



2016 CHAPTER 21

**PART 1**

FINES AND OTHER PENALTIES: ENFORCEMENT

CHAPTER 2

Other enforcement procedures

**Supervised activity orders**

**29.**—(1) For Article 45 of the Criminal Justice (Northern Ireland) Order 2008 substitute—

**“Supervised activity order for default in payment of certain sums**

**45.**—(1) This Article applies where an individual aged 18 or over is liable to pay one or more sums adjudged to be paid by or imposed on conviction of an offence the total of which does not exceed £1,000 and the individual either—

- (a) is in default of payment of the amount outstanding; or
- (b) at the time of sentencing for the offence or at any subsequent time without such default having yet occurred, applies to the court for a supervised activity order.

(2) If the court would, but for this Article, make an order or issue a warrant for the committal of the individual but considers a supervised activity order more appropriate (and does not consider any other non-custodial penalty appropriate), it may instead make a supervised activity order in respect of the individual.

(3) A supervised activity order is an order requiring a person to—

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- (a) attend for a period specified in the order at such place as may be determined by the supervising officer, and
  - (b) engage, during that period, in activities in accordance with instructions given by the supervising officer.
- (4) The period specified under paragraph (3)(a) must not be less than 10 hours; and it must not be more than—
- (a) 50 hours, if the amount specified in the order as outstanding does not exceed £200;
  - (b) 100 hours, if that amount exceeds £200 but does not exceed £500;
  - (c) 150 hours, in any other case.
- (5) The Department of Justice may by order—
- (a) amend paragraph (1) or (4)(a) or (b) by substituting for a sum of money specified there such other sum of money as is specified in the order;
  - (b) amend paragraph (4)(a), (b) or (c) by substituting for a number of hours specified there such other number of hours as is specified in the order.
- (6) A supervised activity order in respect of a person comes into force as soon as it is made.
- (7) Where the person has been engaged for part of the period specified in a supervised activity order, the amount specified in the order as outstanding is reduced by the proportion which the part of the period for which the offender has so far been engaged bears to the whole of the period specified.
- (8) The person's liability for the sums adjudged to be paid by or imposed on the conviction and any supervised activity order made in respect of the outstanding amount of those sums are discharged only by—
- (a) payment of the outstanding amount;
  - (b) the carrying out of the instructions given under the order for the number of hours specified in it; or
  - (c) service of a period of imprisonment imposed under paragraph 5 or 6 of Schedule 3.
- (9) Schedule 3, which makes further provision in relation to supervised activity orders, has effect.
- (10) The references in this Article to a sum adjudged to be paid by or imposed on a conviction include a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed; and the reference in paragraph (1) to the time of sentencing is accordingly to be read as a reference to the time when the liability arose.

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(11) But the references in this Article to a sum adjudged to be paid by or imposed on a conviction do not include a reference to an amount payable under a confiscation order under Part 4 of the Proceeds of Crime Act 2002.

(12) In this Article and Schedule 3, “supervising officer”, in relation to a supervised activity order, means a probation officer with responsibility for supervising the carrying out of the requirements of the order.”

(2) In Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (supervised activity orders: further provisions), in paragraph 1(a), omit “, or will be residing when the order comes into force,”.

(3) In each of paragraphs 2(3), 5(4)(b) and 6(1)(b) of that Schedule, for “45(3)” substitute “ 45(4) ”.

(4) In paragraph 3 of that Schedule (the cross-heading before which is omitted), in sub-paragraph (1), for “comes into force” substitute “ is made ”.

(5) In paragraph 4(2) of that Schedule, for the words from “the offender has carried out” to the end substitute “ it is discharged in accordance with Article 45(8) ”.

(6) In paragraph 5(1) of that Schedule, before “the lay magistrate may” insert “ or that the offender, having chosen to pay the outstanding amount, is in default on the payment, ”.

(7) In paragraph 5(4) of that Schedule—

(a) before “the court may” insert “ or that the offender is in default as mentioned in sub-paragraph (1), ”, and

(b) for paragraph (a) substitute—

“(a) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;”.

(8) In paragraph 6(1) of that Schedule, for paragraph (d) substitute—

“(d) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;”.

(9) In Article 2 of that Order (general interpretation), at the end insert “ ; and in this Order, “statutory provision” has the same meaning as in that Act ”.

(10) In Article 100 of that Order (regulations, orders and rules)—

(a) in paragraph (2), for “or 22(4)” substitute “ , 22(4) or 45(5) ”, and

(b) after paragraph (3) insert—

“(3A) An order under section 45(5) may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly””

(11) Section 58 of the Justice Act (Northern Ireland) 2011 (which provides for Article 45 of the 2008 Order to apply to certain financial penalties) is repealed.

(12) This section applies in relation to convictions occurring before the commencement of this section (as well as those occurring afterwards).

**Commencement Information**

**II** S. 29 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

**Restriction on detention of children for default in paying fines, etc.**

**30.**—(1) Before Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (but after the preceding cross-heading) insert—

**“Restriction on detention for default of payment of fine, etc.**

**46C.**—(1) A child shall not be ordered to be detained in custody in default of the payment of any sum adjudged to be paid by or imposed on conviction of an offence unless, at the time when the sum becomes due or at any subsequent time at which it remains due, the child—

- (a) is already being detained in custody, or
- (b) has been ordered to be detained in custody but the period of detention has yet to begin.

(2) The child may be ordered to be detained in custody for a period concurrent with that other period of detention; and the service of a period of detention ordered in reliance on this Article discharges the child's liability for the sum concerned.

(3) A period of detention ordered in reliance on this Article must end on or before the date on which the child is to be discharged from the other period of detention; and where the applicable maximum period would otherwise extend beyond that date, it is to be reduced accordingly.

(4) In this Article—

- (a) the reference to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed, and
- (b) the reference to the applicable maximum period is a reference to the applicable maximum period under section 35 of the Criminal Justice Act (Northern Ireland) 1945 or Schedule 3 to the Magistrates' Courts (Northern Ireland) Order 1981.”.

(2) In Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (attendance centre orders), after paragraph (1) insert—

“(1A) An attendance centre order may (in spite of paragraph (1) and Article 46C) be made in default of the payment of a sum adjudged to be

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paid by or imposed on the conviction of an offence in a case where, at the time of the default, the child in question—

- (a) is not detained in custody or imprisoned, and
- (b) has not been ordered to be detained in custody or imprisoned with the period of detention or imprisonment yet to begin.

(1B) The reference in paragraph (1A) to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed.”.

(3) In Article 47 of that Order (the title to which becomes “ Limitation on punishment for contempt of court ”), in paragraph (1), omit sub-paragraph (b) and the preceding “or”.

(4) Article 48 of that Order (which provides for committal to custody in a young offenders centre where a child is in default) is repealed.

(5) In section 35 of the Criminal Justice Act (Northern Ireland) 1945 (powers of court in relation to fines etc.), after subsection (7) insert—

“(8) Subsection (1)(c) does not apply where the person concerned is a child except where detention would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998; and subsection (3) does not apply to a child.”.

(6) In section 5(3) of the Treatment of Offenders (Northern Ireland) Act 1968 (power of court to detain young person in youth offenders centre for default), for “Article 47” substitute “ Article 46C ”.

(7) In Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981 (consecutive terms of imprisonment), after paragraph (3) (which allows a term of imprisonment for default to run consecutively to another term) insert—

“(4) Paragraph (3) does not apply to a child (see Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998).”.

(8) In Article 91 of that Order (payment of sums adjudged to be paid by a conviction), after paragraph (8) (which provides for immediate committal where the person concerned indicates a preference for that) insert—

“(9) Paragraph (8) does not apply in the case of a child except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(9) In Article 92 of that Order (enforcement), after paragraph (5) insert—

“(6) This Article does not apply to a child, except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(10) In Article 93 of that Order (restrictions on power to order immediate committal), the text of which becomes paragraph (1), at the end insert—

“(2) This Article does not apply where the person is a child.”.

(11) Article 94 of that Order (supervision of person under 21 until payment of sum) is repealed.

(12) This section applies in relation to convictions occurring before the commencement of this section (as well as those occurring afterwards).

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**Commencement Information**

**I2** S. 30 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

**Distress in default**

**31.—**(1) In section 3 of the Fines Act (Ireland) 1851 (warrants for the execution of orders to be issued at certain periods), at the end add “ ; and no warrant of distress may be issued in reliance on this section at the time of sentencing of the person concerned ”.

(2) In Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of payment of a sum adjudged to be paid by a conviction), after paragraph (1) insert—

“(1A) A warrant of distress shall not be issued under paragraph (1)(a) at the time of sentencing of the person concerned.”.

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**Commencement Information**

**I3** S. 31 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

**Limitations on remission**

**32.—**(1) In section 13 of the Prison Act (Northern Ireland) 1953 (prison rules), after subsection (7) insert—

“(7A) Prison rules may not provide for—

- (a) the grant of remission to a person imprisoned or detained in default of a payment of a sum adjudged to be paid by or imposed on his conviction of an offence or a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed;
- (b) the grant of remission to an offender in respect of a period of imprisonment under paragraph 5 or 6 of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (supervised activity order).”.

(2) In paragraph 5 of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (failure to comply with supervised activity order), after subparagraph (4) insert—

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“(5) Section 13(7A) of the Prison Act (Northern Ireland) 1953 prevents prison rules from providing for the grant of remission to an offender in respect of a period of imprisonment imposed under sub-paragraph (4).”.

(3) In paragraph 6 of that Schedule, after sub-paragraph (1) insert—

“(1A) Section 13(7A) of the Prison Act (Northern Ireland) 1953 prevents prison rules from providing for the grant of remission to an offender in respect of a period of imprisonment imposed under sub-paragraph (1)””

(4) This section does not apply in relation to offences committed before the commencement of this section.

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**Commencement Information**

**I4** S. 32 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

**Changes to legislation:**

There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, CHAPTER 2.