at a hearing held for the purpose by the court responsible for the order (a "review hearing");

(c) that the offender must attend each review hearing;

(d) for the responsible officer to make to the court responsible for the order, before each review, a report of the offender's progress in complying with the requirements of the order;

(e) where the youth rehabilitation order includes a drug testing requirement, that the report mentioned in paragraph (d) above, is to include —

(i) the test results communicated to the responsible officer under paragraph 23(5) of Schedule 1 to the Act or otherwise; and

(ii) the views of the treatment provider as to the testing of the offender;

(f) where the youth rehabilitation order includes a drug treatment requirement that the report mentioned in paragraph (d) above is to include the views of the treatment provider as to the treatment of the offender.

(2) In this article references to the court responsible for the order are references to the court specified in the youth rehabilitation order as responsible for reviewing the order.

Powers and conduct of reviews

4.—(1) At a review hearing, within the meaning of article 3(1), the court may, subject to paragraph (3) below, after considering any responsible officer's report prepared in pursuance of that article, amend a youth rehabilitation order which consists of or includes the provisions mentioned in article 2(2).

(2) The court —

(a) may not amend the order so as to impose a requirement of a different kind unless the offender has expressed willingness to comply with that requirement;

(b) may not amend the order so as to make it more onerous unless the offender has expressed his willingness to comply with the order as amended;

(c) may not amend a drug treatment requirement, a drug testing requirement or an intoxicating substance treatment requirement unless the offender has expressed his willingness to comply with the requirement as amended;

(d) may not, in the case of a youth rehabilitation order with intensive supervision and surveillance, amend it such that the date specified for the purposes of paragraph 32(1) of Schedule 1 to the Act is earlier than 6 months after the date on which the order took effect; and

(e) may, subject to paragraph (b), extend the duration of a particular requirement (subject to any limit imposed by Schedules 1 and 2 to the Act) but may not extend the date specified under paragraph 32(1) of Schedule 1 to the Act by which all the requirements in it must have been complied with.

(3) The court may not, except with the consent of the offender, amend a youth rehabilitation order while an appeal against that order is pending.

(4) For the purposes of paragraph (2)(a) —

(a) a requirement falling within any paragraph of Part 2 of Schedule 1 to the Act is of the same kind as any other requirement falling within that paragraph; and

(b) an electronic monitoring requirement is a requirement of the same kind as any requirement falling within Part 2 of Schedule 1 to the Act to which it relates.

(5) Where —

(a) a youth rehabilitation order imposes a fostering requirement ("the original requirement"), and

(b) at a review hearing, within the meaning of article 3(1), the court proposes to substitute a new fostering requirement ("the substitute requirement") for the original requirement,

paragraph 18(2) of Schedule 1 to the Act 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 had first had effect were a reference to the period of 18 months beginning with that date.

(6) If, before a review hearing is held at any review, the court, after considering any responsible officer's report pursuant to article 3(1), is of the opinion that the offender's progress in complying with the requirements of the order is satisfactory, they may order that no review hearing is to be held at that review; and if before a review hearing is held at any review, or at a review hearing, the court, after considering any such report, is of that opinion, they may amend the youth rehabilitation order so as to provide for each subsequent review to be held without a hearing.

(7) If, at a review held without a hearing, the court after considering any responsible officer's report pursuant to article 3(1), is of the opinion that the offender's progress under the order is no longer satisfactory, they may require the offender to attend a hearing of the court at a specified time and place.

(8) If, at a review hearing, the court is of the opinion that the offender may have failed without reasonable excuse to comply with a youth rehabilitation order, the court may adjourn the hearing to enable the responsible officer to consider whether to take any action under paragraph 3 or 4 of Schedule 2 to the Act.

(9) At a review hearing the court may amend the youth rehabilitation order so as to vary the intervals specified under article 3(1)(a).

(10) In this article, any reference to the court, in relation to a review without a hearing, is to be read —

(a) in the case of the Crown Court, as a reference to the judge of the court; and

(b) in the case of a youth court, as a reference to a justice of the peace.

Signed by the authority of the Secretary of State

Minister of State
Ministry of Justice

Date