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STATUTORY INSTRUMENTS

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**2008 No. 1216 (N.I. 1)**

**NORTHERN IRELAND**

**The Criminal Justice (Northern Ireland) Order 2008**

Made - - - - 7th May 2008  
Coming into operation in accordance with Article 1(2)  
to (4)

At the Court at Buckingham Palace, the 7th day of May 2008

Present,

The Queen's Most Excellent Majesty in Council

Whereas—

- (a) the Secretary of State, in accordance with subsection (4)(a) of section 85 of the Northern Ireland Act 1998 (c. 47), laid before Parliament a document which contained a draft of this proposed Order;
- (b) the Secretary of State referred the document to the Northern Ireland Assembly for its consideration;
- (c) the period referred to in subsection (4)(c) of that section has ended; and
- (d) a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 85 of the Northern Ireland Act 1998 (c. 47) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

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**Modifications etc. (not altering text)**

- C1** Order: functions of Secretary of State transferred 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\(2\)](#)

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

## PART 1 **N.I.**

### INTRODUCTORY

#### Title and commencement **N.I.**

- 1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2008.
- (2) The following provisions come into operation one week after the day on which this Order is made—
- (a) this Part; and
  - (b) Articles 100 and 101.
- (3) The following provisions come into operation one month after the day on which this Order is made—
- (a) Articles 84 to 86, 88, 89 and 93 to 99; and
  - (b) Part 2 of Schedule 6, and Article 102(2) so far as relating thereto.
- (4) The other provisions of this Order come into operation on such day or days as the Secretary of State may by order appoint.
- (5) Any provision of Part 4 or 5 which alters any penalty for an offence has effect only in relation to offences committed after the coming into operation of that provision.

#### Subordinate Legislation Made

- P1** [Art. 1\(4\)](#) power partly exercised: 15.5.2008 appointed for specified provisions by [S.R. 2008/217](#), [art. 2](#), [Sch.](#) (with savings and transitory provision in [arts. 3, 4](#));  
16.7.2008 appointed for specified provisions by [S.R. 2008/293](#), [art. 2](#), [Sch.](#);  
6.10.2008 appointed for specified provisions by [S.R. 2008/383](#), [art. 2](#), [Sch.](#) (with transitional provisions in [art. 3](#));  
different dates appointed for specified provisions by [S.R. 2008/472](#), [art. 2](#), [Sch.](#);  
1.4.2009 appointed for specified provisions by [S.R. 2009/120](#), [art. 2](#), [Sch. 1](#) (subject to savings in [Sch. 2](#));  
26.2.2010 appointed for specified provision by [S.R. 2010/36](#), [art. 2](#);  
1.1.2012 appointed for specified provision by [S.R. 2011/371](#), [art. 2](#)

#### General interpretation **N.I.**

2. The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly [<sup>F1</sup>; and in this Order, “statutory provision” has the same meaning as in that Act ] .

#### Textual Amendments

- F1** Words in [art. 2](#) inserted (1.6.2018) by [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), [ss. 29\(9\)](#), [61\(2\)](#) (with [s. 29\(12\)](#)); [S.R. 2018/99](#), [art. 2\(a\)](#)

## PART 2 **N.I.**

### SENTENCING

#### CHAPTER 1 **N.I.**

#### INTERPRETATION

#### Interpretation of this Part **N.I.**

##### 3.—(1) In this Part—

[<sup>F2</sup>“Article 15A terrorism sentence” means a sentence under Article 15A;]

“community sentence” has the meaning given by Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 (NI 24);

“curfew requirement” has the meaning given by Article 37(1);

“electronic monitoring requirement” has the meaning given by Article 40(1);

“extended custodial sentence” has the meaning given by Article 14;

<sup>F3</sup> ...

[<sup>F4</sup>“HSC trust” means a [<sup>F5</sup>Health and Social Care trust]established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1);

“indeterminate custodial sentence” has the meaning given by Article 13(4);

“the Parole Commissioners” means the Parole Commissioners for Northern Ireland;

“prison rules” means rules made under section 13 of the Prison Act (Northern Ireland) 1953 (c. 18);

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

“sentence” does not include a committal for default, or the fixing of a term to be served in the event of default, or attachment for contempt of court; and for the purposes of this definition

“default” means a failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money or failure to do or abstain from doing anything required to be done or left undone;

“serious harm” means death or serious personal injury, whether physical or psychological;

[<sup>F6</sup>“serious terrorism sentence” has the meaning given by Article 13A;]

“youth conference order” means an order under Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);

“young offenders centre” has the meaning given by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29).

##### (2) For the purposes of this Part, an offence is associated with another if—

(a) the offender is convicted of both offences in the same proceedings, or is sentenced for both offences at the same time; or

(b) the offender admits the commission of it in the sentencing proceedings for the other offence and requests the court to take it into consideration in the sentence for that offence.

(3) For the purposes of this Part, where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it shall be taken to have been committed on the last of those days

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(4) Where the age of any person at any time is material for the purposes of any provision of this Part, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

[<sup>F7</sup>(5) For the purposes of this Part, references to an offence punishable with imprisonment for a certain term are to be read as references to an offence that is punishable with imprisonment for that term on conviction on indictment in the case of an offender aged 21 or over.]

#### Textual Amendments

- F2** Words in art. 3(1) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(2)(a)**
- F3** Words in art. 3(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 226(2)**; S.R. 2022/102, art. 2(b)
- F4** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F5** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F6** Words in art. 3(1) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(2)**
- F7** Art. 3(5) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(2)(b)**

## CHAPTER 2 **N.I.**

### CUSTODIAL SENTENCES

#### Interpretation of this Chapter **N.I.**

4.—(1) In this Chapter—

“custodial sentence” means—

- (a) a sentence of imprisonment;
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 13(4)(b) [<sup>F8</sup>, [<sup>F9</sup>13A(6),] 14(5) or 15A(5)];
- (d) a sentence of detention under Article 45(1) or (2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);
- (e) an order under Article 39 of that Order sending the offender to a juvenile justice centre;
- (f) an order under Article 44A of that Order sending the offender to secure accommodation;

“pre-sentence report” means a report in writing which—

- (a) with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by a probation officer or a social worker of an Health and Social Services Trust<sup>F10</sup>... authorised [<sup>F11</sup>HSC trust] ; and
- (b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State;

and for the purposes of this definition an “authorised [<sup>F11</sup>HSC trust]” is an [<sup>F11</sup>HSC trust][<sup>F12</sup>that is exercising social care and children functions within the meaning of Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991.]

(2) For the purposes of this Chapter—

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- (a) a sentence falls to be imposed under Article 13 if, because the court is of the opinion mentioned in paragraph (1)(b) of that Article and considers that the case falls within paragraph (2) or (3) of that Article, the court is obliged to pass a sentence complying with that Article;
- [<sup>F13</sup>(aa) a sentence falls to be imposed under Article 13A if, because the court is of the opinions mentioned in paragraphs (1)(d) and (3) of that Article and is not of the opinion mentioned in paragraph (2) of that Article, the court is obliged to pass a sentence complying with that Article;]
- (b) a sentence falls to be imposed under Article 14 if, because the court is of the opinion mentioned in paragraph (1)(b)(i) and (ii) of that Article, the court is obliged to pass a sentence complying with that Article;
- [<sup>F14</sup>(ba) a sentence falls to be imposed under Article 15A if the court is obliged to pass a sentence complying with that Article;]
- (c) a sentence falls to be imposed under paragraph (2) of Article 70 of the Firearms (Northern Ireland) Order 2004 (NI 3) if it is required by that paragraph and the court is not of the opinion there mentioned;<sup>F15</sup>...
- (d) a sentence falls to be imposed under paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38) if it is required by that provision and the court is not of the opinion there mentioned.
- [<sup>F16</sup>(e) a sentence falls to be imposed under section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 if it is required by that provision and the court is not of the opinion there mentioned;]

#### Textual Amendments

- F8** Words in art. 4(1) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(3)(a)**
- F9** Word in art. 4(1) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(3)(a)**
- F10** Words in art. 4(1) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 226(3)(a)**; S.R. 2022/102, art. 2(b)
- F11** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F12** Words in art. 4(1) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 226(3)(b)**; S.R. 2022/102, art. 2(b)
- F13** Art. 4(2)(aa) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(3)(b)**
- F14** Art. 4(2)(ba) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(3)(b)**
- F15** Word in art. 4(2)(c) omitted (14.1.2015) by virtue of Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(8)(a)**, 28(2)
- F16** Art. 4(2)(e) added (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(8)(a)**, 28(2)

#### Restrictions on imposing certain custodial sentences **N.I.**

5.—(1) This Article applies where a person is convicted of an offence punishable with a custodial sentence other than one—

- (a) fixed by law; or

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- (b) falling to be imposed under—
- (i) Article 13 <sup>F17</sup>, 13A or 14];
  - (ii) Article 70(2) of the Firearms (Northern Ireland) Order 2004 (NI 3);<sup>F18</sup> ...
  - (iii) paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38);  
<sup>F19</sup>or
  - (iv) section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.]

(2) The court shall not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only a custodial sentence can be justified for the offence.

(3) Nothing in paragraph (2) shall prevent the court from passing a custodial sentence if the offender fails to express a willingness to comply with—

- (a) a requirement which is proposed by the court to be included in a community sentence and which requires an expression of such willingness; or
- (b) a requirement which is proposed by the court to be included in—
  - (i) an order under Article 8(5) of the Criminal Justice (Northern Ireland) Order 1998 (NI 20); or
  - (ii) a youth conference order.

(4) Where a court passes a custodial sentence, it shall—

- (a) in a case not falling within paragraph (3), state in open court that it is of the opinion referred to in paragraph (2) and why it is of that opinion; and
- (b) in any case, explain to the offender in open court and in ordinary language why it is passing a custodial sentence.

(5) A magistrates' court shall cause a reason stated by it under paragraph (4) to be specified in the warrant of commitment and to be entered in the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984 (No. 225).

#### Textual Amendments

- F17** Words in art. 5(1)(b)(i) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(4)**
- F18** Word in art. 5(1)(b)(ii) omitted (14.1.2015) by virtue of Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(8)(b)**, 28(2)
- F19** Art. 5(1)(b)(iv) and word added (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(8)(b)**, 28(2)

#### Commencement Information

- II** Art. 5 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, **art. 2**, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

### Restrictions on imposing custodial sentences on persons not legally represented **N.I.**

**6.—(1)** A magistrates' court on summary conviction or the Crown Court on conviction on indictment shall not pass a custodial sentence on a person if that person is not legally represented in that court.

(2) Paragraph (1) does not apply to a person if

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- (a) a custodial sentence has previously been passed on that person or a corresponding sentence has previously been passed on that person by a court in any other part of the United Kingdom;
  - (b) that person applied for legal aid and the application was refused on the ground that it did not appear the person's means were such that the person required assistance; or
  - (c) having been informed of the right to apply for legal aid and had the opportunity to do so, that person refused or failed to apply.
- (3) In paragraph (2) “legal aid” means legal aid for the purposes of proceedings in the court, whether the whole proceedings or the proceedings on or in relation to sentence.
- (4) In the case of a person committed to the Crown Court for trial, it is immaterial whether that person applied for legal aid in the Crown Court to, or was informed of the right to apply by, that Court, or the court which committed that person.
- (5) For the purposes of this Article—
- (a) a person is to be treated as legally represented in a court if, but only if, that person has the assistance of counsel or a solicitor to represent that person in the proceedings in that court at some time after that person is found guilty and before that person is sentenced;
  - (b) a previous sentence of imprisonment or order for detention which has been suspended and which has not taken effect shall be disregarded.

#### Commencement Information

- 12** Art. 6 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

#### Length of custodial sentences **N.I.**

7.—(1) This Article applies where a court passes a sentence—

- (a) of imprisonment for a determinate term;
- (b) of detention in a young offenders centre;
- (c) of detention under Article 14(5);
- [<sup>F20</sup>(ca) of detention under Article 15A(5);] or
- (d) of detention under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

(2) Subject to [<sup>F21</sup>Articles [<sup>F22</sup>13A,] 14 and 15A] and the statutory provisions mentioned in paragraph (3), the sentence shall be for such term (not exceeding the permitted maximum) as in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

(3) The statutory provisions referred to in paragraph (2) are—

- (a) Article 70(2) of the Firearms (Northern Ireland) Order 2004 (NI 3);
- (b) paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38);
- [<sup>F23</sup>(c) section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.]

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### Textual Amendments

- F20** Art. 7(1)(ca) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(4)(a)**
- F21** Words in art. 7(2) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(4)(b)**
- F22** Word in art. 7(2) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(5)**
- F23** Art. 7(3)(c) added (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(8)(c), 28(2)**

### Commencement Information

- I3** Art. 7 wholly in operation at 1.4.2009; art. 7 not in operation at date Order made see art. 1(4); art. 7 in operation for certain purposes at 15.5.2008 by S.R. 2008/217, **art. 2, Sch.** (with savings and transitory provision **arts. 3, 4**); art. 7 in operation at 1.4.2009 in so far as not already in operation by S.R. 2009/120, **art. 2, Sch. 1** (subject to **Sch. 2 paras. 1(1)(2)(a), 4**)

### Length of custodial period **N.I.**

**8.—(1)** This Article applies where a court passes—

- (a) a sentence of imprisonment for a determinate term, other than [<sup>F24</sup>a serious terrorism sentence,] an extended custodial sentence [<sup>F25</sup>or an Article 15A terrorism sentence], or
- (b) a sentence of detention in a young offenders centre

in respect of an offence committed after the commencement of this Article.

(2) The court shall specify a period (in this Article referred to as “the custodial period”) at the end of which the offender is to be released on licence under Article 17.

(3) The custodial period shall not exceed one half of the term of the sentence.

(4) Subject to paragraph (3), the custodial period shall be the term of the sentence less the licence period.

(5) In paragraph (4) “the licence period” means such period as the court thinks appropriate to take account of the effect of the offender's supervision by a probation officer on release from custody—

- (a) in protecting the public from harm from the offender; and
- (b) in preventing the commission by the offender of further offences.

(6) Remission shall not be granted under prison rules to the offender in respect of the sentence.

### Textual Amendments

- F24** Words in art. 8(1)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(6)**
- F25** Words in art. 8(1)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(5)**

### Commencement Information

- I4** Art. 8 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, **art. 2, Sch. 1** (subject to **Sch. 2 paras. 2(1)(5), 4**)



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## Procedural requirements for custodial sentences **N.I.**

9.—(1) In forming any such opinion as is mentioned in Article 5(2) or 7(2), a court shall take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it (including any aggravating or mitigating factors).

(2) Subject to paragraph (3), a court shall obtain and consider a pre-sentence report before forming any such opinion as is mentioned in Article 5(2), 7(2), 13(1)(b) [<sup>F26</sup>, 13A(1)(d)] or 14(1)(b)(i).

(3) Paragraph (2) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report; and where the court does not obtain and consider a pre-sentence report, it shall state in open court that it is of that opinion and what the circumstances are.

(4) In the case of an offender under the age of 18, except where the offence or any other offence associated with it is punishable only on conviction on indictment, the court shall not form such an opinion as is mentioned in paragraph (3) or (6) unless—

- (a) there exists a previous pre-sentence report obtained in respect of the offender; and
- (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.

(5) No custodial sentence shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in paragraph (2) but any court on an appeal against such a sentence—

- (a) shall, subject to paragraph (6), obtain a pre-sentence report if none was obtained by the court below; and
- (b) shall consider any such report obtained by it or by that court.

(6) Paragraph (5)(a) does not apply if the court is of the opinion—

- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report; or
- (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.

### Textual Amendments

**F26** Word in art. 9(2) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2) (v), Sch. 13 para. 66(7)

### Commencement Information

**I5** Art. 9 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

## Additional requirements in the case of mentally disordered offenders **N.I.**

10.—(1) Subject to paragraph (2), in any case where Article 9(2) applies and the offender is or appears to be mentally disordered, the court shall obtain and consider a medical report before passing a custodial sentence other than one fixed by law.

(2) Paragraph (1) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a medical report.

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(3) Before passing a custodial sentence other than one fixed by law on an offender who is or appears to be mentally disordered, a court shall consider—

- (a) any information before it which relates to the offender's mental condition (whether given in a medical report, a pre-sentence report or otherwise); and
- (b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.

(4) No custodial sentence which is passed in a case to which paragraph (1) applies shall be invalidated by the failure of a court to comply with that paragraph, but any court on an appeal against such a sentence—

- (a) shall obtain a medical report if none was obtained by the court below; and
- (b) shall consider any such report obtained by it or by that court.

(5) In this Article—

“mentally disordered”, in relation to any person, means suffering from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4);

“medical report” means a report as to an offender's mental condition made or submitted orally or in writing by a registered medical practitioner appointed by the Mental Health Commission for Northern Ireland for the purposes of Part 2 of the Mental Health (Northern Ireland) Order 1986 (NI 4).

(6) Nothing in this Article shall be taken as prejudicing the generality of Article 9.

#### Commencement Information

**I6** Art. 10 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

#### Disclosure of pre-sentence reports **N.I.**

**11.**—(1) This Article applies where a court obtains a pre-sentence report.

(2) Subject to paragraphs (3) and (4), the court shall give a copy of the report—

- (a) to the offender or the offender's counsel or solicitor; and
- (b) to the prosecutor, that is to say, the person having conduct of the proceedings in respect of the offence.

(3) If the offender is under the age of 18 and is not represented by counsel or a solicitor, a copy of the report need not be given to the offender but shall be given to the offender's parent or guardian if present in court

(4) If the prosecutor is not of a description prescribed by order made by the Secretary of State, a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for the prosecutor to be given it.

(5) No information obtained by virtue of paragraph (2)(b) shall be used or disclosed otherwise than for the purpose of—

- (a) determining whether representations as to matters contained in the report need to be made to the court; or
- (b) making such representations to the court.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

### Commencement Information

- I7** Art. 11 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

## CHAPTER 3 **N.I.**

### DANGEROUS OFFENDERS [<sup>F27</sup>and other terrorist offenders]

### Textual Amendments

- F27** Words in Pt. 2 Ch. 3 heading inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 72(6)

### Meaning of “specified offence” etc. **N.I.**

**12.**—(1) An offence is a “specified offence” for the purposes of this Chapter if it is a specified violent offence [<sup>F28</sup>, a specified sexual offence or a specified terrorism offence].

(2) A specified offence is a “serious offence” for the purposes of this Chapter if it is an offence specified in Schedule 1.

(3) In this Chapter—

[<sup>F29</sup>“determination of terrorist connection”, in relation to an offence, means a determination by the court that the offence has a terrorist connection under section 30 of the Counter-Terrorism Act 2008;]

“life sentence” means—

- (a) a sentence of imprisonment for life; or
- (b) a sentence of detention under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);

“specified violent offence” means an offence specified in Part 1 of Schedule 2;

“specified sexual offence” means an offence specified in Part 2 of that Schedule.

[<sup>F30</sup>“specified terrorism offence” means an offence specified in Part 3 of that Schedule.]

(4) References in this Chapter to conviction on indictment include references to a finding of guilt under Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

(5) The Secretary of State may by order amend Schedules 1 and 2.

[<sup>F31</sup>(6) Schedule 2A specifies certain terrorism offences, and other offences which may be determined to have a terrorist connection, for the purposes of various provisions of this Chapter and Chapter 4, and makes related provision.

(7) In this Chapter “serious terrorism offence” means—

- (a) an offence within Part 2 of Schedule 2A (terrorism offences punishable with life imprisonment); or
- (b) an offence within Part 3 of that Schedule (offences with possible terrorist connection punishable with life imprisonment) in respect of which a determination of terrorist connection is made.]

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

### Textual Amendments

- F28** Words in art. 12(1) substituted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 11(2)(a), 27(3) (with s. 25(5))
- F29** Words in art. 12(3) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 3(2)(a), 50(1)(a)
- F30** Words in art. 12(3) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 11(2)(b), 27(3) (with s. 25(5))
- F31** Art. 12(6)(7) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 3(2)(b), 50(1)(a)

### Life sentence or indeterminate custodial sentence for serious offences **N.I.**

13.—(1) This Article applies where—

- (a) a person is convicted on indictment of a serious offence committed after the commencement of this Article; and
- (b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences.

(2) If—

- (a) the offence is one in respect of which the offender would apart from this Article be liable to a life sentence, an
- (b) the court is of the opinion that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of such a sentence,

the court shall impose a life sentence.

(3) If, in a case not falling within paragraph (2), the court considers that an extended custodial sentence [<sup>F32</sup>or a serious terrorism sentence] would not be adequate for the purpose of protecting the public from serious harm occasioned by the commission by the offender of further specified offences, the court shall—

- (a) impose an indeterminate custodial sentence; and
- (b) specify a period of at least 2 years as the minimum period for the purposes of Article 18, being [<sup>F33</sup>(subject to paragraphs (3A) to (3E))] such period as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.

[<sup>F34</sup>(3A) In a serious terrorism case, the period specified under paragraph (3)(b) must (subject to paragraphs (3C) to (3E)) be at least 14 years.

(3B) A “serious terrorism case” is a case where, but for the fact that the court is required to impose an indeterminate custodial sentence, it would be required by Article 13A to impose a serious terrorism sentence (assuming for this purpose that the court was not of the opinion mentioned in paragraph (2) of that Article).

(3C) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify a period of less than 14 years but (subject to paragraphs (3D) and (3E)) no less than 11 years and 73 days.

(3D) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that it is appropriate to do so on taking account of matters under

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section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).

(3E) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that there are exceptional circumstances which—

- (a) relate to the offence or to the offender; and
- (b) justify the specification of a lesser period.]

(4) An indeterminate custodial sentence is—

- (a) where the offender is aged 21 or over, a sentence of imprisonment for an indeterminate period,
- (b) where the offender is under the age of 21, a sentence of detention for an indeterminate period at such place and under such conditions as the Secretary of State may direct,

subject (in either case) to the provisions of this Part as to the release of prisoners and duration of licences.

(5) A person detained pursuant to the directions of the Secretary of State under paragraph (4)(b) shall while so detained be in legal custody.

(6) An offence the sentence for which is imposed under this Article is not to be regarded as an offence the sentence for which is fixed by law.

(7) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.

#### Textual Amendments

- F32** Words in art. 13(3) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(8)**
- F33** Words in art. 13(3)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 14(2), 50(2)(g)**
- F34** Art. 13(3A)-(3E) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 14(3), 50(2)(g)**

#### Modifications etc. (not altering text)

- C2** Art. 13 excluded by S.I. 1986/595 (N.I. 4), art. 44(1A)(c) (as inserted (15.5.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(1), Sch. 5 para. 5(1)); S.R. 2008/217, **art. 2, Sch.** (with transitory provision in art. 4)

### [<sup>F35</sup> **Serious terrorism sentence** **N.I.**]

**13A.—**(1) This Article applies where—

- (a) a person is convicted on indictment of a serious terrorism offence;
- (b) the offence was committed after the commencement of section 7 of the Counter-Terrorism and Sentencing Act 2021;
- (c) at the time when the offence was committed the offender was aged 18 or over;
- (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or specified offences;
- (e) the court does not impose a life sentence or an indeterminate custodial sentence; and
- (f) the risk of multiple deaths condition is met.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- (2) The court shall impose a serious terrorism sentence, unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender; and
  - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
    - (i) the offence referred to in paragraph (1)(a); or
    - (ii) the combination of that offence and one or more offences associated with it, was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000); and
  - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) Where the offender is aged 21 or over, a serious terrorism sentence is a sentence of imprisonment the term of which is equal to the aggregate of—
- (a) the appropriate custodial term; and
  - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (6) Where the offender is under the age of 21, a serious terrorism sentence is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
- (a) the appropriate custodial term; and
  - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (7) A person detained pursuant to the directions of the Department of Justice under paragraph (6) shall while so detained be in legal custody.
- (8) In paragraphs (5)(a) and (6)(a), “the appropriate custodial term” means (subject to paragraphs (9) and (10))—
- (a) a term of 14 years; or
  - (b) if longer, the term that would (apart from this Article and Articles 14 and 15A) be imposed in compliance with Article 7 (length of custodial sentences).
- (9) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify an appropriate custodial term of less than 14 years but no less than 11 years and 73 days.
- (10) The court may specify a lesser period than that otherwise required by paragraph (8) or (9) if the court is of the opinion that it is appropriate to do so on taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).
- (11) The extension period under paragraph (5)(b) or (6)(b)—
- (a) must be at least seven years and must not exceed 25 years; and
  - (b) subject to those limits, is to be of such length as the court considers necessary for the purpose of protecting members of the public from the risk of harm referred to in paragraph (1)(d).

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

(12) A court which imposes a serious terrorism sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.

(13) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.]

#### Textual Amendments

**F35** Art. 13A inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 7, 50(2)(e)

### Extended custodial sentence for certain violent or sexual offences **N.I.**

14.—(1) This Article applies where—

(a) a person is <sup>F36</sup>—

- (i) convicted on indictment of a specified offence; or
- (ii) convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021 of any other offence that is a serious terrorism offence;]

<sup>F37</sup>(aa) the offence was committed after the commencement of this Article; and]

(b) the court is of the opinion—

- (i) that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences <sup>F38</sup>or serious terrorism offences;]
- (ii) where the specified offence <sup>F39</sup>or serious terrorism offence] is a serious offence, that the case is not one in which the court is required by Article 13 to impose a life sentence or an indeterminate custodial sentence <sup>F40</sup>; and
- (iii) where the offence, or an offence associated with it, is a serious terrorism offence, that the case is not one in which the court is required by Article 13A to pass a serious terrorism sentence.]

(2) The court shall impose on the offender an extended custodial sentence.

(3) Where the offender is aged 21 or over, an extended custodial sentence is a sentence of imprisonment the term of which is equal to the aggregate of

- (a) the appropriate custodial term; and
- (b) a further period (“the extension period”) for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences <sup>F41</sup>or serious terrorism offences].

(4) In paragraph (3)(a) “the appropriate custodial term” means a term (not exceeding the maximum term) which—

- (a) is the term that would (apart from this Article <sup>F42</sup>and Article 15A]) be imposed in compliance with Article 7 (length of custodial sentences); or
- (b) where the term that would be so imposed is a term of less than 12 months, is a term of 12 months.

(5) Where the offender is under the age of 21, an extended custodial sentence is a sentence of detention at such place and under such conditions as the Secretary of State may direct for a term which is equal to the aggregate of—

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**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- (a) the appropriate custodial term; and
- (b) a further period (“the extension period”) for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences [<sup>F43</sup>or serious terrorism offences].
- (6) In paragraph (5)(a) “the appropriate custodial term” means such term (not exceeding the maximum term) as the court considers appropriate, not being a term of less than 12 months.
- (7) A person detained pursuant to the directions of the Secretary of State under paragraph (5) shall while so detained be in legal custody.
- (8) The extension period under paragraph (3)(b) or (5)(b) shall not exceed—
- (a) five years in the case of a specified violent offence [<sup>F44</sup>(unless sub-paragraph (c) applies);]
- (b) eight years in the case of a specified sexual offence [<sup>F45</sup>or a specified terrorism offence][<sup>F46</sup>(unless sub-paragraph (c) applies); and]
- [<sup>F47</sup>(c) ten years in the case of a serious terrorism offence for which the offender is convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021.]
- (9) The term of an extended custodial sentence in respect of an offence shall not exceed the maximum term.
- (10) In this Article “maximum term” means the maximum term of imprisonment [<sup>F48</sup>with which the offence is punishable (apart from Article 13)].
- (11) A court which imposes an extended custodial sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (suspended sentences) in relation to that sentence.
- (12) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.

### Textual Amendments

- F36** Art. 14(1)(a)(i)(ii) substituted for words (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 20(2)(a)**, 50(2)(l)
- F37** Art. 14(1)(aa) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 20(2)(b)**, 50(2)(l)
- F38** Words in art. 14(1)(b)(i) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(i)**
- F39** Words in art. 14(1)(b)(ii) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(ii)**
- F40** Art. 14(1)(b)(iii) and word inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(iii)**
- F41** Words in art. 14(3)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(b)**
- F42** Words in art. 14(4)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(7)**
- F43** Words in art. 14(5)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(b)**
- F44** Words in art. 14(8)(a) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 20(3)(a)**, 50(2)(l)
- F45** Words in art. 14(8)(b) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), **ss. 11(3)**, 27(3) (with s. 25(5))



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

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- F46** Words in art. 14(8)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. **20(3)(b)**, 50(2)(l)
- F47** Art. 14(8)(c) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. **20(3)(c)**, 50(2)(l)
- F48** Words in art. 14(10) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(c)**

**Modifications etc. (not altering text)**

- C3** Art. 14 excluded by S.I. 1986/595 (N.I. 4), art. 44(1A)(c) (as inserted (15.5.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(1), Sch. 5 para. 5(1)); S.R. 2008/217, **art. 2**, Sch. (with transitory provision in art. 4)

**The assessment of dangerousness** **N.I.**

**15.—(1)** This Article applies where—

- (a) a person has been convicted on indictment of a specified offence [<sup>F49</sup>or serious terrorism offence]; and
  - (b) it falls to a court to assess under Article 13 [<sup>F50</sup>, 13A] or 14 whether there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further such offences.
- (2) The court in making the assessment referred to in paragraph (1)(b)—
- (a) shall take into account all such information as is available to it about the nature and circumstances of the offence;
  - (b) may take into account any information which is before it about any pattern of behaviour of which the offence forms part; and
  - (c) may take into account any information about the offender which is before it.

**Textual Amendments**

- F49** Words in art. 15(1)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(10)(a)**
- F50** Word in art. 15(1)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(10)(b)**

**[<sup>F51</sup>Terrorism sentence with fixed licence period** **N.I.**

**15A.—(1)** This Article applies where—

- (a) a person is convicted after the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021 of—
  - (i) a serious terrorism offence;
  - (ii) an offence within Part 4 of Schedule 2A (terrorism offences punishable with more than two years' imprisonment); or
  - (iii) any other offence in respect of which a determination of terrorist connection is made;
- (b) the court does not impose, in respect of the offence or any offence associated with it, a life sentence, an indeterminate custodial sentence, a serious terrorism sentence or an extended custodial sentence; and
- (c) the court decides to impose a custodial sentence.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- (2) But this Article does not apply where—
- (a) the offender is under the age of 18 when convicted of the offence; and
  - (b) the offence was committed before the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021.
- (3) The court shall impose on the offender a sentence under this Article.
- (4) Where the offender is aged 21 or over, a sentence under this Article is a sentence of imprisonment the term of which is equal to the aggregate of—
- (a) the appropriate custodial term; and
  - (b) a further period of one year for which the offender is to be subject to a licence.
- (5) Where the offender is under the age of 21, a sentence under this Article is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
- (a) the appropriate custodial term; and
  - (b) a further period of one year for which the offender is to be subject to a licence.
- (6) The term under paragraph (4) or (5) must not exceed the maximum term of imprisonment with which the offence is punishable (apart from Article 13).
- (7) In paragraphs (4)(a) and (5)(a), the “appropriate custodial term” means the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (8) A person detained pursuant to the directions of the Department of Justice under paragraph (5) shall while so detained be in legal custody.
- (9) A court which imposes a sentence under this Article shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (10) Remission shall not be granted under prison rules to the offender in respect of a sentence under this Article.]

#### Textual Amendments

**F51** Art. 15A inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 24, 50(1)(e)

## CHAPTER 4 N.I.

### RELEASE ON LICENCE

#### Modifications etc. (not altering text)

- C4** Pt. 2 Ch. 4 applied (with modifications) by Repatriation of Prisoners Act 1984 (c. 47), Sch. para. 2A(4) (as inserted (15.5.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(1), Sch. 5 para. 4(2)); S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4)
- C5** Pt. 2 Ch. 4 applied (29.6.2021) by 1984 c. 47, Sch. para. 2A(4A) (as inserted by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(f), Sch. 11 para. 5)

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

*Changes to legislation:* The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

## Preliminary

### Interpretation of this Chapter **N.I.**

**16.—(1)** In any provision of this Chapter “fixed-term prisoner” means a person serving a determinate custodial sentence for an offence committed after the commencement of that provision.

(2) In this Chapter—

“custodial sentence” means—

- (a) a sentence of imprisonment;
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 13(4)(b) [<sup>F52</sup>, [<sup>F53</sup>13A(6),] 14(5) or 15A(5)];

“determinate custodial sentence” means a custodial sentence for a determinate term.

(3) In this Chapter—

“prison” includes any place where a person serving a sentence falling within paragraph (b) or (c) of the definition of “custodial sentence” is liable to be detained;

“prisoner” includes a person serving a sentence falling within either of those paragraphs.

[<sup>F54</sup>(3A) For the purposes of this Chapter, an offence was determined to have a terrorist connection if it was—

(a) determined to have a terrorist connection under—

- (i) section 30 or 32 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Northern Ireland, or an offender sentenced in England and Wales or for a service offence before the Sentencing Code applied but now subject to the provisions of this Chapter), or
- (ii) section 69 of the Sentencing Code (in the case of an offender sentenced in England and Wales or for a service offence but now subject to the provisions of this Chapter),  
or

(b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now subject to the provisions of this Chapter).

(3B) In this Chapter “service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).]

[<sup>F55</sup>(4) In this Chapter “protected information” means evidence or information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.]

#### Textual Amendments

- F52** Words in art. 16(2) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(8)**
- F53** Word in art. 16(2) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(11)**
- F54** Art. 16(3A)(3B) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(2)**
- F55** Art. 16(4) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 11** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

### <sup>F56</sup>Duty . . . to release on licence

#### Textual Amendments

- F56** Words in art. 17 cross-heading omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 12** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Duty to release certain fixed-term prisoners **N.I.**

17.—(1) As soon as a fixed-term prisoner, other than [<sup>F57</sup>one to whom Article 18 or 20A applies], has served the requisite custodial period, the [<sup>F58</sup>Department of Justice] shall release the prisoner on licence under this Article.

(2) In this Article “the requisite custodial period” means—

- (a) subject to sub-paragraph (b), the custodial period specified by the court under Article 8;
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under Article 32(2) or 33(2)

#### Textual Amendments

- F57** Words in art. 17(1) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(3)**
- F58** Words in art. 17(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 13** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Modifications etc. (not altering text)

- C6** Art. 17 applied (13.5.2016) by Justice Act (Northern Ireland) 2016 (c. 21), **ss. 55(6)(a)**, 61(1)
- C7** Art. 17(1) modified (13.5.2016) by Justice Act (Northern Ireland) 2016 (c. 21), **ss. 56(5)(b)**, 61(1)

#### Commencement Information

- I8** Art. 17 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, **art. 2**, **Sch. 1** (subject to **Sch. 2 paras. 2(2)(5), 4**)

#### Duty to release prisoners serving indeterminate or extended custodial sentences **N.I.**

18.—(1) This Article applies to a prisoner who is serving—

- (a) an indeterminate custodial sentence; or
- (b) an extended custodial sentence.

[<sup>F59</sup>(1A) But this Article does not apply to a prisoner to whom Article 20A applies.]

(2) In this Article—

“P” means a prisoner to whom this Article applies;

“relevant part of the sentence” means—

- (a) in relation to a indeterminate custodial sentence, the period specified by the court under Article 13(3) as the minimum period for the purposes of this Article;
- (b) in relation to an extended custodial sentence, one-half of the period determined by the court as the appropriate custodial term under Article 14.

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

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- (3) As soon as—
- (a) P has served the relevant part of the sentence, and
  - (b) the Parole Commissioners have directed P's release under this Article,
- the [F60Department of Justice] shall release P on licence under this Article.
- (4) The Parole Commissioners shall not give a direction under paragraph (3) with respect to P unless—
- (a) the [F60Department of Justice] has referred P's case to them; and
  - (b) they are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be confined.
- (5) P may require the [F60Department of Justice] to refer P's case to the Parole Commissioners at any time—
- (a) after P has served the relevant part of the sentence; and
  - (b) where there has been a previous reference of P's case to the Parole Commissioners, after the expiration of the period of 2 years beginning with the disposal of that reference or such shorter period as the Parole Commissioners may on the disposal of that reference determine;
- and in this paragraph “previous reference” means a reference under paragraph (4) or Article 28(4).
- (6) Where the Parole Commissioners do not direct P's release under paragraph (3)(b), the [F60Department of Justice] shall refer the case to them again not later than the expiration of the period of 2 years beginning with the disposal of that reference.
- (7) In determining for the purpose of this Article whether P has served the relevant part of a sentence, no account shall be taken of any time during which P was unlawfully at large, unless the [F60Department of Justice] otherwise directs.
- (8) Where P is serving an extended custodial sentence, the [F60Department of Justice] shall release P on licence under this Article as soon as the period determined by the court as the appropriate custodial term under Article 14 ends unless P has previously been recalled under Article 28
- (9) The [F60Department of Justice] may by order provide that the reference in paragraph (b) of the definition of “relevant part of the sentence” in paragraph (2) to a particular proportion of a prisoner's sentence is to be read as a reference to such other proportion of a prisoner's sentence as may be specified in the order.

#### Textual Amendments

- F59** Art. 18(1A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 74(4)
- F60** Words in art. 18 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 14 (with arts. 28-31); S.I. 2010/977, art. 1(2)

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

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## Power <sup>F61</sup>...] to release on licence

### Textual Amendments

**F61** Words in art. 19 cross-heading omitted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 12 (with arts. 28-31); S.I. 2010/977, art. 1(2) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 19 cross-heading)

### Power to release prisoners on licence before required to do so **N.I.**

**19.**—(1) The <sup>F62</sup>Department of Justice] may release on licence under this Article a fixed-term prisoner at any time during the period of 135 days ending with the day on which the prisoner will have served the requisite custodial period.

(2) Paragraph (1) shall not apply in relation to a prisoner unless—

- (a) the length of the requisite custodial period is at least 6 weeks; and
- (b) the prisoner has served—
  - (i) at least 4 weeks of the prisoner's sentence; and
  - (ii) at least one-half of the requisite custodial period.

(3) Paragraph (1) shall not apply where—

<sup>F63</sup>(a) Article 18 or 20A applies to the prisoner;]

- (b) the prisoner is subject to a hospital order or transfer direction within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4);
- (c) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42);
- (d) the prisoner is liable to removal from the United Kingdom;
- (e) the prisoner has been released on licence under this Article during the currency of the sentence, and has been recalled to prison under Article 30; or
- (f) the prisoner has been released on licence under Article 20 during the currency of the sentence, and has been recalled to prison under Article 28.

(4) The <sup>F64</sup>Department of Justice] may by order—

- (a) amend the number of days specified in paragraph (1);
- (b) amend the number of weeks specified in paragraph (2)(a) or (b)(i);
- (c) amend the fraction specified in paragraph (2)(b)(ii).

(5) In this Article “the requisite custodial period” has the same meaning as in Article 17.

(6) In this Article—

- (a) “fixed-term prisoner” includes a person serving a determinate custodial sentence for an offence committed before the commencement of this Article; and
- (b) in relation to such a prisoner, “the requisite custodial period” means one-half of the term of the sentence.

(7) For the purposes of this Article a person is liable to removal from the United Kingdom if that person

- (a) is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) and has been notified of a decision to make a deportation order against that person;

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- (b) is liable to deportation under section 3(6) of that Act;
- (c) has been notified of a decision to refuse that person leave to enter the United Kingdom;
- (d) is an illegal entrant within the meaning of section 33(1) of that Act; or
- (e) is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).

#### Textual Amendments

- F62** Words in art. 19(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 15** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 19)
- F63** Art. 19(3)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(5)**
- F64** Words in art. 19(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 15** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 19)

#### Commencement Information

- I9** Art. 19 in operation at 1.6.2015 by S.R. 2015/255, **art. 2(a)**

### Power to release certain prisoners on compassionate grounds **N.I.**

**20.**—(1) The [<sup>F65</sup>Department of Justice] may, if satisfied that exceptional circumstances exist which justify the release of a prisoner to whom this Article applies on compassionate grounds, at any time release the prisoner on licence under this Article.

(2) This Articles applies to—

- (a) a fixed-term prisoner; and
- (b) a prisoner serving an indeterminate custodial sentence.

(3) The [<sup>F66</sup>Department of Justice] shall, before releasing a prisoner [<sup>F67</sup>to whom Article 18 or 20A applies] consult the Parole Commissioners unless the circumstances are such as to render such consultation impracticable.

(4) In this Article “fixed-term prisoner” includes a person serving a determinate custodial sentence for an offence committed before the commencement of this Article.

[<sup>F68</sup>(5) The Secretary of State may notify the Department of Justice that a prisoner is not to be released under this Article without the Secretary of State's agreement; and, if the Secretary of State gives such a notification in relation to a prisoner, the Department of Justice may not release the prisoner under this Article without the Secretary of State's agreement.

(6) But the Secretary of State may—

- (a) give a notification, or
- (b) refuse his agreement to a release,

only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.]

#### Textual Amendments

- F65** Words in art. 20(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 16(2)** (with arts.

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28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 20)

**F66** Words in art. 20(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), 6(2), **Sch. 5 para. 16(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 20)

**F67** Words in art. 20(3) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(6)**

**F68** Art. 20(5)(6) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 16(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 20)

#### Commencement Information

**I10** Art. 20 in operation at 1.6.2015 by S.R. 2015/255, **art. 2(b)**

### <sup>F69</sup>Terrorist prisoners

#### Textual Amendments

**F69** Art. 20A and cross-heading inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 30(1), 50(1)(f)** (with s. 30(2))

### Restricted eligibility for release on licence of terrorist prisoners **N.I.**

**20A.**—(1) This Article applies to a fixed-term prisoner (a “terrorist prisoner”) who—

- (a) is serving a sentence imposed (whether before or after the commencement date) in respect of an offence within paragraph (2); and
  - (b) has not been released on licence before the commencement date.
- (2) An offence is within this paragraph (whenever it was committed) if—
- (a) it is specified in Part 2, 4, 5 or 7 of Schedule 2A (terrorism offences punishable with imprisonment for life or more than two years);
  - (b) it is a service offence as respects which the corresponding civil offence is so specified; or
  - (c) it was determined to have a terrorist connection.

<sup>F70</sup>(2A) Paragraphs (3) to (7) apply unless the terrorist prisoner's sentence—

- (a) is a serious terrorism sentence or an extended custodial sentence;
- (b) was imposed after the commencement of section 31 of the Counter-Terrorism and Sentencing Act 2021; and
- (c) was imposed in respect of an offence that—
  - (i) is specified in Part 2 or 5 of Schedule 2A (terrorism offences punishable with imprisonment for life);
  - (ii) is a service offence as respects which the corresponding civil offence is so specified;
  - (iii) is specified in Part 3 or 6 of that Schedule (other offences punishable with life imprisonment) and was determined to have a terrorist connection; or



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(iv) is a service offence as respects which the corresponding civil offence is so specified and was determined to have a terrorist connection.]

(3) The Department of Justice shall release the terrorist prisoner on licence under this Article as soon as—

- (a) the prisoner has served the relevant part of the sentence; and
- (b) the Parole Commissioners have directed the release of the prisoner under this Article.

(4) The Parole Commissioners shall not give a direction under paragraph (3) with respect to the terrorist prisoner unless—

- (a) the Department of Justice has referred the prisoner's case to them; and
- (b) they are satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

(5) The terrorist prisoner may require the Department of Justice to refer the prisoner's case to the Parole Commissioners at any time—

- (a) after the prisoner has served the relevant part of the sentence; and
- (b) where there has been a previous reference of the prisoner's case to the Parole Commissioners, after the expiration of the period of 2 years beginning with the disposal of that reference or such shorter period as the Parole Commissioners may on the disposal of that reference determine;

and in this paragraph “previous reference” means a reference under paragraph (4) or Article 28(4).

(6) Where the Parole Commissioners do not direct the prisoner's release under paragraph (3)(b), the Department of Justice shall refer the case to them again not later than the expiration of the period of 2 years beginning with the disposal of that reference.

(7) In determining for the purpose of this Article whether a terrorist prisoner has served the relevant part of a sentence, no account shall be taken of any time during which the prisoner was unlawfully at large, unless the Department of Justice otherwise directs.

(8) If the terrorist prisoner is serving a serious terrorism sentence, an extended custodial sentence or an Article 15A terrorism sentence, the Department of Justice shall release the terrorist prisoner on licence under this Article as soon as the prisoner has served the appropriate custodial term unless the prisoner has previously been recalled under Article 28.

(9) For the purposes of this Article—

“appropriate custodial term”, in relation to a serious terrorism sentence, an extended custodial sentence or an Article 15A terrorism sentence, means the term determined as such by the court under Article 13A, 14 or 15A;

“commencement date” means the date on which section 30 of the Counter-Terrorism and Sentencing Act 2021 comes into force;

“relevant part of the sentence” means—

- (a) in relation to an extended custodial sentence or an Article 15A terrorism sentence, two-thirds of the appropriate custodial term;
- (b) in relation to any other sentence, two-thirds of the term of the sentence.

(10) For the purposes of this Article, a reference of a terrorist prisoner's case to the Parole Commissioners under Article 18 that was disposed of—

- (a) before the commencement date; and
- (b) at a time when the prisoner had served two-thirds of the appropriate custodial term,

is to be treated as if it was made (and disposed of) under this Article.]

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### Textual Amendments

**F70** Art. 20A(2A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 31, 50(2)(q)

### Duration of licences

#### Duration of licences: fixed-term prisoners **N.I.**

**21.**—(1) Where a fixed-term prisoner is released on licence under this Chapter, the licence shall, subject to any revocation under Article 28 or 30, remain in force for the remainder of the sentence.

(2) Paragraph (1) has effect subject to Articles 32(2) and 33(3) and (4).

### Commencement Information

**I11** Art. 21 wholly in operation at 1.4.2009; art. 21 not in operation at date Order made see art. 1(4); art. 21 in operation for certain purposes at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4); art. 21 in operation at 1.4.2009 in so far as not already in operation by S.R. 2009/120, art. 2, Sch. 1

#### Duration of licences: prisoners serving indeterminate custodial sentences **N.I.**

**22.**—(1) This Article applies where a person who is serving an indeterminate custodial sentence is released on licence under Article 18 or 20.

(2) The licence shall, subject to any revocation under Article 28 or order under this Article, remain in force for the remainder of the prisoner's life.

(3) In this Article “qualifying period” means the period of 10 years beginning with the date of the prisoner's release.

(4) Where

- (a) the qualifying period has expired, and
- (b) the Parole Commissioners direct the [<sup>F71</sup>Department of Justice] to do so,

the [<sup>F71</sup>Department of Justice] shall order that the licence is to cease to have effect.

(5) Where—

- (a) the qualifying period has expired; and
- (b) if the prisoner has made a previous application under this paragraph, a period of at least 2 years has expired since the disposal of that application, or such shorter period as the Parole Commissioners may have recommended on the disposal of the last previous such application,

the prisoner may make an application to the Parole Commissioners under this paragraph.

(6) Where an application is made under paragraph (5), the Parole Commissioners—

- (a) shall, if they are satisfied that it is no longer necessary for the protection of the public from serious harm that the licence should remain in force, direct the [<sup>F72</sup>Department of Justice] to make an order under paragraph (4) that the licence is to cease to have effect;
- (b) shall otherwise dismiss the application.

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#### Textual Amendments

- F71** Words in art. 22(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 17** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F72** Words in art. 22(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 17** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Commencement Information

- I12** Art. 22 partly in operation; art. 22 not in operation at date Order made see art. 1(4); art. 22 in operation for certain purposes at 15.5.2008 by S.R. 2008/217, **art. 2**, Sch. (with transitory provision in art. 4)
- I13** Art. 22 in operation at 1.7.2015 in so far as not already in operation by S.R. 2015/290, **art. 2(a)**

#### Licence conditions

### Power of court to recommend licence conditions for sentences of 12 months or more **N.I.**

**23.—(1)** A court which sentences an offender to a determinate custodial sentence of 12 months or more in respect of any offence may, when passing sentence, recommend to the [<sup>F73</sup>Department of Justice] particular conditions which in its view should be included in any licence granted to the offender under Article 17 [<sup>F74</sup>, 19 or 20A] on release from prison.

(2) In exercising the powers under Article 24 in respect of an offender, the [<sup>F73</sup>Department of Justice] shall have regard to any recommendation under paragraph (1).

(3) A recommendation under paragraph (1) is not to be treated for any purpose as part of the sentence passed on the offender.

#### Textual Amendments

- F73** Words in art. 23(1)(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 18** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F74** Words in art. 23(1) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(7)**

#### Commencement Information

- I14** Art. 23 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, **art. 2**, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(a), 4)

### Licence conditions **N.I.**

**24.—(1)** In this Article—

- (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this Article as standard conditions; and
- (b) “prescribed” means prescribed by the [<sup>F75</sup>Department of Justice] by rules.

(2) Any licence under Article 17 or 19 in respect of any prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more shall include—

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- (a) such conditions as may be required by the court in passing sentence; and
  - (b) so far as not inconsistent with them, the standard conditions.
- (3) Any other licence under this Chapter
- (a) shall include the standard conditions; and
  - (b) may include such other conditions of a kind prescribed for the purposes of this paragraph as the [F75Department of Justice] may for the time being specify in the licence.
- (4) The [F75Department of Justice] may vary or cancel any conditions specified in a licence under this Chapter and may subsequently include additional conditions.
- (5) Where a prisoner is released on licence under Article 18 [F76or 20A], the [F75Department of Justice] shall not—
- (a) include a condition under paragraph (3)(b) on release, or
  - (b) subsequently insert, vary or cancel a condition under paragraph (4),
- except after consultation with the Parole Commissioners.
- (6) For the purposes of paragraph (5), the [F75Department of Justice] is to be treated as having consulted the Parole Commissioners about a proposal to include, insert, vary or cancel a condition in any case if they have been consulted [F77by the Department of Justice] about the implementation of proposals of that description generally or in that class of case.
- (7) Paragraphs (2) and (3) have effect subject to—
- (a) Articles 25 and 26;
  - (b) Articles 32(2) and 33(3) and (4).
- (8) In exercising the powers to prescribe standard conditions or other conditions referred to in paragraph (3), the [F75Department of Justice] shall have regard to the following purposes of the supervision of offenders while on licence under this Chapter—
- (a) the protection of the public;
  - (b) the prevention of re-offending;
  - (c) the rehabilitation of the offender.

#### Textual Amendments

- F75** Words in [art. 24](#) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 19\(a\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)
- F76** Words in [art. 24\(5\)](#) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 74\(8\)](#)
- F77** Words in [art. 24\(6\)](#) inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 19\(b\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

#### Commencement Information

- I15** [Art. 24](#) partly in operation; [art. 24](#) not in operation at date Order made see [art. 1\(4\)](#); [art. 24\(1\)\(3\)-\(6\)\(7\)](#) (b)(8) in operation at 15.5.2008 by [S.R. 2008/217](#), [art. 2](#), [Sch.](#) (with transitory provision in [art. 4](#))
- I16** [Art. 24\(2\)](#) in operation at 1.7.2015 by [S.R. 2015/290](#), [art. 2\(b\)](#)
- I17** [Art. 24\(7\)\(a\)](#) in operation at 1.7.2015 by [S.R. 2015/290](#), [art. 2\(c\)](#)

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

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PROSPECTIVE

### Licence conditions on re-release of prisoners serving sentence of less than 12 months **N.I.**

**25.—**(1) In relation to any licence under Article 17 or 19 which is granted to a prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more on release in pursuance of a direction or recommendation of the Parole Commissioners under Article 28 or 29, paragraphs (2) and (3) apply instead of Article 24(2).

(2) The licence—

- (a) shall include the standard conditions; and
- (b) may include such other conditions of a kind prescribed for the purposes of Article 24(3)
  - (b) as the [<sup>F78</sup>Department of Justice] may for the time being specify in the licence.

(3) In exercising the powers to include other conditions conferred by paragraph (2)(b), the [<sup>F79</sup>Department of Justice] shall have regard to any such conditions as are mentioned in Article 24(2)(a).

(4) In this Article “the standard conditions” and “prescribed” have the same meaning as in Article 24

#### Textual Amendments

**F78** Words in art. 25(2)(b) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 20** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 25)

**F79** Words in art. 25(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), 6(2), **Sch. 5 para. 20** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 25)

### Curfew condition to be included in licence under Article 19 **N.I.**

**26.—**(1) A licence under Article 19 shall include a curfew condition complying with this Article.

(2) Where—

- (a) a licence under Article 19 is granted to a prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more, and
- (b) the court in passing sentence requires the licence to be granted subject to a condition requiring compliance with a curfew requirement,

that condition shall not be included in the licence at any time while a curfew condition required by paragraph (1) is in force.

(3) For the purposes of this Chapter a curfew condition is a condition which requires the released person to remain for specified periods at a specified place; and in this Article “specified” means specified in the condition.

(4) Specified periods shall not amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).

(5) The curfew condition is to remain in force until the date when the released person would (but for being released) fall to be released on licence under Article 17.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

(6) A curfew condition may (but need not) include an electronic monitoring requirement.

(7) The [<sup>F80</sup>Department of Justice] may by order amend paragraph (4) by substituting for a number of hours specified there such other number of hours as may be specified in the order.

#### Textual Amendments

**F80** Words in art. 26(7) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 21 (with arts. 28-31); S.I. 2010/977, art. 1(2) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 26)

#### Commencement Information

**I18** Art. 26(1) in operation at 1.6.2015 by S.R. 2015/255, art. 2(c)

**I19** Art. 26(2) in operation at 1.7.2015 by S.R. 2015/290, art. 2(d)

**I20** Art. 26(3)-(7) in operation at 1.6.2015 by S.R. 2015/255, art. 2(c)

#### Duty to comply with licence conditions **N.I.**

27. A person subject to a licence under this Chapter shall comply with such conditions as may for the time being be included in the licence.

#### [<sup>F81</sup>Licence conditions: national security **N.I.**

27A.—(1) The Secretary of State may exercise any power of the Department of Justice to include, insert, vary or cancel conditions in a licence but only if his decision to exercise the power is arrived at (wholly or partly) on the basis of protected information; and, in relation to the exercise of any such power by the Secretary of State, in this Chapter references to the Department of Justice are to be read as references to the Secretary of State.

(2) The Department of Justice must exercise its powers subject to anything done by the Secretary of State by virtue of paragraph (1).]

#### Textual Amendments

**F81** Art. 27A inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 22 (with arts. 28-31); S.I. 2010/977, art. 1(2)

*Recall after release*

#### Recall of prisoners while on licence **N.I.**

28.—(1) In this Article “P” means a prisoner who has been released on licence under Article 17, 18 [<sup>F82</sup>, 20 or 20A].

(2) [<sup>F83</sup>The Department of Justice or the Secretary of State] may revoke P’s licence and recall P to prison—

- (a) if recommended to do so by the Parole Commissioners; or
- (b) without such a recommendation if it appears to the [<sup>F84</sup>Department of Justice or (as the case may be) the] Secretary of State that it is expedient in the public interest to recall P before such a recommendation is practicable.

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

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(3) P—

- (a) shall, on returning to prison, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); an
- (b) may make representations in writing with respect to the recall.

(4) The [<sup>F85</sup>Department of Justice or (as the case may be) the] Secretary of State shall refer P's recall under paragraph (2) to the Parole Commissioners.

(5) Where on a reference under paragraph (4) the Parole Commissioners direct P's immediate release on licence under this Chapter, the [<sup>F86</sup>Department of Justice] shall give effect to the direction.

(6) The Parole Commissioners shall not give a direction under paragraph (5) with respect to P unless they are satisfied that—

- (a) where P is serving an indeterminate custodial sentence or an extended custodial sentence [<sup>F87</sup>and was not released under Article 20A], it is no longer necessary for the protection of the public from serious harm that P should be confined;
- (b) in any other case, it is no longer necessary for the protection of the public that P should be confined.

(7) On the revocation of P's licence, P shall be—

- (a) liable to be detained in pursuance of P's sentence; and
- (b) if at large, treated as being unlawfully at large.

[<sup>F88</sup>(8) The Secretary of State may revoke P's licence and recall P to prison under paragraph (2) only if his decision to revoke P's licence and recall P to prison is arrived at (wholly or partly) on the basis of protected information.]

#### Textual Amendments

- F82** Words in art. 28(1) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(9)(a)**
- F83** Words in art. 28(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 23(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F84** Words in art. 28(2)(b) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 23(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F85** Words in art. 28(4) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 23(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F86** Words in art. 28(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 23(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F87** Words in art. 28(6)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(9)(b)**
- F88** Art. 28(8) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 23(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Commencement Information

- I21** Art. 28 partly in operation; art. 28 not in operation at date Order made see art. 1(4); art. 28 in operation for certain purposes at 15.5.2008 by S.R. 2008/217, **art. 2, Sch.** (with transitory provision in art. 4); art. 28 in operation for further certain purposes at 1.4.2009 by S.R. 2009/120, **art. 2, Sch. 1**

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**I22** Art. 28 in operation at 1.7.2015 in so far as not already in operation by S.R. 2015/290, art. 2(e)

## Further release after recall for certain fixed-term prisoners **N.I.**

**29.**—(1) This Article applies where—

- (a) a fixed-term prisoner, other than a prisoner serving an extended custodial sentence [F89 or a prisoner to whom Article 20A applies], (“P”) is released on licence under Article 17 or 20; and
- (b) on a reference under Article 28(4) the Parole Commissioners do not direct P's immediate release on licence under this Chapter.

(2) Subject to paragraphs (3) and (4), the Parole Commissioners shall either—

- (a) recommend a date for P's release on licence; or
- (b) fix a date as the date for the next review of P's case by them.

(3) Any date recommended under paragraph (2)(a) or fixed under paragraph (2) (b) must not be later than the second anniversary of the date on which the decision is taken.

(4) The Parole Commissioners need not make a recommendation under paragraph (2)(a) or fix a date under paragraph (2)(b) if P will fall to be released unconditionally at any time within the next 24 months.

(5) Where the Parole Commissioners have recommended a date for P's release under paragraph (2)(a), the [F90Department of Justice] shall release P on licence on that date unless the [F91Department of Justice or the] Secretary of State has, before that date, referred P's case to the Parole Commissioners.

[F92(5A) The Secretary of State may refer P's case to the Parole Commissioners under paragraph (5) only if his decision to refer P's case is arrived at (wholly or partly) on the basis of protected information.]

(6) On a review required by paragraph (2)(b) or a reference under paragraph (5), the Parole Commissioners shall—

- (a) direct P's immediate release on licence;
- (b) make a recommendation under paragraph (2)(a); or
- (c) fix a date under paragraph (2)(b).

(7) The Parole Commissioners shall not give a direction under paragraph (6)(a) with respect to P unless they are satisfied that it is no longer necessary for the protection of the public that P should be confined

(8) The [F93Department of Justice] shall give effect to any direction under paragraph (6)(a).

### Textual Amendments

**F89** Words in art. 29(1)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 74(10)**

**F90** Words in art. 29(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 24(a)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F91** Words in art. 29(5) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 24(a)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**



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

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- F92** Art. 29(5A) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 24(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F93** Words in art. 29(8) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 24(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### Commencement Information

- I23** Art. 29 partly in operation; art. 29 not in operation at date Order made see art. 1(4); art. 29 in operation for certain purposes at 1.4.2009 by S.R. 2009/120, **art. 2, Sch. 1**
- I24** Art. 29 in operation at 1.7.2015 in so far as not already in operation by S.R. 2015/290, **art. 2(f)**

### Recall of prisoners released early under Article 19 **N.I.**

**30.**—(1) If it appears to the [<sup>F94</sup>Department of Justice], as regards a person released on licence under Article 19 (“P”)—

- (a) that P has failed to comply with any condition included in the licence, or
- (b) that P's whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in the licence,

the [<sup>F94</sup>Department of Justice] may, if the curfew condition is still in force, revoke the licence and recall P to prison under this Article.

(2) P—

- (a) shall, on returning to prison, be informed of the reasons for the revocation and of the right conferred by sub-paragraph (b); and
- (b) may make representations in writing with respect to the revocation.

(3) The [<sup>F95</sup>Department of Justice], after considering any representations under paragraph (2)(b) or any other matters, may cancel the revocation of P's licence under this Article.

(4) Where the revocation of P's licence is cancelled under paragraph (3), P is to be treated for the purposes of Article 19 as not having been recalled to prison under this Article.

(5) On the revocation of P's licence, P shall be—

- (a) liable to be detained in pursuance of P's sentence; and
- (b) if at large, treated as being unlawfully at large.

#### Textual Amendments

- F94** Words in art. 30(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 25** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 30)
- F95** Words in art. 30(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), 6(2), **Sch. 5 para. 25** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 30)

#### Commencement Information

- I25** Art. 30 in operation at 1.6.2015 by S.R. 2015/255, **art. 2(d)**

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

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## Conviction while licence remains in force **N.I.**

31. Where it appears to the court by or before which a person is convicted of an offence—
- (a) that the offence was committed while the person was on licence under this Chapter, and
  - (b) that the person has not been recalled to prison,

the court shall inform the [F96Department of Justice] of the conviction.

### Textual Amendments

**F96** Words in art. 31 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 26** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### *Concurrent or consecutive terms*

## Concurrent terms **N.I.**

32.—(1) This Article applies where—

- (a) a person (“the offender”) has been sentenced by any court to two or more custodial sentences the terms of which are wholly or partly concurrent; and
- (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions

(2) Where this Article applies—

- (a) nothing in this Chapter requires the [F97Department of Justice] to release the offender in respect of any of the terms unless and until the [F97Department of Justice] is required to release the offender in respect of each of the others;
- (b) Article 17 does not authorise the [F97Department of Justice] to release the offender on licence under that Article in respect of any of the terms unless and until that Article authorises the [F97Department of Justice] to do so in respect of each of the others;
- (c) on and after release under this Chapter the offender is to be on licence for so long, and subject to such conditions, as is required by this Chapter in respect of any of the sentences.

(3) Where the sentences include one or more sentences of 12 months or more and one or more sentences of less than 12 months, the terms of the licence may be determined by the [F97Department of Justice] in accordance with Article 24(3)(b).

(4) Where a person has been sentenced to one or more custodial sentences and to one or more life sentences, nothing in this Chapter requires the [F97Department of Justice] to release the person in respect of any of the custodial sentences unless and until the [F97Department of Justice] is required to release him in respect of each of the life sentences.

### Textual Amendments

**F97** Words in art. 32 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 27** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

### Commencement Information

**I26** Art. 32 partly in operation; art. 32 not in operation at date Order made see art. 1(4); art. 32(1)(2)(a)(c)(4) in operation for certain purposes at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4); art. 32(1)(2)(4) in operation at 1.4.2009 in so far as not already in operation by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 3, 4)

### Consecutive terms **N.I.**

**33.**—(1) This Article applies where—

- (a) a person (“the offender”) has been sentenced to two or more determinate custodial sentences the terms of which are to be served consecutively on each other; and
- (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.

(2) Nothing in this Chapter requires the [<sup>F98</sup>Department of Justice] to release the offender on licence until the offender has served a period equal in length to the aggregate of the length of the custodial periods in relation to each of the sentences.

(3) Where any of the sentences is a sentence of 12 months or more, the offender is, on and after release under this Chapter, to be on licence—

- (a) until the offender would, but for having been released, have served a sentence equal in length to the aggregate length of the sentences; and
- (b) subject to such conditions as are required by this Chapter in respect of each of those sentences.

(4) Where each of the sentences is a sentence of less than 12 months, the offender is, on and after release under this Chapter, to be on licence until the relevant time, and subject to such conditions as are required by this Chapter in respect of any of the sentences, and none of the sentences is to be regarded for any purpose as continuing after the relevant time

(5) In paragraph (4) “the relevant time” means the time when the offender would, but for having been released, have served a sentence equal in length to the aggregate of—

- (a) all the custodial periods in relation to the sentences; and
- (b) the longest of the licence periods in relation to those sentences.

(6) In this Article—

- (a) “custodial period”—
  - (i) in relation to [<sup>F99</sup>a serious terrorism sentence,] an extended sentence [<sup>F100</sup>or an Article 15A terrorism sentence], means the appropriate custodial term determined under Article [<sup>F101</sup>13A,] 14 [<sup>F102</sup>or 15A];
  - (ii) in relation to any other custodial sentence, means the custodial period specified under Article 8(2);
- (b) “licence period” has the meaning given by Article 8(5).

### Textual Amendments

**F98** Words in art. 33(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 28 (with arts. 28-31); S.I. 2010/977, art. 1(2)

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- F99** Words in art. 33(6)(a)(i) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(12)(a)**
- F100** Words in art. 33(6)(a)(i) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(9)(a)**
- F101** Word in art. 33(6)(a)(i) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(12)(b)**
- F102** Words in art. 33(6)(a)(i) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(9)(b)**

#### Commencement Information

- I27** Art. 33 partly in operation; art. 33 not in operation at date Order made see art. 1(4); art. 33(1)-(3)(6)(a)(i) in operation for certain purposes at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4); art. 33(1)-(3)(6) in operation at 1.4.2009 in so far as not already in operation by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 3, 4)

### *Licences for sexual offenders*

#### **Breach of licensing for sexual offenders** **N.I.**

**34.—**(1) In the Criminal Justice (Northern Ireland) Order 1996 (NI 24) for Article 27 substitute—

##### **“Breach of licence conditions**

**27.—**(1) If at any time while an offender is released on licence under Article 26 it appears, on complaint to a lay magistrate, that the offender has failed to comply with any of the conditions specified in the licence, the lay magistrate may—

- (a) issue a summons requiring the offender to appear before the appropriate court at a time specified in the summons; or
- (b) if the complaint is in writing and on oath, issue a warrant for the offender to be arrested and brought before the appropriate court.

(2) If—

- (a) a warrant is issued under sub-paragraph (1) requiring an offender to be brought before the Crown Court, and
- (b) the offender cannot forthwith be brought before the Crown Court because it is not being held,

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court acting for the petty sessions district in which he resides.

(3) Where an offender is brought before a magistrates' court in pursuance of paragraph (2), that court shall commit the offender in custody or on bail to the Crown Court.

(4) Where the appropriate court before which an offender appears or is brought under this Article is the Crown Court and that Court is satisfied that the offender has failed without reasonable excuse to comply with any of the conditions specified in the licence, the Court may

- (a) impose on him a fine not exceeding £1000;
- (b) revoke the licence; or
- (c) suspend the licence for a specified period which is shorter than the remaining licence period.

(5) Where the appropriate court before which an offender appears or is brought under this Article is a court of summary jurisdiction and that court is satisfied that the offender has failed

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without reasonable excuse to comply with any of the conditions specified in the licence, that court may—

- (a) impose on him a fine not exceeding £1000;
- (b) if the remaining licence period is less than 6 months, revoke the licence; or
- (c) suspend the licence for a specified period which—
  - (i) is shorter than the remaining licence period; and
  - (ii) does not exceed 6 months.

(6) Where a court revokes the licence of an offender under paragraph (4) or (5)—

- (a) the court shall order the offender to be returned to prison or, as the case may be, a young offenders centre; and
- (b) the offender—
  - (i) shall be liable to be detained there in pursuance of his sentence until the date on which he would (but for his release) have served the whole of his sentence or order for detention; and
  - (ii) if at large shall be treated as being unlawfully at large.

(7) Where a court suspends the licence of an offender for a specified period under paragraph (4) or (5)—

- (a) the court shall order the offender to be returned to prison or, as the case may be, a young offenders centre; and
- (b) the offender—
  - (i) shall be liable to be detained there for that period in pursuance of his sentence or order for detention; and
  - (ii) if at large shall be treated as being unlawfully at large.

(8) In this Article “the remaining licence period”, in relation to an offender released on licence under Article 26, means the period beginning with the date of the making of an order under this Article and ending with the date on which the offender would (but for his release) have served the whole of his sentence or order for detention.

(9) In this Article “the appropriate court”, in relation to an offender released on licence in pursuance of an order under Article 26(1)(b), means—

- (a) if the Crown Court made the order, the Crown Court; and
- (b) if a court of summary jurisdiction made the order, a court of summary jurisdiction acting for the petty sessions district in which the offender resides

and if the order has been made on appeal, it shall be treated for the purposes of this paragraph as if it had been made by the court from which the appeal was brought.”.

(2) Paragraph (1) does not apply in relation to a failure to comply with any of the conditions specified in a licence under Article 26 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) if that failure occurred before the coming into operation of this Article.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

## CHAPTER 5 **N.I.**

### CURFEWS AND ELECTRONIC MONITORING

#### *Powers to impose curfew or electronic monitoring requirements*

#### **Powers to impose curfew or electronic monitoring requirements **N.I.****

**35.**—(1) Subject to the following provisions of this Chapter, a curfew requirement or an electronic monitoring requirement may be made—

- (a) a condition of bail granted by a court;
- (b) a condition of a licence under—
  - (i) this Part;
  - (ii) the Life Sentences (Northern Ireland) Order 2001 (NI 2);
  - (iii) Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (discharge on licence of person sentenced to be detained under Article 45(2) of that Order);
  - (iv) [<sup>F103</sup>Article 26 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24);]
- (c) a requirement of—
  - (i) a probation order;
  - (ii) the youth conference plan to which a youth conference order relates.

(2) Article 15(5) of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (combination order treated as probation order) applies for the purposes of this Article as it applies for the purposes of Part 2 of that Order.

(3) [<sup>F104</sup>Article 25(2)(b) of that Order (custody probation order treated as probation order) applies for the purposes of this Article as it applies for the purposes of Part 2 of that Order.]

#### **Textual Amendments**

**F103** Art. 35(1)(b)(iv) repealed (prosp.) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(2), **Sch. 6 Pt. 1**

**F104** Art. 35(3) repealed (prosp.) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(2), **Sch. 6 Pt. 1**

#### **Power of court to impose curfew or electronic monitoring requirement on making juvenile justice centre order **N.I.****

**36.**—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) is amended as follows.

(2) In Article 39 (juvenile justice centre orders) at the end add—

“(8) Where a court makes a juvenile justice centre order in respect of a child, it may, subject to Chapter 5 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008, impose a curfew requirement or an electronic monitoring requirement (within the meaning of that Chapter) during all or part of the period of supervision to which the child is subject under the order.”

(3) In Article 40 (supervision under a juvenile justice order) in paragraph (2) for sub-paragraph (b) substitute—

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- “(b) the person under whose supervision he will be shall give him a notice specifying—
- (i) any requirements imposed by the court under Article 39(8); and
  - (ii) any other requirements with which he must comply.”.
- (4) In Article 40(3) for “or (b)” substitute “ or (b)(ii) ”.
- (5) In Article 40(4) at the end add “ , but such rules may not regulate any matter which may be regulated by rules under Article 44 of the Criminal Justice (Northern Ireland) Order 2008 ”.
- (6) In Article 41(1) and (2) (breach of supervision requirements) after “requirements under” insert “ Article 39(8) or ”.

### *Curfews*

#### **Curfew requirement** **N.I.**

**37.—**(1) In this Part “curfew requirement” means a requirement that a person remain, for specified periods at a specified place; and in this Article “specified” means specified in the requirement.

- (2) Specified periods shall not amount to—
- (a) less than 2 hours, or
  - (b) more than 12 hours,
- in any one day.

(3) A curfew requirement shall not be imposed without obtaining and considering information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the person subject to the requirement).

(4) The Secretary of State may by order amend paragraph (2) by substituting for a number of hours specified there such other number of hours as may be specified in the order.

#### **Requirement to avoid conflict with religious beliefs, etc.** **N.I.**

- 38.—**(1) A curfew requirement shall, as far as practicable, be such as to avoid—
- (a) any conflict with a person's religious beliefs or with any other condition or requirement to which that person may be subject; and
  - (b) any interference with the times, if any, at which the person normally works (or carries out voluntary work) or attends a school or other educational establishment.
- (2) The Secretary of State may by order provide that paragraph (1) is to have effect with such additional restrictions as may be specified in the order

### *Electronic monitoring*

#### **Arrangements for establishing systems of electronic monitoring** **N.I.**

**39.** The Secretary of State may make arrangements for establishing systems of electronic monitoring of persons subject to—

- (a) curfew requirements; or
- (b) other requirements relating to a person's whereabouts.

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## Electronic monitoring requirement **N.I.**

**40.**—(1) In this Part “electronic monitoring requirement” means a requirement for securing the electronic monitoring of a person's compliance with other conditions or requirements during a period of 14 days or more specified in the requirement or determined in accordance with the requirement by the person responsible for the monitoring.

(2) Where—

- (a) it is proposed to impose an electronic monitoring requirement, but
- (b) there is a person (other than the person who is to be subject to the requirement) without whose co-operation it will not be practicable to secure the monitoring,

the requirement shall not be imposed without that person's consent.

(3) An electronic monitoring requirement shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(4) Where an electronic monitoring requirement is required to take effect during a period determined by the person responsible for the monitoring, that person shall, before the beginning of the period, notify—

- (a) the person subject to the requirement, and
- (b) any person falling within paragraph (2)(b),

of the time when the period is to begin.

### Modifications etc. (not altering text)

- C8** Art. 40 modified (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **97(3)**
- C9** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

## Availability of electronic monitoring arrangements **N.I.**

**41.** A court shall not impose an electronic monitoring requirement unless the court—

- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the area in which the place proposed to be specified in the requirement is situated; and
- (b) is satisfied that the necessary provision can be made under those arrangements.

### Modifications etc. (not altering text)

- C9** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

## Provision of copies of electronic monitoring requirement **N.I.**

**42.** Where a court or the Secretary of State imposes an electronic monitoring requirement, the court or (as the case may be) the Secretary of State shall forthwith provide copies of the requirement—

- (a) to the person who by virtue of Article 40(3) will be responsible for the electronic monitoring; and



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(b) to any person to whom Article 40(2)(b) applies.

**Modifications etc. (not altering text)**

C9 Arts. 40-43 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), 107(4)(b)

*Release of children on bail*

**Release of child on bail: curfew and electronic monitoring requirements** N.I.

43.—(1) This Article applies where a court proposes to release a child on bail under Article 12 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

(2) The court shall not impose—

- (a) a curfew requirement, or
- (b) an electronic monitoring requirement,

as a condition of bail unless the court considers that, if it did not do so, it would be necessary to remand the child in custody to protect the public.

**Modifications etc. (not altering text)**

C9 Arts. 40-43 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), 107(4)(b)

*Rules*

**Rules** N.I.

44. The Secretary of State may make rules for regulating—

- (a) electronic monitoring in pursuance of an electronic monitoring requirement;
- (b) without prejudice to paragraph (a), the functions of persons made responsible for securing electronic monitoring in pursuance of such a requirement; and
- (c) the supervision of persons who are subject to curfew requirements.

CHAPTER 6 N.I.

SUPERVISED ACTIVITY ORDERS

**Supervised activity order for default in payment of certain sums** N.I.

<sup>F105</sup>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

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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—
- (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.
- (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.]

#### Textual Amendments

**F105** Art. 45 substituted (1.6.2018) by [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), [ss. 29\(1\), 61\(2\)](#) (with [s. 29\(12\)](#)); [S.R. 2018/99](#), [art. 2\(a\)](#)

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## CHAPTER 7 **N.I.**

### PAROLE COMMISSIONERS

#### The Parole Commissioners **N.I.**

**46.**—(1) The Life Sentence Review Commissioners shall be renamed the Parole Commissioners for Northern Ireland.

(2) In discharging their functions the Parole Commissioners shall—

- (a) have due regard to the need to protect the public from serious harm; and
- (b) have regard to the desirability of
  - (i) securing the rehabilitation of prisoners; and
  - (ii) preventing the commission of further offences by prisoners.

(3) The Parole Commissioners shall advise the [<sup>F106</sup>Department of Justice or (as appropriate) the] Secretary of State with respect to any matter connected with the release or recall of prisoners referred to them under this Part or the Life Sentences (Northern Ireland) Order 2001 (NI 2) [<sup>F107</sup>or Articles 46 to 46B of the Criminal Justice (Children) (Northern Ireland) Order 1998.]

(4) Schedule 4 shall have effect in relation to the Parole Commissioners.

[<sup>F108</sup>(5) Arrangements under section 1A(7) of the Prison Act (Northern Ireland) 1953 may include arrangements for purposes connected with any of the Secretary of State's functions by virtue of—

- (a) the Life Sentences (Northern Ireland) Order 2001,
- (b) Chapter 4 of this Part, or
- (c) this Chapter (including rules made under paragraph 4 or 4A of Schedule 4);

and, accordingly, in section 1A(8) of the 1953 Act the reference to functions of the Secretary of State includes functions of the Secretary of State by virtue of any of the provisions mentioned in sub-paragraphs (a) to (c) above.]

#### Textual Amendments

**F106** Words in art. 46(3) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 29(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F107** Words in art. 46(3) added (26.4.2013) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 10(4), 15(1)** (with s. 10(5)-(9))

**F108** Art. 46(5) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 29(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

## CHAPTER 8 **N.I.**

### ENFORCEMENT OF CERTAIN ORDERS MADE ON CONVICTION

#### Enforcement of certain community orders **N.I.**

**47.**—(1) Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (enforcement of certain community orders) is amended as follows.

(2) In paragraph 2 for sub-paragraph (2) substitute—

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“(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—

- (a) in the case of a drug treatment and testing order, before the court responsible for the order;
- (b) in the case of any other order—
  - (i) if the order was made by the Crown Court, before that court;
  - (ii) if the order was made by a magistrates' court, before a court of summary jurisdiction acting for the petty sessions district concerned.

(3) If—

- (a) a warrant is issued under this paragraph requiring an offender to be brought before the Crown Court, and
- (b) the offender cannot forthwith be brought before the Crown Court because it is not being held,

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court having jurisdiction in the place where he is arrested.

(4) Where an offender is brought before a magistrates' court in pursuance of sub-paragraph (3), that court shall commit the offender in custody or on bail to the Crown Court.”.

(3) In paragraph 3(1) for the words from the beginning to “paragraph 2” substitute “ Where under paragraph 2 an offender is brought or appears before a court of summary jurisdiction and it is proved to the satisfaction of the court ”

(4) In paragraph 3 omit—

- (a) in sub-paragraph (1)(d) the words “where the relevant order was made by a magistrates' court”; and
- (b) sub-paragraphs (3) and (4).

(5) In paragraph 4(1) omit “or by virtue of paragraph 3(3)”

(6) In paragraph 7(1) after “relevant order” insert “ made by a magistrates' court ”.

(7) In paragraph 7 for sub-paragraph (2) substitute—

“(2) The court may—

- (a) revoke the order; or
- (b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.”.

(8) In paragraph 7(3) for “sub-paragraph (2)(a)(i)” substitute “ sub-paragraph (2)(a) ”.

(9) In paragraph 7(4) for “sub-paragraph (2)(a)(ii)” substitute “ sub-paragraph (2)(b) ”.

(10) Omit paragraph 7(5).

(11) In paragraph 8 for sub-paragraphs (1) and (1A) substitute—

“(1) This paragraph applies where —

- (a) a relevant order made by the Crown Court is in force in respect of an offender and the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other way for the offences in respect of which the order was made; or
- (b) an offender in respect of whom a relevant order is in force is convicted of an offence before the Crown Court.”.

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(12) In paragraph 8 at the end add—

“(5) Where this paragraph applies by virtue of sub-paragraph (1)(a) and the Crown Court proposes to exercise its powers under this paragraph otherwise than on the application of the offender, it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

(6) No application may be made by the offender under sub-paragraph (1)(a) while an appeal against the relevant order is pending.”.

### **Enforcement of certain youth justice orders** **N.I.**

**48.**—(1) Schedule 1A to the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (enforcement of reparation orders, community responsibility orders and youth conference orders) is amended as follows.

(2) In paragraph 1 after sub-paragraph (2) insert—

“(2A) In this Schedule “the relevant court”, in relation to a relevant order, means—

- (a) the appropriate court, if the relevant order was made by a magistrates' court; and
- (b) the Crown Court, if the relevant order was made by the Crown Court.”

(3) In paragraph 2(1) and (2) for “appropriate court” substitute “ relevant court ”.

(4) In paragraph 3(1) and (2) for “court” substitute “ relevant court ”.

(5) In paragraph 3(3) and (4)(a) and (b) for “appropriate court” substitute “ relevant court ”.

(6) In paragraph 4 for sub-paragraphs (1) to (4) substitute—

“(1) The relevant court may (instead of making an order under paragraph 3)—

- (a) revoke the order (if it is still in force); and
- (b) deal with the offender, for the offence in respect of which it was made, in any way in which it could deal with him if he had just been found guilty of the offence by or before the court.”.

(7) In paragraph 4(5) for “sub-paragraph (4)” substitute “ this paragraph ”.

(8) In paragraph 4(6) for “the court may” substitute “ the relevant court may ”.

(9) Omit paragraph 5(2).

## **PART 3** **N.I.**

### **RISK ASSESSMENT AND MANAGEMENT**

#### **Interpretation of this Part** **N.I.**

**49.**—(1) In this Part—

“agencies” means—

- (a) the Police Service of Northern Ireland;
- (b) the Probation Board for Northern Ireland;
- (c) the Department of Education;
- (d) the Department for Employment and Learning;
- (e) the Department of Health, Social Services and Public Safety;
- (f) the Department for Social Development;

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- (g) <sup>F109</sup> ... [<sup>F110</sup>HSC trusts] ;
- (h) Education and Library Boards;
- (i) the Northern Ireland Housing Executive;
- (j) the National Society for the Prevention of Cruelty to Children;

[<sup>F111</sup>“child” means a person under the age of 18;

“conviction” includes—

- (i) a conviction by or before a court outside Northern Ireland;
- (ii) any finding (other than a finding linked with a finding of insanity) in any criminal proceedings that a person has committed an offence or done the act or made the omission charged;
- (iii) a caution given to a person in respect of an offence which, at the time when the caution was given, the person has admitted;]

“serious harm” means death or serious personal injury, whether physical or psychological;

“specified” means specified in guidance under Article 50.

[<sup>F112</sup>“relevant previous conviction”, in relation to a person, means a conviction for a sexual or violent offence by reason of which the person falls within a specified description of persons;]

- (2) The Secretary of State may by order amend the definition of “agencies” in paragraph (1).

#### Textual Amendments

**F109** Words in art. 49(1)(g) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 226(4)**; S.R. 2022/102, art. 2(b)

**F110** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

**F111** Words in art. 49(1) inserted (14.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 48(2)(a)**, 106(2); S.R. 2016/136, art. 2(a)

**F112** Words in art. 49(1) inserted (14.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), **ss. 48(2)(b)**, 106(2); S.R. 2016/136, art. 2(a)

#### Guidance to agencies on assessing and managing certain risks to the public **N.I.**

**50.**—(1) The Secretary of State may issue guidance to agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description

(2) Guidance under this Article may contain provisions for the purpose of facilitating co-operation between agencies, including—

- (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation; and
- (b) provisions regarding the exchange of information among them.

[<sup>F113</sup>(2A) Guidance under this Article must contain provisions about arrangements for considering the disclosure, to any particular member of the public, of information concerning any relevant previous convictions of a person where it is necessary to protect a particular child or particular children from serious harm caused by that person; and the guidance may, in particular, contain provisions for the purpose of preventing a member of the public from disclosing that information to any other person.]

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- (3) [F114 Paragraphs (2) and (2A) do] not affect the generality of paragraph (1).
- (4) Agencies shall give effect to guidance under this Article.
- (5) The Secretary of State shall consult the agencies before issuing guidance under this Article.
- (6) The Secretary of State shall not specify a description of persons in guidance under this Article unless, whether by reason of offences committed by them (in Northern Ireland or elsewhere) or otherwise, the Secretary of State has reason to believe that persons of that description may cause serious harm to the public.

#### Textual Amendments

- F113** Art. 50(2A) inserted (14.3.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 48(3), 106(2); S.R. 2016/136, art. 2(a)
- F114** Words in art. 50(3) substituted (14.3.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 48(4), 106(2); S.R. 2016/136, art. 2(a)

### Review of arrangements and report on functions **N.I.**

**51.**—(1) The agencies shall, in consultation with the lay advisers appointed under paragraph (2), keep any arrangements mentioned in Article 50(2)(a) under review with a view to monitoring the effectiveness of the arrangements and making any changes which appear to be necessary or expedient.

(2) The Secretary of State shall appoint 2 lay advisers and pay to or in respect of them such allowances as the Secretary of State may determine.

(3) As soon as practicable after the end of each financial year, the agencies shall jointly prepare and publish a report on the discharge during that period of —

- (a) their functions connected with assessing and managing risks posed by persons of a specified description; and
- (b) their duty under paragraph (1).

(4) The report must include—

- (a) details of any arrangements mentioned in Article 50(2)(a); and
- (b) information of such descriptions as the Secretary of State may determine.

## **PART 4** **N.I.**

### ROAD TRAFFIC OFFENCES

#### *New offences*

### Causing death, or grievous bodily injury, by careless or inconsiderate driving **N.I.**

**52.**—(1) In the Road Traffic (Northern Ireland) Order 1995 (NI 18) after Article 11 insert—

#### “Causing death or grievous bodily injury by careless or inconsiderate driving

**11A.** A person who causes the death of, or grievous bodily injury to, another person by driving a mechanically propelled vehicle on a road or other public place without due care and

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attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.”.

(2) In Article 26(1) of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (alternative verdicts), in the Table—

- (a) in the entry relating to Article 9 of the Road Traffic (Northern Ireland) Order 1995 (causing death or grievous bodily injury by dangerous driving), in the second column, after “Article 10 (dangerous driving)” insert “ Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving) ”,

(b) after the entry relating to Article 10 of that Order insert—

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“Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving) Article 12 (careless and inconsiderate driving).”.

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- (c) in the entry relating to Article 14 of that Order (causing death or grievous bodily injury by careless driving when under influence of drink or drugs), in the second column, before “Article 12 (careless, and inconsiderate, driving)” insert “ Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving) ”.

(3) In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 10 of the Road Traffic (Northern Ireland) Order 1995 insert—

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“Article 11A	Causing death or grievous bodily injury by careless or inconsiderate driving.	(a)	Summary.	6 months	Obligatory.	Obligatory.	3–11”
		(b)	On indictment.	or the statutory maximum or both.			
			(b)	5 years or a fine or both.			

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(4) Article 11A of the Road Traffic (Northern Ireland) Order 1995 (NI 18) has effect only in relation to driving occurring after the coming into operation of paragraph (1).

**Causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers N.I.**

**53.**—(1) In the Road Traffic (Northern Ireland) Order 1995 (NI 18), after Article 12A (inserted by Article 62) insert—



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

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**“Causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured driver**

**12B.** A person is guilty of an offence under this Article if he causes the death of, or grievous bodily injury to, another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under—

- (a) Article 3(1) of the Road Traffic (Northern Ireland) Order 1981 (driving otherwise than in accordance with a licence),
- (b) Article 90 of that Order (using motor vehicle while uninsured or unsecured against third party risks), or
- (c) Article 168A(1)(c) of that Order (driving while disqualified).”.

(2) In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 12 of the Road Traffic (Northern Ireland) Order 1995 insert—

“Article 12B	Causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers.	(a) Summary	(b) On indictment.	(a) 6 months or the statutory maximum or both.	(b) 2 years or a fine or both.	Obligatory.	Obligatory.	3–11”
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(3) Article 12B of the Road Traffic (Northern Ireland) Order 1995 has effect only in relation to driving occurring after the coming into operation of paragraph (1).

PROSPECTIVE

**Speed assessment equipment detection devices** **N.I.**

**54.—(1)** In Article 55 of the Road Traffic (Northern Ireland) Order 1995 (NI 18) (regulation of construction, weight, equipment and use of vehicles) in paragraph (2), at the end insert—

“(m) speed assessment equipment detection devices, that is to say devices the purpose, or one of the purposes, of which is to detect, or interfere with the operation of, equipment used to assess the speed of motor vehicles.”,

(2) After Article 57 of that Order (breach of requirement as to weight: goods and passenger vehicles) insert—

**“Breach of requirement as to speed assessment equipment detection devices**

**57A.** A person who—

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- (a) contravenes or fails to comply with a construction or use requirement as to speed assessment equipment detection devices, or
- (b) uses on a road a motor vehicle or trailer which does not comply with such a requirement, or causes or permits a motor vehicle or trailer to be so used

is guilty of an offence.”,

(3) In Article 58(a) of that Order (breach of other construction and use requirements), for “or 57(1)(a)” substitute “, 57(1)(a) or 57A(a) ”.

(4) In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 57 of the Road Traffic (Northern Ireland) Order 1995 insert—

“Article 57A	Breach of requirement as to speed assessment equipment detection devices.	Summarily.	(a)Level 4 on the standard scale if committed on a special road (within the meaning of the Roads (Northern Ireland) Order 1993).	Discretionary.	Obligatory.	3–6”
			(b) Level 3 on the standard scale in any other case.			

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*Increase in penalties*

**Driving without insurance** **N.I.**

**55.** In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences: offences under the Road Traffic Orders), in the entry relating to Article 90 of the Road Traffic (Northern Ireland) Order 1981, in column (4) after “Level 5 on the standard scale” insert “ or 6 months or both ”.

**Driving while disqualified** **N.I.**

**56.** In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences: offences under the Road Traffic Orders), for the entry relating to Article 168A(1)(c) of the Road Traffic (Northern Ireland) Order 1981 substitute—

“Article 168A(1)(c)	Driving while disqualified.	(a)	Summarily	Discretionary.	6”
		(b)	On indictment	statutory maximum or 6 months or both.	
		(b)	A fine or 2 years or both.		

**Failure to stop vehicle** **N.I.**

**57.** In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences under the Road Traffic Orders), for the entry relating to Article 180 of the Road Traffic (Northern Ireland) Order 1981 substitute—

“Article 180(1)	Failure to stop when so required by constable in uniform.	Summarily.	(a)	Level 5 on the standard scale if committed by a person driving a mechanically propelled vehicle.
			(b)	Level 3 on the standard

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			scale if committed by a person riding a cycle.
Article 180(4) to (7)	Failure to produce licence, etc for examination or to state date of birth, failing to provide Department with evidence of date of birth etc, or obstructing, etc police.	Summarily.	Level 3 on the standard scale.”.

### Furious driving **N.I.**

**58.** In Part 2 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (prosecution and punishment of offences: offences otherwise than under the Road Traffic Orders), after the entry relating to manslaughter insert—

“An offence under section 35 of the Offences against the Person Act 1861 (furious driving).	Discretionary.	Obligatory if committed in respect of a mechanically propelled vehicle.	3–9”
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*Drink-driving, etc.*

### Power to require specimens of breath at roadside or at hospital **N.I.**

**59.**—(1) The Road Traffic (Northern Ireland) Order 1995 (NI 18) is amended as follows.

(2) After Article 17D(1) (preliminary tests for drink and drugs: arrest) insert—

“(1A) The fact that specimens of breath have been provided under Article 18 by the person concerned does not prevent paragraph (1) having effect if the constable who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person.”.

(3) After Article 17D(2) insert—

“(2A) A person arrested under this Article may, instead of being taken to a police station, be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on him there a requirement under Article 18.”.

(4) In Article 18 (provision of specimens for analysis) for paragraph (2) substitute—

“(2) A requirement under this Article to provide specimens of breath can only be made—  
 (a) at a police station,  
 (b) at a hospital, or

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- (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to co-operate with it.

(2A) For the purposes of this Article “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.

(2B) A requirement under this Article to provide specimens of breath may not be made at or near a place mentioned in paragraph (2)(c) unless the constable making it—

- (a) is in uniform, or
- (b) has imposed a requirement on the person concerned to cooperate with a relevant breath test in circumstances in which Article 17(5) applies.

(2C) Where a constable has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, he is entitled to remain at or near that place in order to impose on him there a requirement under this Article.

(2D) If a requirement under paragraph (1)(a) has been made at a place other than at a police station, such a requirement may subsequently be made at a police station if (but only if)

- (a) a device or a reliable device of the type mentioned in paragraph (1)(a) was not available at that place or it was for any other reason not practicable to use such a device there, or
- (b) the constable who made the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned.”.

(5) In Article 18(4) (circumstances in which requirement to provide a specimen of blood or urine may be made) in sub-paragraph (b) (breath-testing device not available etc.) insert at the beginning “specimens of breath have not been provided elsewhere and ”.

(6) In Article 19 (choice of specimens of breath) after paragraph (2) insert—

“(2A) If the person who makes a claim under paragraph (2) was required to provide specimens of breath under Article 18 at or near a place mentioned in paragraph (2)(c) of that Article, a constable may arrest him without warrant.”.

(7) In Article 20(1) (protection for hospital patients) for “for a laboratory test” substitute “ under Article 18 ”.

(8) In Article 21(1) (detention of persons affected by alcohol or a drug) —

- (a) for “until it appears to the constable” substitute “ (or, if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station) if a constable has reasonable grounds for believing ”, and
- (b) for “not be committing” substitute “ commit ”.

(9) In Article 21(2) (grounds for detention) for “A person shall not be detained in pursuance of this Article if it appears to a” substitute “ Paragraph (1) does not apply to the person if it ought reasonably to appear to the ”.

(10) After Article 21(2) insert—

“(2A) A person who is at a hospital as a patient shall not be arrested and taken from there to a police station in pursuance of this Article if it would be prejudicial to his proper care and treatment as a patient.”.

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PROSPECTIVE

## Alcohol ignition interlocks **N.I.**

**60.**—(1) In the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10), after Article 38 insert—

### “Reduced disqualification period: alcohol ignition interlock programme orders

**38A.**—(1) This Article applies where—

- (a) a person is convicted of a relevant drink offence by or before a court,
- (b) he has committed another relevant drink offence at any time during the period of 10 years ending with the date of the conviction
- (c) the court makes an order under Article 35 but does not make an order under Article 36, and
- (d) the period stated by the court as that for which, apart from this Article, he would be disqualified (“the unreduced period”) is not less than 2 years.

(2) In this Article “relevant drink offence” means—

- (a) an offence under sub-paragraph (a) of paragraph (1) of Article 14 of the Order of 1995 (causing death or grievous bodily injury by careless driving when unfit to drive through drink) committed when unfit to drive through drink,
- (b) an offence under sub-paragraph (b) of that paragraph (causing death by careless driving with excess alcohol),
- (c) an offence under sub-paragraph (c) of that paragraph (failing to provide a specimen) where the specimen is required in connection with drink or consumption of alcohol,
- (d) an offence under Article 15 of that Order (driving or being in charge when under influence of drink) committed by reason of unfitness through drink,
- (e) an offence under Article 16(1) of that Order (driving or being in charge with excess alcohol),
- (f) an offence under Article 18(7) of that Order (failing to provide a specimen) committed in the course of an investigation into an offence within any of the preceding sub-paragraphs, or
- (g) an offence under Article 18A(6) of that Order (failing to allow a specimen to be subjected to a laboratory test) in the course of an investigation into an offence within any of the preceding sub-paragraphs.

(3) Where this Article applies, the court may specify a lesser period of disqualification (“the reduced period”) if it also makes an order (an “alcohol ignition interlock programme order”) requiring the offender to comply with the alcohol ignition interlock conditions.

(4) The difference between the unreduced period and the reduced period shall be a period specified in the order of—

- (a) not less than 12 months, and
- (b) not more than one half of the unreduced period.

(5) If the offender contravenes the alcohol ignition interlock conditions, a further order under Article 35 disqualifying him for the rest of the unreduced period is to be treated as having been made by the court immediately before the contravention.

(6) “The alcohol ignition interlock conditions” are that the offender—

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- (a) must participate fully in an approved alcohol ignition interlock programme specified in the order during such part of the unreduced period as is so specified, and
- (b) during the part of that period following the reduced period, must not drive a motor vehicle unless it is fitted with an alcohol ignition interlock in good working order and must not drive a motor vehicle which is so fitted when not using the alcohol ignition interlock properly.

(7) A court shall not make an alcohol ignition interlock programme order in the case of an offender unless—

- (a) the court is satisfied that a place on the approved alcohol ignition interlock programme specified in the order will be available for the offender,
- (b) the offender appears to the court to be of or over the age of 17,
- (c) the court has informed the offender (orally or in writing and in ordinary language) of the effect of the order and the amount of the fees which he is required to pay for the programme and when he must pay them, and
- (d) the offender has agreed that the order should be made.

(8) For the purposes of this Article an “approved alcohol ignition interlock programme” is a programme approved by the Department and involving the provision of an alcohol ignition interlock for use by the offender, training in its use and other education and counselling relating to the consumption of alcohol and driving.

(9) For the purposes of this Article “alcohol ignition interlock” means a device—

- (a) of a type approved by the Department, and
- (b) designed to be fitted to a motor vehicle with the purpose of preventing the driving of the vehicle by a person who does not, both before starting driving the vehicle and at regular intervals while driving it, provide specimens of breath in which the proportion of alcohol is likely not to exceed the limit specified in paragraph (10).

(10) That limit is 9 microgrammes of alcohol in 100 millilitres of breath or such other proportion of alcohol to breath as the Department may by regulations prescribe.

(11) For the purposes of this Article an offender uses an alcohol ignition interlock properly if (and only if) he is complying with all the instructions given to him about its use as part of the approved alcohol ignition interlock programme.

(12) Where an alcohol ignition interlock is fitted to a motor vehicle as part of an approved alcohol ignition interlock programme relating to an offender, a person commits an offence if—

- (a) he interferes with the alcohol ignition interlock with intent to cause it not to function or not to function properly, or
- (b) he is a person other than the offender and provides or attempts to provide a specimen of breath for the purposes of the alcohol ignition interlock with intent to enable the driving (or continued driving) of the vehicle by the offender

### **Certificates of failing fully to participate**

**38B.**—(1) An offender shall be regarded for the purposes of Article 38A as not fully participating in an approved alcohol ignition interlock programme if (and only if) a certificate that that is so is received by the proper officer of the supervising court.

(2) A certificate under paragraph (1) may be given if (and only if) the offender has failed—

- (a) to make due payment of fees for the programme,

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- (b) to attend for training, education or counselling forming part of the programme in accordance with the programme provider's reasonable instructions,
- (c) to attend at a place specified by the programme provider for the monitoring and maintenance of the alcohol ignition interlock, at a time specified by the programme provider or a person with whom the programme provider has made arrangements for its monitoring and maintenance, or
- (d) to comply with any other reasonable requirement of the programme provider.

(3) A certificate under paragraph (1) is to be given by the programme provider and shall be in such form, and contain such particulars, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) Where a programme provider decides to give a certificate under paragraph (1), he shall give written notice of the decision to the offender as soon as possible.

(5) An offender to whom a notice is given under paragraph (4) may, within such period as may be prescribed by rules of court, apply to the supervising court<sup>F115</sup> ..., for a declaration that the programme provider has given the certificate under paragraph (1) in contravention of paragraph (2).

(6) If the court grants the application, Article 38A shall have effect as if the certificate had not been duly received by the proper officer of the supervising court.

(7) A notice under paragraph (4) shall specify the ground on which it is given; and the Department may by regulations make provision as to the form of notices under that paragraph and as to the circumstances in which they are to be treated as given.

(8) Where the proper officer of a court receives a certificate under paragraph (1), or a court grants an application under paragraph (5), the proper officer or court must send notice of that fact to the Department; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine

### Approval of programmes

**38C.**—(1) If an application is made to the Department for the approval of a programme for the purposes of Article 38A, the Department must decide whether to grant or refuse the application.

(2) In reaching that decision the Department must have regard to—

- (a) the nature of the programme, and
- (b) whether the programme provider is an appropriate person to provide the programme and administer its provision efficiently and effectively,

and may take into account any recommendations made by any persons appointed to consider the application.

(3) A programme may be approved subject to conditions specified by the Department.

(4) An approval of a programme is for the period specified by the Department (which must not exceed 7 years), subject to withdrawal of approval.

(5) Regulations made by the Department may make provision in relation to the approval of programmes and may, in particular, include provision—

- (a) in relation to the making of applications for approval,
- (b) for the payment in respect of applications for approval, or of approvals, (or of both) of fees of such amounts as are prescribed by the regulations,
- (c) specifying the maximum fees that a person may be required to pay for a programme and by when they are to be paid,



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- (d) for the monitoring of programmes and programme providers,
- (e) in relation to withdrawing approval,
- (f) for an appeal to lie to a court of summary jurisdiction against a refusal of an application for approval, the imposition of conditions on the grant of such an application or the withdrawal of approval, and
- (g) authorising the Department to make available (with or without charge) information about programmes and programme providers.

### **Programmes in Great Britain**

**38D.**—(1) The Department may enter into arrangements with persons in Great Britain who provide programmes which are approved programmes within the meaning of section 34D(8) of the Road Traffic Offenders Act 1988 for the purpose of treating those programmes as approved programmes within the meaning of Articles 38A to 38E of this Order, and in this Article such programmes in respect of which such arrangements have been entered into are referred to as “recognised programmes”

(2) Such arrangements may include provision for any matters for which provision is made in Articles 38A to 38E in relation to approved programmes.

(3) A court—

- (a) may treat recognised programmes as approved programmes for the purposes of Article 38A,
- (b) may treat any certificates received from programme providers of recognised programmes as certificates received from programme providers of approved programmes for the purposes of Article 38B.

(4) Where a court has made an order in respect of a person under Article 38A, that person may apply to the court to vary the order by substituting a recognised programme for the programme specified in the order, and if the court grants that application, it shall vary the order accordingly.

(5) The Department may by regulations make such further provision in respect of recognised programmes as it considers necessary or expedient

### **Provisions supplementary to Articles 38A to 38D**

**38E.**—(1) The Department may issue guidance to programme providers, or to any category of programme provider, as to the conduct of programmes approved for the purposes of Article 38A; and—

- (a) programme providers shall have regard to any guidance given to them under this paragraph, and
- (b) in determining for the purposes of Article 38B whether any instructions or requirements of a programme provider were reasonable, a court shall have regard to any guidance given to him under this paragraph.

(2) The Department may by regulations make provision—

- (a) amending Article 38A(1)(b) by substituting for the period for the time being specified there a different period,
- (b) amending Article 38A(1)(d) by substituting for the period for the time being specified there a different period, or
- (c) amending Article 38A(4) by substituting for the period for the time being specified there a different period, or by substituting for the fraction of the unreduced period

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for the time being specified there a different fraction of that period, (or by doing both).

(3) In Articles 38A to 38D and this Article—

“contravention” includes failure to comply;

“programme provider”, in relation to an alcohol ignition interlock programme, means the person by whom it is, or is to be, provided;

“proper officer” means—

(a) in relation to a magistrates' court, the clerk of petty sessions <sup>F116</sup> ..., an

(b) otherwise, the chief clerk;

<sup>F117</sup> ...

“rules of court” means—

(a) in relation to an application to a magistrates' court, magistrates' court rules; and

(b) in relation to an application to the Crown Court, Crown Court rules;

“supervising court”, in relation to an alcohol ignition interlock programme order, means—

(a) if the Crown Court made the order, the Crown Court; and

(b) otherwise a magistrates' court <sup>F118</sup> ....

(4) Regulations under Article 38A, 38B, 38C or 38D or this Article may include such incidental or supplementary provision as appears to the Department to be necessary or expedient.

(5) Regulations under Article 38A, 38B, 38C or 38D shall be subject to negative resolution.

(6) No regulations shall be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”.

(2) In the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10), after Article 46 insert—

**“Suspension of certificate pending determination of applications under Article 38B**

**46A.**—(1) Where a person in respect of whom a certificate is given under paragraph (1) of Article 38B makes an application to a court under paragraph (5) of that Article, the court may suspend the effect of the certificate pending the determination of the application.

(2) Where a court exercises its power under paragraph (1) it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner, and to such address and must contain such particulars, as the Department may determine.”.

(3) In Part 1 of Schedule 1 to that Order (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 29 of that Order insert—

“Article 38A(12)	Interference, etc with alcohol ignition interlock.	Summarily	Level 4 on the standard scale if the motor vehicle to which the alcohol ignition interlock is fitted is a goods vehicle or a vehicle adapted to carry more than eight
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passengers. Level 3 on the standard scale in any other case.”.

### Textual Amendments

- F115** Words in art. 60(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(1), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 60(1))
- F116** Words in art. 60(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(2)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 60(1))
- F117** Words in art. 60(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(2)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 60(1))
- F118** Words in art. 60(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(2)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 60(1))

PROSPECTIVE

### Experimental period for Article 60 **N.I.**

**61.**—(1) Subject as follows, no order shall be made under Article 38A of the Road Traffic Offenders (Northern Ireland) Order 1995 (NI 18) (inserted by Article 60) after—

- (a) the end of 2012; or
- (b) such later time as may be specified in an order made by the Department.

(2) But at any time before the restriction imposed by paragraph (1) has taken effect, the Department may by order provide that it shall not do so.

(3) In this Article “the experimental period” means the period beginning when Article 60 comes into operation and ending—

- (a) when the restriction imposed by paragraph (1) takes effect; or
  - (b) if the Department makes an order under paragraph (2), on a date specified in the order.
- (4) During the experimental period—

- (a) no order shall be made under Article 38A by virtue of a person's conviction under Article 14 of the Road Traffic (Northern Ireland) Order 1995 (NI 10); and
- (b) no order shall be made under Article 38A except by a magistrates' court <sup>F119</sup>... which is for the time being designated for the purposes of this Article.

(5) In relation to orders made under Article 38A during the experimental period, Article 38B(5) shall have effect with the omission of the references to the relevant local court.

(6) The power to designate a [<sup>F120</sup>magistrates' court] for the purposes of this Article is exercisable by order made by the Lord Chancellor after consultation with the Lord Chief Justice, and includes power to revoke a designation previously made.

(7) An order under paragraph (6) must specify the period for which [<sup>F121</sup>a court] is designated, and may—

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

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(a) specify different periods for different [<sup>F121</sup>courts] ; and

(b) extend or shorten any period previously specified.

(8) The power to make an order under paragraph (1) is not exercisable after the end of 2012, and no more than one order may be made under that paragraph.

(9) No order shall be made under paragraph (1) or (2) unless a draft of it has been laid before, and approved by a resolution of, the Assembly

(10) [<sup>F122</sup>.....]

#### Textual Amendments

**F119** Words in art. 61(4)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(3)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 61)

**F120** Words in art. 61(6) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 136(3)(b)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 61)

**F121** Words in art. 61(7) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 136(3)(c)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3) (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 61)

**F122** Art. 61(10) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 167** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 61)

#### Modifications etc. (not altering text)

**C10** Art. 61(6): functions of Lord Chancellor transferred 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), 15(1), **Sch. 17 para. 56** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

#### Other provisions about offences

#### Meaning of driving without due care and attention **N.I.**

**62.** In the Road Traffic (Northern Ireland) Order 1995 (NI 18), after Article 12 insert—

##### “Meaning of careless, or inconsiderate, driving

**12A.—**(1) This Article has effect for the purposes of Articles 11A, 12 and 14.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.

(3) In determining for the purposes of paragraph (2) what would be expected of a careful and competent driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.”

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### **Extension of offence under Article 14 of the 1995 Order** **N.I.**

**63.**—(1) Article 14 of the Road Traffic (Northern Ireland) Order 1995 (NI 18) (causing death or grievous bodily injury by careless driving when under influence of drink or drugs) is amended as follows.

(2) In paragraph (1), after sub-paragraph (c) insert “or

(d) he is required by a constable to give his permission for a laboratory test of a specimen of blood taken from him under Article 18A, but without reasonable excuse fails to do so,”.

(3) In paragraph (3), for “and (c)” substitute “, (c) and (d) ”.

(4) In Article 26(1) of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (alternative verdicts), in the Table, in the entry relating to Article 14 of the Road Traffic (Northern Ireland) Order 1995, in the second column, after “Article 18(7) (failing to provide specimen)” insert “ Article 18A(6) (failing to give permission for laboratory test) ”.

### **Alternative verdict on unsuccessful manslaughter prosecution** **N.I.**

**64.** In Article 26 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (alternative verdicts), after paragraph (3) insert—

“(3A) Where

(a) a person charged with manslaughter in connection with the driving of a mechanically propelled vehicle by him is found not guilty of that offence, but

(b) the allegations in the indictment amount to or include an allegation of any of the relevant offences,

he may be convicted of that offence.

(3B) For the purposes of paragraph (3A) the following are the relevant offences—

(a) an offence under Article 9 of the Order of 1995 (causing death or grievous bodily injury by dangerous driving),

(b) an offence under Article 10 of that Order (dangerous driving),

(c) an offence under Article 14 of that Order (causing death or grievous bodily injury by careless driving when under influence of drink or drugs), and

(d) an offence under section 35 of the Offences against the Person Act 1861 (furious driving).”.

### *Seizure of vehicles used in a manner causing alarm, distress or annoyance*

### **Seizure of vehicles used in a manner causing alarm, distress or annoyance** **N.I.**

**65.**—(1) Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which—

(a) contravenes Article 12 or 48 of the Road Traffic (Northern Ireland) Order 1995 (NI 18) (careless and inconsiderate driving and prohibition of off-road driving), and

(b) is causing, or is likely to cause, alarm, distress or annoyance to members of the public,

he shall have the powers set out in paragraph (3).

(2) A constable in uniform shall also have the powers set out in paragraph (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within paragraph (1).

(3) Those powers are—

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- (a) power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;
  - (b) power to seize and remove the motor vehicle;
  - (c) power, for the purposes of exercising a power falling within sub-paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;
  - (d) power to use reasonable force, if necessary, in the exercise of any power conferred by any of sub-paragraphs (a) to (c).
- (4) A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this Article unless—
- (a) he has warned the person appearing to him to be the person whose use falls within paragraph (1) that he will seize it, if that use continues or is repeated; and
  - (b) it appears to him that the use has continued or been repeated after the warning.
- (5) Paragraph (4) does not require a warning to be given by a constable on any occasion on which he would otherwise have the power to seize a motor vehicle under this Article if—
- (a) the circumstances make it impracticable for him to give the warning;
  - (b) the constable has already on that occasion given a warning under that paragraph in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person;
  - (c) the constable has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him; or
  - (d) the constable has reasonable grounds for believing that the person whose use of that motor vehicle on that occasion would justify the seizure is a person to whom a warning under that paragraph has been given (whether or not by that constable or in respect of the same vehicle or the same or a similar use) on a previous occasion in the previous 12 months.
- (6) A person who fails to comply with an order under paragraph (3)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) Paragraph (3)(c) does not authorise entry into a private dwelling house.
- (8) The powers conferred on a constable by this Article shall be exercisable only at a time when regulations under Article 66 are in force.
- (9) In this Article and Article 66—
- “driving” and “motor vehicle” have the same meanings as in the Road Traffic (Northern Ireland) Order 1995 (NI 18); and
  - “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

#### **Retention etc. of vehicles seized under Article 65** **N.I.**

- 66.**—(1) The Secretary of State may by regulations make provision as to—
- (a) the removal and retention of motor vehicles seized under Article 65; and
  - (b) the release or disposal of such motor vehicles.
- (2) Regulations under paragraph (1) may, in particular, make provision—
- (a) for the giving of notice of the seizure of a motor vehicle under Article 65 to a person who is the owner of that vehicle or who, in accordance with the regulations, appears to be its owner;
  - (b) for the procedure by which a person who claims to be the owner of a motor vehicle seized under Article 65 may seek to have it released;

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- (c) for requiring the payment of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release
  - (d) as to the circumstances in which a motor vehicle seized under Article 65 may be disposed of;
  - (e) as to the destination—
    - (i) of any fees or charges payable in accordance with the regulations; and
    - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under Article 65;
  - (f) for the delivery to a district council, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under Article 65.
- (3) Regulations under paragraph (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if—
- (a) the use by reference to which the motor vehicle in question was seized was not a use by him; and
  - (b) he did not know of the use of the vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.

## PART 5 **N.I.**

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Purchase and consumption of alcohol*

#### **Test purchases of alcohol **N.I.****

67. After Article 60 of the Licensing (Northern Ireland) Order 1996 (NI 22) insert—

#### **“Test purchases of alcohol**

**60A.**—(1) Articles 58 and 60(2)(a) and (4) do not apply in relation to a person under the age of 18 who is sent into licensed premises to purchase intoxicating liquor by a constable who is acting in the course of his duty.

(2) A constable may not send a person under the age of 18 into any licensed premises to purchase intoxicating liquor unless—

- (a) the constable is satisfied that all reasonable steps have been or will be taken to avoid any risk to the welfare of that person; and
- (b) that person and a parent of that person have both consented in writing to his being sent into those premises for that purpose.

(3) The Secretary of State shall issue guidance as to the exercise by constables of their powers under this Article.”.

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## PROSPECTIVE

**Alcohol consumption in designated public places** **N.I.**

**68.**—(1) Paragraph (2) applies if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

(2) The constable may require the person concerned—

- (a) not to consume in that place anything which is, or which the constable reasonably believes to be, intoxicating liquor;
- (b) to surrender anything in his possession which is, or which the constable reasonably believes to be, intoxicating liquor or a container for such liquor.

(3) A constable may dispose of anything surrendered to him under paragraph (2) in such manner as he considers appropriate.

(4) A person who fails without reasonable excuse to comply with a requirement imposed on him under paragraph (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A constable who imposes a requirement on a person under paragraph (2) shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.

## PROSPECTIVE

**Fixed penalty notice for offence under Article 68** **N.I.**

**69.**—(1) A constable who has reason to believe that a person aged 16 or over has committed an offence under Article 68 may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty in accordance with this Article.

(2) A notice under paragraph (1) may not be given by a constable unless—

- (a) in the case of a notice given at a police station, the constable is authorised by the Chief Constable to give notices under this Article;
- (b) in the case of a notice given elsewhere, the constable is in uniform.

(3) The Secretary of State may by order—

- (a) amend paragraph (1) by substituting for the age for the time being specified in that paragraph a different age which is not lower than 10; and
- (b) if that different age is lower than 16 make provision as follows—
  - (i) where a person whose age is lower than 16 is given a notice, for a parent or guardian of that person to be notified of the giving of the notice; and
  - (ii) for that parent or guardian to be liable to pay the penalty under the notice;
 and an order under sub-paragraph (b) may amend or apply (with or without modification) any statutory provision (including this Part).

(4) Where a person is given a notice under this Article in respect of an offence—



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- (a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice or such longer period as may be specified in the notice; and
  - (b) he shall not be convicted of that offence if he pays the fixed penalty before the expiration of that period (or that longer period)
- (5) A notice under this Article must—
- (a) be in such form as the Secretary of State may by regulations prescribe;
  - (b) give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information about the offence;
  - (c) state the period during which, by virtue of paragraph (4), proceedings will not be taken for the offence;
  - (d) state the amount of the fixed penalty; and
  - (e) state the person to whom and the address at which the fixed penalty may be paid.
- (6) The fixed penalty payable in respect of a notice under this Article is such amount (not exceeding one quarter of level 2 on the standard scale) as the Secretary of State may specify by order; and different amounts may be specified for persons of different ages.
- (7) Payment of a fixed penalty shall be made to, or at the office of, the clerk of petty sessions specified in the notice under this Article, or to such other person or to or at such other office as the Secretary of State may by order direct.
- (8) Sums paid by way of a fixed penalty for any offence shall be treated as if they were fines imposed on summary conviction of that offence.
- (9) In any proceedings a certificate that payment of a fixed penalty was or was not made by a date specified in the certificate to or at the office of the appropriate clerk of petty sessions, or to such other person or to or at such other office as the Secretary of State has directed under paragraph (7), shall, if the certificate purports to be signed by the clerk of petty sessions or such other person as the Secretary of State has directed under paragraph (7), be sufficient evidence of the facts stated unless the contrary is proved.
- (10) The Secretary of State may by regulations prescribe—
- (a) the duties under this Article of persons or offices specified by an order made under paragraph (7); and
  - (b) the information to be supplied to or by clerks of petty sessions and to such other persons or offices.
- (11) In any proceedings for an offence under Article 68, no reference shall be made to the giving of any notice under this Article, or to the payment or non-payment of a fixed penalty under this Article, unless in the course of the proceedings, or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such notice or, as the case may be, to such payment or non-payment.

PROSPECTIVE

### Designated public places **N.I.**

- 70.**—(1) A place is, subject to paragraph (2), a designated public place if it is—
- (a) a public place in the district of a council; and
  - (b) identified in an order made by that council under paragraph (3).

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- (2) A place is not a designated public place or a part of such a place if it is—
- (a) licensed premises or a place within the curtilage of such premises;
  - [<sup>F123</sup>(aa) a relevant pavement café area;]
  - (b) a registered club or a place within the curtilage of such a club; or
  - (c) a place at which the sale of intoxicating liquor is for the time being authorised by an occasional licence.
- (3) A council may for the purposes of paragraph (1) by order identify any public place in its district if it is satisfied that—
- (a) nuisance or annoyance to members of the public or a section of the public; or
  - (b) disorder,
- has been associated with the consumption of intoxicating liquor in that place.
- (4) The power conferred by paragraph (3) includes power—
- (a) to identify a place either specifically or by description;
  - (b) to revoke or amend orders previously made.
- (5) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under paragraph (3).
- (6) Regulations under paragraph (5) shall, in particular, include provision requiring councils to publicise the making and effect of orders under paragraph (3).
- [<sup>F124</sup>(7) In this Article “a relevant pavement café area” means a public area which—
- (a) is an area shown under section 5 of the Licensing of Pavement Cafés Act (Northern Ireland) 2014 on the plan in a pavement café licence which is in force;
  - (b) for the time being has temporary furniture on it that under the terms of that licence is permitted to be on that area at that time;
  - (c) is associated with licensed premises which are—
    - (i) premises of a kind mentioned in Article 5(1)(a) of the Licensing (Northern Ireland) Order 1996;
    - (ii) a hotel;
    - (iii) a guest house in which the business of a restaurant is carried on;
    - (iv) a restaurant; or
    - (v) a refreshment room in public transport premises; and
  - (d) is not subject to an alcohol condition.
- (8) For the purposes of paragraph (7)—
- (a) the area is “associated with” particular premises if those premises are (or are part of) the premises in respect of which the pavement café licence relating to the area was granted;
  - (b) the area is “subject to an alcohol condition” if the pavement café licence relating to the area includes a condition requiring the licence holder not to permit persons to consume intoxicating liquor when using furniture on the area.]

### Textual Amendments

**F123** Art. 70(2)(aa) inserted (1.10.2016) by [Licensing of Pavement Cafés Act \(Northern Ireland\) 2014](#) (c. 9), s. 32(1), **Sch. para. 4(2)**; S.R. 2016/126, art. 2 (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 70)

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**F124** Art. 70(7)(8) inserted (1.10.2016) by [Licensing of Pavement Cafs Act \(Northern Ireland\) 2014 \(c. 9\)](#), s. 32(1), [Sch. para. 4\(3\)](#); S.R. 2016/126, art. 2 (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 70)

PROSPECTIVE

### Effect of Articles 68 and 70 on byelaws **N.I.**

71.—(1) Paragraphs (2) and (3) apply to any byelaw which—

- (a) prohibits, by the creation of an offence, the consumption in a particular public place of intoxicating liquor (including any liquor of a similar nature which falls within the byelaw); or
- (b) makes any incidental, supplementary or consequential provision.

(2) In so far as any byelaw to which this paragraph applies would, apart from this paragraph, have effect in relation to any designated public place, the byelaw—

- (a) shall cease to have effect in relation to that place; or
- (b) where it is made after the order under Article 70(3), shall not have effect in relation to that place.

(3) In so far as any byelaw made by a council and to which this paragraph applies still has effect at the end of the period of 3 years beginning with the day on which this paragraph comes into operation, it shall cease to have effect at the end of that period in relation to any public place.

PROSPECTIVE

### Interpretation of Articles 68 to 71 **N.I.**

72. In Articles 68 to 71—

“council” means a district council;

“designated public place” has the meaning given by Article 70(1);

[<sup>F125</sup>“guest house”, “hotel”,] “intoxicating liquor”, “licensed premises” [<sup>F126</sup>“occasional licence”, “public transport premises” and “restaurant”] have the same meanings as in the Licensing (Northern Ireland) Order 1996 (NI 22);

[<sup>F127</sup>“pavement café licence”, “public area” and “temporary furniture” have the same meanings as in the Licensing of Pavement Cafés Act (Northern Ireland) 2014;]

“public place” means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission

“registered club” has the same meaning as in the Registration of Clubs (Northern Ireland) Order 1996 (NI 23).

### Textual Amendments

**F125** Words in art. 72 inserted (1.10.2016) by [Licensing of Pavement Cafs Act \(Northern Ireland\) 2014 \(c. 9\)](#), s. 32(1), [Sch. para. 5\(2\)\(a\)](#); S.R. 2016/126, art. 2 (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 72)

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**F126** Words in art. 72 substituted (1.10.2016) by [Licensing of Pavement Cafs Act \(Northern Ireland\) 2014 \(c. 9\), s. 32\(1\), Sch. para. 5\(2\)\(b\)](#); S.R. 2016/126, art. 2 (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 72)

**F127** Words in art. 72 inserted (1.10.2016) by [Licensing of Pavement Cafs Act \(Northern Ireland\) 2014 \(c. 9\), s. 32\(1\), Sch. para. 5\(3\)](#); S.R. 2016/126, art. 2 (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 72)

## Prisons

### Removal of requirement to appoint medical officers **N.I.**

**73.** In section 2(2) of the Prison Act (Northern Ireland) 1953 (c. 18) (requirement to appoint governors, medical officers and other officers) the words “, medical officers” shall cease to have effect.

### Abolition of right of justice of the peace to visit prisons **N.I.**

**74.** Section 19 of the Prison Act (Northern Ireland) 1953 (c. 18) (right of justice of the peace to visit prisons) shall cease to have effect.

### Assisting a prisoner to escape **N.I.**

**75.** For sections 29 and 30 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

#### “29 Assisting or permitting a person to escape from lawful custody

(1) A person who assists any person in escaping or attempting to escape from lawful custody, whether in prison or not, is guilty of an offence.

(2) A person who—

(a) is an officer of a prison in which a person is lawfully confined, or

(b) is a constable having a person in his lawful custody, whether in prison or not, is guilty of an offence if he voluntarily and intentionally permits that person to escape.

(3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.”.

### Facilitating escape by conveying things into prison **N.I.**

**76.** For section 33 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

#### “33 Facilitating escape by conveying things into prison

(1) Any person who with intent to facilitate the escape of a prisoner—

(a) brings, throws or otherwise conveys anything into a prison,

(b) causes another person to bring, throw or otherwise convey anything into a prison, or

(c) gives anything to a prisoner or leaves anything in any place (whether inside or outside a prison),

is guilty of an offence

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(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.”.

## Conveyance of prohibited articles into or out of prison **N.I.**

77. For sections 34 and 35 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

### “34 Sections 34A and 34B: classification of articles

(1) This section defines the categories of articles which are referred to in sections 34A and 34B.

(2) A List A article is any article or substance in the following list (“List A”)—

- (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971 (c. 38));
- (b) an explosive;
- (c) any firearm or ammunition (as defined in Article 2(2) of the Firearms (Northern Ireland) Order 2004 (NI 3));
- (d) any other offensive weapon (as defined in Article 3(10) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)).

(3) A List B article is any article or substance in the following list (“List B”)—

- (a) intoxicating liquor (as defined for the purposes of the Licensing (Northern Ireland) Order 1996 (NI 22));
- (b) a mobile or satellite telephone;
- (c) a camera;
- (d) a sound-recording device.

(4) In List B—

“camera” includes any device by means of which a photograph (as defined in section 34C) can be produced;

“sound-recording device” includes any device by means of which a sound-recording (as defined in section 34C) can be made.

(5) The reference in paragraph (b), (c) or (d) of list B to a device of any description includes a reference to —

- (a) a component part of a device of that description;
- (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).

(6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.

(7) The Secretary of State may by order amend this section for the purpose of

- (a) adding an entry to List A or List B;
- (b) repealing or modifying any entry for the time being included in List A or List B;
- (c) adding, repealing or modifying any provision for the interpretation of any such entry.

(8) An order made under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

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### **34A Conveyance etc. of List A articles into or out of prison**

(1) A person who, without authorisation—

- (a) brings, throws or otherwise conveys a List A article into or out of a prison,
- (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
- (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
- (d) knowing a person to be a prisoner, gives a List A article to him,

is guilty of an offence.

(2) In this section “authorisation” means authorisation given for the purposes of this section—

- (a) in relation to all prisons or prisons of a specified description, by prison rules or the Secretary of State; or
- (b) in relation to a particular prison, by the Secretary of State or by the governor of the prison.

(3) Authorisation may be given to specified persons or persons of a specified description—

- (a) in relation to specified articles or articles of a specified description;
- (b) in relation to specified acts or acts of a specified description; or
- (c) on such other terms as may be specified.

In this subsection “specified” means specified in the authorisation.

(4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.

(5) Authorisation given by the governor of a prison shall—

- (a) be given in writing; and
- (b) specify the purpose for which it is given.

(6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine (or both)

### **34B Conveyance etc. of List B or C articles into or out of prison**

(1) A person who, without authorisation—

- (a) brings, throws or otherwise conveys a List B article into or out of a prison,
- (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
- (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
- (d) knowing a person to be a prisoner, gives a List B article to him,

is guilty of an offence.

(2) A person who, without authorisation—

- (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
- (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,

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- (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
  - (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
  - (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (f) while inside a prison, gives a List C article to a prisoner,
- is guilty of an offence.

(3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.

(4) In proceedings for an offence under this section it is a defence for the accused to show that—

- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
- (b) in all the circumstances there was an overriding public interest which justified the doing of that act.

(5) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both).

(6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (6) to (8) of section 34C apply in relation to authorisations so given as they apply to authorisations given for the purposes of that section.”

## **Other offences relating to prison security** **N.I.**

**78.** After section 34B of the Prison Act (Northern Ireland) 1953 (c. 18) (as inserted by Article 77) insert—

### **“34C Other offences relating to prison security**

(1) A person who, without authorisation—

- (a) takes a photograph, or makes a sound-recording, inside a prison, or
- (b) transmits, or causes to be transmitted, any image or any sound from inside a prison by electronic communications for simultaneous reception outside the prison,

is guilty of an offence.

(2) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.

(3) A person who, without authorisation—

- (a) brings or otherwise conveys a restricted document out of a prison or causes such a document to be brought or conveyed out of a prison, or

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- (b) transmits, or causes to be transmitted, a restricted document (or any information derived from a restricted document) from inside a prison by means of electronic communications,
- is guilty of an offence.
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
  - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both); or
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both).
- (6) In this section “authorisation” means authorisation given for the purposes of this section—
- (a) in relation to all prisons or prisons of a description specified in the authorisation, by prison rules or by the Secretary of State;
  - (b) in relation to a particular prison—
    - (i) by the Secretary of State
    - (ii) by the governor of the prison;
    - (iii) by a person working at the prison who is authorised by the governor to grant authorisation on his behalf.
- (7) Authorisation may be given—
- (a) to persons generally or to specified persons or persons of a specified description; and
  - (b) on such terms as may be specified.
- In this subsection “specified” means specified in the authorisation.
- (8) Authorisation given by or on behalf of the governor of a prison must be in writing.
- (9) In this section “restricted document” means the whole (or any part of)—
- (a) a photograph taken inside the prison;
  - (b) a sound-recording made inside the prison;
  - (c) a personal record (or a document containing information derived from a personal record);
  - (d) any other document which contains—
    - (i) information relating to an identified or identifiable relevant individual, if the disclosure of that information would or might prejudicially affect the interests of that individual; or
    - (ii) information relating to any matter connected with the prison or its operation, if the disclosure of that information would or might prejudicially affect the security or operation of the prison.
- (10) In subsection (9)—



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“personal record” means any record which is required by prison rules to be prepared and maintained in relation to any prisoner (and it is immaterial whether or not the individual concerned is still a prisoner at the time of any alleged offence);

“relevant individual” means an individual who is or has at any time been—

- (a) a prisoner or a person working at the prison; or
- (b) a member of such a person's family or household.

(11) In this section—

“document” means anything in which information is recorded (by whatever means);

“electronic communications” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001 (c. 9);

“photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced; and

“sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.”

#### *Live links*

#### **Live links: introductory** **N.I.**

**79.**—(1) Articles 80 and 81—

- (a) apply, respectively, to preliminary hearings and sentencing hearings in the course of proceedings for an offence; and
- (b) enable the court in the circumstances provided for in those Articles to direct the use of a live link for securing the accused's attendance at any such hearing.

(2) The accused is to be treated as present in court when, by virtue of a live link direction under either of those Articles, he attends a hearing through a live link.

(3) In this Article and Articles 80 and 81—

- (a) references to a person being held in custody are references to his being held in custody in a prison, young offenders centre, juvenile justice centre or other institution<sup>F128</sup> ...;

[<sup>F129</sup>(aa) references to a person being detained in hospital are references to the person's being detained in a hospital under Part 2 or 3 of the Mental Health (Northern Ireland) Order 1986;]

- (b) “live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during the hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);
- (c) “the Order Book” means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984 (No. 225);
- (d) “preliminary hearing” means a hearing in the proceedings held before the start of the trial, other than a hearing at which the court may commit the accused for trial;
- (e) “sentencing hearing” means any hearing following conviction which is held for the purpose of—
  - (i) proceedings relating to the giving or rescinding of a live link direction;
  - (ii) sentencing the offender or determining how the court should deal with him in respect of the offence;

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- (f) “the start of the trial”—
- (i) in the case of a trial on indictment, has the meaning given by section 39(3) of the Criminal Procedure and Investigations Act 1996 (c. 25); and
  - (ii) in the case of a summary trial, shall be taken to occur—
    - (A) when the court begins to hear evidence for the prosecution at the trial or to consider whether to exercise its power under Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (NI 4) (power to make hospital order without convicting the accused), or
    - (B) if the court accepts a plea of guilty without proceeding as mentioned in head (A), when that plea is accepted.
- (4) A court shall not give a live link direction under Article 80 or 81 unless—
- (a) it has been notified by the Secretary of State that a live link is available between the court and the institution in which the accused is or is to be held in custody [<sup>F130</sup>or detained in hospital] ; an
  - (b) the notice has not been withdrawn.

#### Textual Amendments

- F128** Words in art. 79(3)(a) repealed (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 9 Pt. 4; S.R. 2016/136, art. 4(e)(i)
- F129** Art. 79(3)(aa) inserted (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(3), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)
- F130** Words in art. 79(4)(a) inserted (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(1)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

#### Modifications etc. (not altering text)

- C11** Art. 79 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), 110(10) (with reg. 110(12))

### Use of live link at preliminary hearings **N.I.**

**80.**—(1) This Article applies in relation to a preliminary hearing in a magistrates' court [<sup>F131</sup>, the Crown Court or the High Court].

(2) Where it appears to the court before which the preliminary hearing is to take place that the accused is likely to be held in custody [<sup>F132</sup>or detained in hospital] during the hearing, the court may give a live link direction under this Article in relation to the attendance of the accused at the hearing.

(3) A live link direction under this Article is a direction requiring the accused, if he is being held in custody [<sup>F132</sup>or detained in hospital] during the hearing, to attend it through a live link from the place at which he is being held [<sup>F133</sup>or detained] .

(4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.

(5) The court shall not give or rescind a live link direction under this Article (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.

(6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this Article, it shall—

- (a) state in open court its reasons for not doing so; and

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(b) cause those reasons to be entered in the Order Book.

(7) Subject to paragraph (8), if where the accused is attending a preliminary hearing through a live link it appears to the court—

(a) that the accused is not able to see and hear the court and to be seen and heard by it, and

(b) that this cannot be immediately corrected,

the court shall adjourn the hearing.

(8) The court may proceed with the hearing if it is satisfied that it is not reasonably practicable to bring the accused to court before he ceases to be held in custody [<sup>F134</sup>or detained in hospital] .

(9) If the court proceeds with the hearing under paragraph (8) it shall not remand the accused in custody for a period exceeding 8 days commencing on the day following that on which it remands him.

#### Textual Amendments

**F131** Words in art. 80(1) substituted (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 15(2), 111(3) (with s. 106(4)); S.R. 2011/224, art. 2

**F132** Words in art. 80(2)(3) inserted (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(1)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

**F133** Words in art. 80(3) added (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(2)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

**F134** Words in art. 80(8) inserted (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(1)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

#### Modifications etc. (not altering text)

**C12** Art. 80 applied (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), 110(10) (with reg. 110(12))

### Use of live link at sentencing hearings **N.I.**

**81.**—(1) This Article applies where an accused person is convicted in the course of proceedings for an offence in a magistrates' court or the Crown Court.

(2) If it appears to the court by or before which the accused is convicted that it is likely that he will be held in custody [<sup>F135</sup>or detained in hospital] during any sentencing hearing for the offence, the court may give a live link direction under this Article in relation to that hearing

(3) A live link direction under this Article is a direction requiring the accused, if he is being held in custody [<sup>F135</sup>or detained in hospital] during the hearing, to attend it through a live link from the place at which he is being held [<sup>F136</sup>or detained] .

(4) A live link direction under this Article—

(a) may be given by the court of its own motion or on an application by a party; and

(b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.

(5) The court may not give a live link direction under this Article unless—

(a) the offender has given his consent to the direction; and

(b) the court is satisfied that it is not contrary to the interests of justice to give the direction.

(6) The court may rescind a live link direction given under this Article at any time before or during a hearing to which it relates if it appears to the court to be in the interests of justice to do

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so (but this does not affect the court's power to give a further live link direction under this Article in relation to the offender).

The court may exercise this power of its own motion or on an application by a party.

(7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this Article unless—

- (a) he consents to give evidence in that way; and
- (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

(8) The court must—

- (a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this Article; and
- (b) if it is a magistrates' court, cause those reasons to be entered in the Order Book.

#### Textual Amendments

**F135** Words in art. 81(2)(3) inserted (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(1)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

**F136** Words in art. 81(3) added (29.4.2016) by Justice Act (Northern Ireland) 2015 (c. 9), ss. 54(2)(a), 106(2) (with Sch. 8 para. 6(1)); S.R. 2016/136, art. 4(c)

#### Evidence of vulnerable accused **N.I.**

**82.**—(1) The Criminal Evidence (Northern Ireland) Order 1999 (NI 8) is amended as follows.

(2) After Article 21 (interpretation etc of Part 2) insert—

### “PART 2A **N.I.**

#### USE OF LIVE LINK FOR EVIDENCE OF CERTAIN ACCUSED PERSONS

##### Live link directions

**21A.**—(1) This Article applies to any proceedings (whether in a magistrates' court or before the Crown Court) against a person for an offence.

(2) The court may, on the application of the accused, give a live link direction if it is satisfied—

- (a) that the conditions in paragraph (4) or, as the case may be, paragraph (5) are met in relation to the accused; and
- (b) that it is in the interests of justice for the accused to give evidence through a live link.

(3) A live link direction is a direction that any oral evidence to be given before the court by the accused is to be given through a live link.

(4) Where the accused is aged under 18 when the application is made, the conditions are that—

- (a) his ability to participate effectively in the proceedings as a witness giving oral evidence in court is compromised by his level of intellectual ability or social functioning; and
- (b) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).

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- (5) Where the accused has attained the age of 18 at that time, the conditions are that—
- (a) he suffers from a mental disorder (within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4)) or otherwise has a significant impairment of intelligence and social function;
  - (b) he is for that reason unable to participate effectively in the proceedings as a witness giving oral evidence in court; and
  - (c) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).

(6) While a live link direction has effect the accused may not give oral evidence before the court in the proceedings otherwise than through a live link.

(7) The court may discharge a live link direction at any time before or during any hearing to which it applies if it appears to the court to be in the interests of justice to do so (but this does not affect the power to give a further live link direction in relation to the accused). The court may exercise this power of its own motion or on an application by a party.

(8) The court must state in open court its reasons for—

- (a) giving or discharging a live link direction, o
- (b) refusing an application for or for the discharge of a live link direction,

and, if it is a magistrates' court, it must cause those reasons to be entered in the Order Book.

#### **Meaning and effect of live link.**

**21B.**—(1) In Article 21A “live link” means an arrangement by which the accused, while absent from the place where the proceedings are being held, is able—

- (a) to see and hear a person there; and
- (b) to be seen and heard by the persons mentioned in paragraph (2);

and for this purpose any impairment of eyesight or hearing is to be disregarded.

(2) The persons are—

- (a) the judge and the jury (if there is one);
- (b) where there are two or more accused in the proceedings, each of the other accused;
- (c) legal representatives acting in the proceedings; and
- (d) any interpreter or other person appointed by the court to assist the accused.

#### **Saving**

**21C.** Nothing in this Part affects—

- (a) any power of a court to make an order, give directions or give leave of any description in relation to any witness (including an accused), or
- (b) the operation of any rule of law relating to evidence in criminal proceedings.”.

(3) In Article 2(2) (interpretation) in the definition of “judge” at the end add “ and (in the case of a youth court) any lay magistrate ”.

#### **Live links in appeals under Criminal Appeal Act N.I.**

**83.**—(1) In section 24 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (right of appellant to be present at proceedings in Court of Appeal), after subsection (2) insert—

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“(2A) The Court of Appeal may at any time give a live link direction in relation to any proceedings at which the appellant is expected to be in custody but is entitled to be present.

(2B) For this purpose—

- (a) a “live link direction” is a direction that the appellant (if he is being held in custody at the time of the proceedings) is to attend the proceedings through a live link from the place at which he is held; and
- (b) “live link” means an arrangement by which the appellant is able to see and hear, and to be seen and heard by, the Court of Appeal (and for this purpose any impairment of eyesight or hearing is to be disregarded)

(2C) The Court of Appeal—

- (a) shall not give a live link direction unless—
  - (i) the appellant has consented to the direction; and
  - (ii) any other party to the appeal has had the opportunity to make representations about the giving of such a direction; and
- (b) may rescind a live link direction at any time before or during any proceedings to which it applies (whether of its own motion or on the application of a party).

(2D) The Court of Appeal must not give a live link direction unless—

- (a) it has been notified by the Secretary of State that a live link is available between the Court and the institution at which the appellant is expected to be in custody; and
- (b) the notice has not been withdrawn.”.

(2) In section 25 of that Act (giving of evidence), after subsection (3) insert—

“(4) A live link direction under section 24(2A) does not apply to the giving of oral evidence by the appellant at any hearing unless that direction, or any subsequent direction of the court, provides expressly for the giving of such evidence through a live link.”.

(3) In section 45(2) of that Act (powers exercisable by single judge), after paragraph (f) there is inserted—

“(fa) to give a live link direction under section 24(2A);”.

*Legal aid*

**Civil legal services: anti-social behaviour orders** **N.I.**

**84.**—(1) In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (NI 10) (civil legal services: excluded services) in paragraph 2 after sub-paragraph (h) insert—

“(hh) proceedings under Article 3 or 4 of the Anti-social Behaviour (Northern Ireland) Order 2004;”.

(2) Article 8 of the Criminal Justice (Northern Ireland) Order 2005 (NI 15) (which is superseded by this Article) shall cease to have effect.

**Civil legal services and legal aid: proceedings under Proceeds of Crime Act 2002** **N.I.**

**85.**—(1) In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (NI 10) (civil legal services: excluded services) in paragraph 3(2)(a) for “sub-paragraph 1(b)” substitute “ head (a) ”.

<sup>F137</sup>(2) .....

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### Textual Amendments

**F137** Art. 85(2) repealed (1.4.2015) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), s. 12(1), Sch. 3 Pt. 1 (with ss. 2(3), 9, Sch. 1 para. 3(3)); S.R. 2015/193, art. 2(f)

## PACE

### Entry for purposes of arrest **N.I.**

**86.** In Article 19 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) (entry for purposes of arrest) for paragraph (1)(c) substitute—

“(c) of arresting a person for an offence under—

- (i) section 42 of the Offences against the Person Act 1861 (c. 100);
- (ii) Article 18(3) or 21 of the Public Order (Northern Ireland) Order 1987 (NI 7);
- (iii) Article 4 of the Protection from Harassment (Northern Ireland) Order 1997 (NI 9);
- (iv) Article 25 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6).”

### Pre-charge bail **N.I.**

**87.**—(1) Article 48 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) is amended as follows.

(2) In paragraph (3D) (bail conditions on release under Article 39(1)) for “Article 39(1)” substitute “Article 38(2) or (7)(b) or Article 39(1)”.

(3) After paragraph (3H) insert—

“(4) A magistrates' court may, on an application by or on behalf of a person released on bail under Article 38(2) or (7)(b), vary the conditions of bail.

(5) A person who has been released on bail under Article 38(2) or (7)(b) may be arrested without warrant by a constable if the constable—

- (a) has reasonable grounds for believing that the person is likely to break any of the conditions of his bail; or
- (b) has reasonable grounds suspecting that the person has broken any of those conditions.

(5A) A person arrested under paragraph (5) must be taken to a police station (which may be the station where the conditions of bail were set or varied or any other police station) as soon as practicable after the arrest.”

(4) In Article 132A of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) in paragraph (1)(a) after “Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)” insert “(other than under Article 38(2) or (7)(b))”.

### Authorisation of X-rays and ultrasound scans **N.I.**

**88.** In Article 56A(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) (authorisation of x-rays and ultrasound scans) for “superintendent” substitute “inspector”.

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**Police officers performing duties of higher rank** **N.I.**

**89.** For Article 84 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12) substitute—

**“Police officers performing duties of higher rank**

**84.—**(1) For the purpose of any provision of this Order or any other statutory provision under which a power in respect of the investigation of offences or the treatment of persons in police custody is exercisable only by or with the authority of a police officer of at least the rank of superintendent, an officer of the rank of chief inspector shall be treated as holding the rank of superintendent if—

- (a) he has been authorised by an officer holding a rank above the rank of superintendent to exercise the power or, as the case may be, to give his authority for its exercise; or
- (b) he is acting during the absence of an officer holding the rank of superintendent who has authorised him, for the duration of that absence, to exercise the power or, as the case may be, to give his authority for its exercise.

(2) For the purpose of any provision of this Order or any other statutory provision under which such a power is exercisable only by or with the authority of an officer of at least the rank of inspector, an officer of the rank of sergeant shall be treated as holding the rank of inspector if he has been authorised by an officer of at least the rank of superintendent to exercise the power or, as the case may be, to give his authority for its exercise.”

*Penalties*

**Increase of maximum sentences for offences relating to knives, weapons etc.** **N.I.**

**90.—**(1) In Article 22 of the Public Order (Northern Ireland) Order 1987 (NI 7) (carrying of offensive weapon) in paragraph (3)(a) for “6 months” substitute “ 12 months ”.

(2) In Article 8 of the Crossbows (Northern Ireland) Order 1988 (NI 5) (offences relating to crossbows) for paragraphs (1) and (2) substitute—

- “(1) A person guilty of an offence under this Order shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”

(3) In section 139 of the Criminal Justice Act 1988 (c. 33) (having knife etc. in public place) for subsection (6) substitute—

- “(6) A person guilty of an offence under subsection (1) shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”

(4) <sup>F138</sup> .....

(5) In section 141(1) of the Criminal Justice Act 1988 (c. 33) (offensive weapons) in subsection (1) for the words from “on summary conviction” to the end substitute



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- “(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”.
- (6) In Article 53 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (manufacture, sale. etc. of certain knives) for the words from “on summary conviction” to the end substitute
- “(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”.
- (7) In Article 54(1) of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (sale of knives, etc to young persons) for the words from “on summary conviction” to the end substitute
- “(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”.
- (8) In section 1 of the Knives Act 1997 (c. 21) (unlawful marketing of knives) for subsection (5) substitute—
- “(5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”.
- (9) In section 2 of the Knives Act 1997 (c. 21) (publications connected with marketing of knives) for subsection (2) substitute—
- “(2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both
- (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years, or to a fine, or to both.”.
- (10) In Article 29(1) of the Magistrates Courts (Northern Ireland) Order 1981 (NI 26) after subparagraph (i) add—
- “(j) Article 22 of the Public Order (Northern Ireland) Order 1987;
- (k) the Crossbows (Northern Ireland) Order 1988;
- (l) section 139(1), 139A(1) or 141(1) of the Criminal Justice Act 1988;
- (m) Article 53 or 54(1) of the Criminal Justice (Northern Ireland) Order 1996;
- (n) section 1 or 2 of the Knives Act 1997.”.

#### Textual Amendments

**F138** Art. 90(4) repealed (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), ss. 110(2), 111(1)(i), [Sch. 8 Pt. 5](#) (with s. 106(4))

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## Driving disqualification for any offence **N.I.**

**91.**—(1) The court by or before which a person is convicted of an offence committed after the commencement of this Article may, instead of or in addition to dealing with him in any other way, order him to be disqualified, for such period as it thinks fit, for holding or obtaining a driving licence.

(2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed—

- (a) under Article 70(2) of the Firearms (Northern Ireland) Order 2004 (NI 3),
- (b) under paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38), or
- (c) under Article 13 or 14 above,

paragraph (1) shall have effect as if the words “instead of or” were omitted.

(3) A court shall not make an order under paragraph (1) unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.

(4) A court which makes an order under this Article disqualifying a person for holding or obtaining a driving licence shall require him to produce—

- (a) any such licence held by him together with its counterpart (if any); or
- (b) in the case where he holds a Community licence (within the meaning of Part 2 of the Road Traffic (Northern Ireland) Order 1981 (NI 1)), his Community licence and its counterpart (if any),

within 7 days or such longer time as the court may allow and if the licence is not produced within that time, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If a person who is disqualified under this Article applies under Article 47 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) for the disqualification to be removed and the court so orders, paragraph (6) of that Article shall not have effect so as to require particulars of the order to be endorsed on the licence, but the court shall send notice of the order to the Department of the Environment

(6) Paragraphs (3B), (4) and (4AA) of Article 180 of the Road Traffic (Northern Ireland) Order 1981 shall apply for the purposes of paragraph (4) in the same manner as they apply for the purposes of Article 29 of the Road Traffic Offenders (Northern Ireland) Order 1996.

(7) In this Article—

“driving licence” means a licence to drive a motor vehicle granted under Part 2 of the Road Traffic (Northern Ireland) Order 1981;

“counterpart”, in relation to a driving licence or a Community licence, has the same meaning as in that Part;

and Article 4(2) applies for the interpretation of paragraph (2) as it applies for the interpretation of Chapter 2 of Part 2.

PROSPECTIVE

## <sup>F139</sup> Extension of disqualification where custodial sentence also imposed **N.I.**

**91A.**—(1) This Article applies where a person is convicted of an offence for which the court—

- (a) imposes a custodial sentence, and

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- (b) orders the person to be disqualified under Article 91 for holding or obtaining a driving licence.
- (2) The order under Article 91 must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.
- (3) The discretionary disqualification period is the period for which, in the absence of this Article, the court would have disqualified the person under Article 91.
- (4) The appropriate extension period is—
  - (a) where a court imposes a sentence under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (punishment of grave crimes: indeterminate sentences), a period equal to the period specified in the sentence under Article 45(2) of that Order less any relevant discount;
  - (b) where an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (determination of tariffs) is made in relation to the custodial sentence, a period equal to the part of the sentence specified in that order less any relevant discount;
  - (c) where Article 8(1) (sentence for a determinate term) applies in relation to the custodial sentence, a period equal to the custodial period specified pursuant to Article 8(2) less any relevant discount;
  - (d) where a court imposes a sentence under Article 13(3) (indeterminate custodial sentences for serious offences), a period equal to the period specified pursuant to Article 13(3)(b) less any relevant discount;
  - (e) where Article 14(3) (extended custodial sentences for certain offences where the offender is aged over 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(3)(a) calculated after that term has been reduced by any relevant discount;
  - (f) where Article 14(5) (extended custodial sentences for certain offences where the offender is aged under 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(5)(a) calculated after that term has been reduced by any relevant discount;
  - (g) in any other case, a period equal to half the custodial sentence imposed calculated after that sentence has been reduced by any relevant discount.
- (5) If a period determined under paragraph (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.
- (6) The “relevant discount” is the number of days by which the custodial sentence is treated as reduced by virtue of section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (periods in custody before sentence passed etc).
- (7) This Article does not apply where—
  - (a) the custodial sentence was a suspended sentence, or
  - (b) the court has made an order under Article 5(3) of the Life Sentences (Northern Ireland) Order 2001 (life sentence: no early release) in relation to the custodial sentence.
- (8) Paragraph (9) applies where an amending order provides that the proportion of a prisoner's sentence referred to in Article 18(2)(b) (duty to release prisoners serving extended custodial sentences) is to be read as a reference to another proportion (“the new proportion”).
- (9) The Secretary of State may by order provide that the proportion specified in paragraph (4) (e) and (f) of this Article is to be read, in the case of a custodial sentence to which the amending order applies, as a reference to the new proportion.
- (10) In this Article—

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“amending order” means an order under Article 18(9) (alteration by order of relevant part of sentence);

“custodial sentence” has the meaning given by Article 4;

“driving licence” has the meaning given by Article 91;

“suspended sentence” means a suspended sentence or order for detention under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

#### Textual Amendments

**F139** Arts. 91A, 91B inserted (prosp.) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 137, 182(5), [Sch. 16 para. 6](#) (with s. 180, [Sch. 22 para. 29](#))

#### Modifications etc. (not altering text)

**C13** Art. 91A excluded by 2003 c. 32, s. 54(3B)(c) (as inserted (1.8.2017 in accordance with art. 3 of the commencing S.I.) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 7 para. 2\(4\)](#) (with [Sch. 7 para. 27](#)); S.I. 2017/189, art. 3)

## PROSPECTIVE

### Effect of custodial sentence in other cases **N.I.**

**91B.**—(1) This Article applies where a person is convicted of an offence for which a court proposes to order the person to be disqualified under Article 91 for holding or obtaining a driving licence and—

- (a) the court proposes to impose on the person a custodial sentence (other than a suspended sentence) for another offence, or
- (b) at the time of sentencing for the offence, a custodial sentence imposed on the person on an earlier occasion has not expired.

(2) In determining the period for which the person is to be disqualified under Article 91, the court must have regard to the consideration in paragraph (3) if and to the extent that it is appropriate to do so.

(3) The consideration is the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a custodial sentence.

(4) If the court proposes to order the person to be disqualified under Article 91 and to impose a custodial sentence for the same offence, the court may not in relation to that disqualification take that custodial sentence into account for the purposes of paragraph (2).

(5) In this Article “custodial sentence” and “suspended sentence” have the same meaning as in Article 91A.]

#### Textual Amendments

**F139** Arts. 91A, 91B inserted (prosp.) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 137, 182(5), [Sch. 16 para. 6](#) (with s. 180, [Sch. 22 para. 29](#))

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*Proving execution of arrest warrants*

**Jurisdiction of magistrates' court in relation to proving execution of arrest warrant** **N.I.**

<sup>F140</sup>92. ....

**Textual Amendments**

**F140** Art. 92 repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 136(4), **Sch. 9 Pt. 1** (with [Sch. 8 para. 1](#)); [S.R. 2016/387](#), art. 2(k)(m) (with art. 3)

*Anti-social behaviour orders*

**Applications for interim order** **N.I.**

**93.** In the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) in Article 4 (interim orders) after paragraph (1) insert—

“(1A) An application by a relevant authority for an order under this Article may be made without notice being given to the defendant.”.

**Special measures for witnesses in proceedings for anti-social behaviour orders** **N.I.**

**94.** In Article 6C of the Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12) in paragraph (4)(a) after “rules of court” insert “ (within the meaning of that Part )”.

*Youth justice*

**Rehabilitation of offenders** **N.I.**

**95.**—(1) In Article 6(6) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27) (rehabilitation period for certain orders) after sub-paragraph (c) insert—

- “(d) a reparation order under Article 36A of that Order of 1998;
- (e) a community responsibility order under Article 36E of that Order of 1998;
- (f) a youth conference order under Article 36J of that Order of 1998;”.

(2) Paragraph (1) has effect for determining the rehabilitation period in respect of offences committed before, as well as after, the commencement of this Article.

(3) In Schedule 13 to the Justice (Northern Ireland) Act 2002 (c. 26) (repeals and revocations) omit the entry relating to Article 6(6)(c) of the Rehabilitation of Offenders (Northern Ireland) Order 1978

**Custody of children over the age of 17** **N.I.**

**96.**—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) is amended as follows.

(2) In Article 13(1)(b) for “paragraph (1B)” substitute “ paragraphs (1B) and (1BB) ”.

(3) In Article 13 after paragraph (1B) insert—

“(1BB) In the case of a child who has attained the age of 17, the court shall make an order committing the child to a juvenile justice centre (and not to a young offenders centre)

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if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre.”.

(4) In Article 39 for paragraph (3A) substitute—

“(3A) A court shall only make a juvenile justice centre order in the case of a child who has attained the age of 17 if either paragraph (3B) or (3C) applies in relation to the child.

(3B) This paragraph applies in relation to a child if—

- (a) the child will not become an adult during the period of the order;
- (b) the child has not had a custodial sentence imposed on him within the last two years; and
- (c) the court, after considering a report made by a probation officer, considers that it is in the child's best interests to make such an order.

(3C) This paragraph applies in relation to a child if the court has been notified by the Secretary of State that no suitable accommodation for that child is available in a young offenders centre.”.

### Remands by youth court **N.I.**

**97.** For Article 30A of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) substitute—

#### “Power of youth court in relation to remands

**30A.** A youth court shall not be required to adjourn any proceedings for an offence at any stage by reason only of the fact—

- (a) that the court commits the accused for trial for another offence; or
- (b) that the accused is charged with another offence.”.

### Youth conference orders **N.I.**

**98.**—(1) Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (youth conference orders) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Unless revoked, a youth conference order remains in force until the offender has complied with the requirements mentioned in paragraph (2)(a) or (as the case may be) (b).”

### Welfare of children **N.I.**

**99.**—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) is amended as follows.

(2) In Article 33 (power of court to notify appropriate authority if child's welfare requires it) for the words from “and a court—” to “if the court” substitute “ the court before which he is charged may, if it ”.

(3) Omit Article 43 (effect of juvenile justice centre order where care order is in force).

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## PART 6 N.I.

### SUPPLEMENTARY

#### [<sup>F141</sup>Regulations, orders and rules N.I.]

**100.**—(1) Regulations, orders and rules made by the Department of Justice under this Order shall be subject to negative resolution.

(2) Paragraph (1) does not apply to an order under Article 1 [<sup>F142</sup>, 22(4) or 45(5) ] .

(3) An order under Article 22(4) is not a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

[<sup>F143</sup>(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]

(4) Rules made by the Secretary of State under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(5) Regulations, orders or rules made by the Department of Justice or the Secretary of State under this Order may contain—

- (a) any incidental, supplementary or consequential provision, and
- (b) any transitory, transitional or saving provisions,

which the Department of Justice or the Secretary of State (as the case may be) considers necessary or expedient.]

#### Textual Amendments

**F141** Art. 100 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 30** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F142** Words in art. 100(2) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), **ss. 29(10)(a)**, 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)

**F143** Art. 100(3A) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), **ss. 29(10)(b)**, 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)

#### Supplementary and consequential provision, etc. N.I.

**101.**—(1) The Secretary of State may by order make—

- (a) any supplementary, incidental or consequential provision, and
- (b) any transitory, transitional or saving provision,

which the Secretary of State considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Order.

(2) An order under paragraph (1) may, in particular—

- (a) provide for any provision of this Order which comes into operation before another such provision has come into operation to have effect, until that other provision has come into operation, with such modifications as are specified in the order; and
- (b) amend or repeal any statutory provision passed or made before the making of this Order.

(3) Nothing in this Article limits the power by virtue of Article 100(4)(b) to include transitory, transitional or saving provision in an order under Article 1

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(4) The amendments that may be made under paragraph (2)(b) are in addition to those made by any other provision of this Order.

### Amendments and repeals **N.I.**

**102.**—(1) The statutory provisions set out in Schedule 5 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 6 are repealed to the extent specified in the second column of that Schedule.

#### Commencement Information

**I28** Art. 102 partly in operation; art. 102(2) in operation for specified purposes at 8.6.2008, see art. 1(3); art. 102 in operation for specified purposes at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with savings and transitory provision arts. 3, 4); art. 102(2) in operation for specified purposes at 16.7.2008 by S.R. 2008/293, art. 2, Sch.; art. 102 in operation for further specified purposes at 1.4.2009 by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(b)(c), 4)

Judith Simpson  
Clerk of the Privy Council



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## SCHEDULES

### SCHEDULE 1 **N.I.**

Article 12(1).

#### SERIOUS OFFENCES

1. Manslaughter.
2. Rape.
3. Kidnapping.
4. Riot.
5. Affray.
6. False imprisonment.

#### *The Offences against the Person Act 1861 (c. 100)*

7. An offence under—
  - section 4 (soliciting murder),
  - section 16 (threats to kill),
  - section 18 (wounding with intent to cause grievous bodily harm),
  - section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence),
  - section 22 (using chloroform etc. to commit or assist in the committing of any indictable offence),
  - section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm),
  - section 28 (causing bodily injury by explosives),
  - section 29 (using explosives etc. with intent to do grievous bodily harm),
  - section 30 (placing explosives with intent to do bodily injury),
  - section 32 (endangering the safety of railway passengers),
  - section 52 (indecent assault upon a female),
  - section 53 (abduction of woman etc.), or
  - section 54 (abduction of woman by force).

#### *The Explosive Substances Act 1883 (c. 3)*

8. An offence under—
  - section 2 (causing explosion likely to endanger life or property),
  - section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property), or
  - section 4 (possession of explosives in suspicious circumstances).

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*The Criminal Law Amendment Act 1885 (c. 69)*

9. An offence under section 4 of attempted intercourse with girl under 14.

*The Infanticide Act (Northern Ireland) 1939 (c. 5)*

10. An offence under section 1 (infanticide).

*The Criminal Justice Act (Northern Ireland) 1945 (c. 15)*

11. An offence under section 25 (child destruction).

*The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)*

12. An offence under—  
section 20 (cruelty to children), or  
section 22 (indecent conduct towards child).

*The Theft Act (Northern Ireland) 1969 (c. 16)*

13. An offence under section 8 (robbery or assault with intent to rob).  
14. An offence under section 9 of burglary with intent to—  
(a) inflict grievous bodily harm on a person,  
(b) commit rape; or  
(c) do unlawful damage to a building or anything in it.  
15. An offence under section 10 (aggravated burglary).

<sup>F144</sup>*The Criminal Jurisdiction Act 1975 (c. 59)*

**Textual Amendments**

**F144** Sch. 1 para. 15A and preceding cross-heading inserted (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 57(1)(a)(2)**, **111(1)(b)** (with s. 106(4), Sch. 6 para. 6)

- 15A An offence under section 2 (hi-jacking of vehicles or ships).]

*The Criminal Damage (Northern Ireland) Order 1977 (NI 4)*

16. An offence of arson under Article 3.  
17. An offence under Article 3(2) (destroying or damaging property) other than offence of arson.

*The Protection of Children (Northern Ireland) Order 1978 (NI 17)*

18. An offence under Article 3 (indecent photographs of children).

*The Road Traffic (Northern Ireland) Order 1981 (NI 1)*

19. An offence under Article 172B (aggravated vehicle-taking causing death or grievous bodily injury).

*The Taking of Hostages Act 1982 (c. 28)*

20. An offence under section 1 (hostage-taking).

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*The Aviation Security Act 1982 (c. 36)*

21. An offence under—  
section 1 (hijacking),  
section 2 (destroying, damaging or endangering safety of aircraft), or  
section 3 (other acts endangering or likely to endanger safety of aircraft).

*The Criminal Justice Act 1988 (c. 33)*

22. An offence under section 134 (torture).

*The Aviation and Maritime Security Act 1990 (c. 31)*

23. An offence under—  
section 1 (endangering safety at aerodromes)  
section 9 (hijacking of ships),  
section 10 (seizing or exercising control of fixed platforms),  
section 11 (destroying fixed platforms or endangering their safety),  
section 12 (other acts endangering or likely to endanger safe navigation), or  
section 13 (offences involving threats).

*The Channel Tunnel (Security) Order 1994 (S.I. 1994/570)*

24. An offence under Part 2 (offences relating to Channel Tunnel trains and the tunnel system).

*The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

25. An offence under—  
Article 9 (causing death or grievous bodily injury by dangerous driving), or  
Article 14 (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs).

<sup>F145</sup>*The Terrorism Act 2000 (c. 11)*

**Textual Amendments**

**F145** Sch. 1 para. 25A and preceding cross-heading inserted (12.1.2010) by Coroners and Justice Act 2009 (c. 25), ss. 139(2), 182(5) (with s. 180, Sch. 22 para. 38); S.I. 2010/28, art. 2(a)

- 25A An offence under—  
section 54 (weapons training),  
section 56 (directing terrorist organisation),  
section 57 (possession of article for terrorist purposes), or  
section 59 (inciting terrorism overseas).]

*The International Criminal Court Act 2001 (c. 17)*

26. An offence under section 51 or 52 (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

<sup>F146</sup>*The Anti-terrorism, Crime and Security Act 2001 (c. 24)*

**Textual Amendments**

**F146** Sch. 1 para. 26A and preceding cross-heading inserted (12.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 139(3)**, 182(5) (with s. 180, Sch. 22 para. 38); S.I. 2010/28, **art. 2(a)**

**26A** An offence under—

section 47 (use etc of nuclear weapons),  
section 50 (assisting or inducing certain weapons-related acts overseas), or  
section 113 (use of noxious substance or thing to cause harm or intimidate).]

*The Female Genital Mutilation Act 2003 (c. 31)*

**27.** An offence under—

section 1 (female genital mutilation),  
section 2 (assisting a girl to mutilate her own genitalia), or  
section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

*The Sexual Offences Act 2003 (c. 42)*

**28.** An offence under—

section 15 (meeting a child following sexual grooming etc.),  
section 47 (paying for sexual services of a child) where subsection (3) or (4) of that section applies,  
section 48 (causing or inciting child prostitution or pornography),  
section 49 (controlling a child prostitute or a child involved in pornography),  
section 50 (arranging or facilitating child prostitution or pornography),

F147 ...

F147 ...

F147 ...

F147 ...

**Textual Amendments**

**F147** Words in Sch. 1 para. 28 repealed (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\)](#), s. 28(2), **Sch. 5**

*The Criminal Justice (Northern Ireland) Order 2003 (NI 13)*

**29.** An offence under—

Article 20 (assault with intent to commit buggery), or  
Article 21 (indecent assault on a male).

*The Domestic Violence, Crime and Victims Act 2004 (c. 28)*

**30.** An offence under section 5 (causing or allowing the death of a child or vulnerable adult).

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

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### *The Firearms (Northern Ireland) Order 2004 (NI 3)*

**31.** An offence under—

- Article 58 (possession with intent),
- Article 59 (use of firearm to resist arrest),
- Article 60 (carrying firearm with criminal intent),
- Article 64 (possession of a firearm or ammunition in suspicious circumstances).

<sup>F148</sup>*The Terrorism Act 2006 (c. 11)*

#### **Textual Amendments**

**F148** Sch. 1 para. 31ZA and preceding cross-heading inserted (12.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 139\(4\), 182\(5\)](#) (with s. 180, Sch. 22 para. 38); S.I. 2010/28, [art. 2\(a\)](#)

**31ZA** An offence under—

- section 5 (preparation of terrorist acts),
- section 6 (training for terrorism),
- section 9 (making or possession of radioactive device or material),
- section 10 (use of radioactive device or material for terrorist purposes etc), or
- section 11 (terrorist threats relating to radioactive devices etc).]

<sup>F149</sup>*The Sexual Offences (Northern Ireland) Order 2008 (NI 2)*

#### **Textual Amendments**

**F149** Sch. 1 para. 31A and preceding cross-heading inserted (2.2.2009) by [Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), [arts. 1\(3\), 81](#), [Sch. 1 para. 35\(2\)](#); S.R. 2008/510, [art. 2](#)

**31A.** An offence under—

- Article 5 (rape),
- Article 6 (assault by penetration),
- Article 7 (sexual assault),
- Article 8 (causing a person to engage in sexual activity without consent),
- Article 12 (rape of a child under 13),
- Article 13 (assault of a child under 13 by penetration),
- Article 14 (sexual assault of a child under 13),
- Article 15 (causing or inciting a child under 13 to engage in sexual activity),
- Article 16 (sexual activity with a child),
- Article 17 (causing or inciting a child to engage in sexual activity),
- Article 18 (engaging in sexual activity in the presence of a child),
- Article 19 (causing a child to watch a sexual act),
- Article 21 (arranging or facilitating commission of a sexual offence against a child),
- Article 22 (meeting a child following sexual grooming etc.),

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Article 32 (sexual activity with a child family member) where paragraph (4) of that Article applies,

Article 33 (inciting a child family member to engage in sexual activity) where paragraph (4) of that Article applies,

Article 37 (paying for sexual services of a child) where paragraph (3) or (4) of that Article applies,

Article 38 (causing or inciting child prostitution or pornography),

Article 39 (controlling a child prostitute or a child involved in pornography),

Article 40 (arranging or facilitating child prostitution or pornography),

Article 43 (sexual activity with a person with a mental disorder impeding choice),

Article 44 (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity),

Article 45 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice),

Article 46 (causing a person, with a mental disorder impeding choice, to watch a sexual act),

Article 47 (inducement, threat or deception to procure sexual activity with a person with a mental disorder),

Article 48 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception),

Article 49 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder),

Article 50 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception),

Article 51 (care workers: sexual activity with a person with a mental disorder),

Article 52 (care workers: causing or inciting sexual activity),

Article 62 (causing or inciting prostitution for gain),

Article 63 (controlling prostitution for gain),

Article 65 (administering a substance with intent),

Article 66 (committing an offence with intent to commit a sexual offence),

Article 67 (trespass with intent to commit a sexual offence).]

<sup>F150</sup>***The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*** **N.I.**

**31A** An offence under—

section 1 (slavery, servitude and forced or compulsory labour);

section 2 (human trafficking).]

**Textual Amendments**

**F150** Sch. 1 para. 31A and cross-heading inserted (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\), ss. 5\(2\), 28\(2\)](#)

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## <sup>F151</sup>*The Space Industry Act 2018 (c. 00)*

### Textual Amendments

**F151** Sch. 1 para. 31B and cross-heading inserted (29.7.2021) by Space Industry Act 2018 (c. 5), s. 70(1), Sch. 12 para. 30; S.I. 2021/817, reg. 2, Sch. para. 116 (with reg. 3)

#### **31B** An offence under—

- paragraph 1 of Schedule 4 (hijacking of spacecraft),
- paragraph 2 of that Schedule (destroying, damaging or endangering safety of spacecraft),
- paragraph 3 of that Schedule (other acts endangering or likely to endanger safety of spacecraft),
- or
- paragraph 4 of that Schedule (endangering safety at spaceports).]

#### *Other offences*

#### **32.** An offence of—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Schedule,
- (b) conspiring to commit an offence so specified,
- (c) attempting to commit an offence so specified.

**34.** An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Schedule.

**35.** An attempt to commit murder or a conspiracy to commit murder.

SCHEDULE 2 **N.I.**

Article 12(3).

SPECIFIED OFFENCES

### **PART 1** **N.I.**

SPECIFIED VIOLENT OFFENCES

1. Manslaughter.
2. Kidnapping.
3. Riot.
4. Affray.
5. False imprisonment.

#### *The Offences against the Person Act 1861 (c. 100)*

6. An offence under—
  - section 4 (soliciting murder),
  - section 16 (threats to kill),

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- section 18 (wounding with intent to cause grievous bodily harm),
- section 20 (malicious wounding),
- section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence),
- section 22 (using chloroform etc. to commit or assist in the committing of any indictable offence)
- section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm),
- section 27 (abandoning children),
- section 28 (causing bodily injury by explosives),
- section 29 (using explosives etc. with intent to do grievous bodily harm),
- section 30 (placing explosives with intent to do bodily injury),
- section 31 (setting spring guns etc. with intent to do grievous bodily harm),
- section 32 (endangering the safety of railway passengers),
- section 35 (injuring persons by furious driving), or
- section 37 (assaulting officer preserving wreck).

7. An offence under section 47 of assault occasioning actual bodily harm.

*The Explosive Substances Act 1883 (c. 3)*

8. An offence under—
- section 2 (causing explosion likely to endanger life or property),
  - section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property), or
  - section 4 (possession of explosives or ammunition in suspicious circumstances).

*The Infanticide Act (Northern Ireland) 1939 (c. 5)*

9. An offence under section 1 (infanticide).

*The Criminal Justice Act (Northern Ireland) 1945 (c. 15)*

10. An offence under section 25 (child destruction).

*The Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28)*

11. An offence under section 7(1)(b) (assault with intent to resist arrest).

*The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)*

12. An offence under section 20 (cruelty to children).

*The Theft Act (Northern Ireland) 1969 (c. 16)*

13. An offence under section 8 (robbery or assault with intent to rob).
14. An offence under section 9 of burglary with intent to—



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- (a) inflict grievous bodily harm on a person, or
  - (b) do unlawful damage to a building or anything in it.
15. An offence under section 10 (aggravated burglary).

*[<sup>F152</sup>The Criminal Jurisdiction Act 1975 (c. 59)*

**Textual Amendments**

**F152** Sch. 2 Pt. 1 para. 15A and preceding cross-heading inserted (5.5.2011) by virtue of [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 57(1)(b)(2)**, 111(1)(b) (with s. 106(4), Sch. 6 para. 6)

- 15A An offence under section 2 (hi-jacking of vehicles or ships).]

*The Criminal Damage (Northern Ireland) Order 1977 (NI 4)*

16. An offence of arson under Article 3.
17. An offence under Article 3(2) (destroying or damaging property) other than offence of arson

*The Road Traffic (Northern Ireland) Order 1981 (NI 1)*

18. An offence under Article 172B (aggravated vehicle-taking causing death or grievous bodily injury).

*The Taking of Hostages Act 1982 (c. 28)*

19. An offence under section 1 (hostage-taking).

*The Aviation Security Act 1982 (c. 36)*

20. An offence under—  
section 1 (hijacking),  
section 2 (destroying, damaging or endangering safety of aircraft),  
section 3 (other acts endangering or likely to endanger safety of aircraft), or  
section 4 (offences in relation to certain dangerous articles).

*The Mental Health (Northern Ireland) Order 1986 (NI 4)*

21. An offence under Article 121 (ill-treatment of patients).

*The Criminal Justice Act 1988 (c. 33)*

22. An offence under section 134 (torture).

*The Aviation and Maritime Security Act 1990 (c. 31)*

23. An offence under—  
section 1 (endangering safety at aerodromes),  
section 9 (hijacking of ships),

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section 10 (seizing or exercising control of fixed platforms),  
section 11 (destroying fixed platforms or endangering their safety),  
section 12 (other acts endangering or likely to endanger safe navigation), or  
section 13 (offences involving threats).

*The Channel Tunnel (Security) Order 1994 (S.I. 1994/570)*

24. An offence under Part 2 (offences relating to Channel Tunnel trains and the tunnel system).

*The Road Traffic (Northern Ireland) Order 1995 (NI 18)*

25. An offence under—

Article 9 (causing death or grievous bodily injury by dangerous driving), or

Article 14 (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs).

*The Protection from Harassment (Northern Ireland) Order 1997 (NI 9)*

26. An offence under Article 6 (putting people in fear of violence).

*The Police (Northern Ireland) Act 1998 (c. 32)*

27. An offence under section 66 (assaulting or obstructing a constable etc.).

*[<sup>F153</sup>The Terrorism Act 2000 (c. 11)]*

.....  
**Textual Amendments**  
**F153** Sch. 2 Pt. 1 para. 27A and preceding cross-heading inserted (12.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 139(6), 182(5)** (with s. 180, Sch. 22 para. 38); S.I. 2010/28, **art. 2(a)**

<sup>F154</sup>27A .....

.....  
**Textual Amendments**  
**F154** Sch. 2 Pt. 1 para. 27A omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), **Sch. 4 para. 14(a)** (with s. 25(5))

*The International Criminal Court Act 2001 (c. 17)*

28. An offence under section 51 or 52 (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

*[<sup>F155</sup>The Anti-terrorism, Crime and Security Act 2001 (c. 24)]*

**Textual Amendments**

**F155** Sch. 2 Pt. I para. 28A and preceding cross-heading inserted (12.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 139(7), 182(5)** (with s. 180, Sch. 22 para. 38); S.I. 2010/28, **art. 2(a)**

<sup>F156</sup>**28A** .....

**Textual Amendments**

**F156** Sch. 2 Pt. 1 para. 28A omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), **Sch. 4 para. 14(b)** (with s. 25(5))

*The Female Genital Mutilation Act 2003 (c. 31)*

- 29.** An offence under—
  - section 1 (female genital mutilation),
  - section 2 (assisting a girl to mutilate her own genitalia), or
  - section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

*The Domestic Violence, Crime and Victims Act 2004 (c. 28)*

- 30.** An offence under section 5 (causing or allowing [<sup>F157</sup>a child or vulnerable adult to die or suffer serious physical harm] ).

**Textual Amendments**

**F157** Words in [Sch. 2 para. 30](#) substituted (14.3.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 6 para. 4** (with Sch. 8 para. 11); S.R. 2016/136, **art. 2(b)**

*The Firearms (Northern Ireland) Order 2004 (NI 3)*

- 31.** An offence under—
  - Article 58 (possession with intent),
  - Article 59 (use of firearm to resist arrest),
  - Article 60 (carrying firearm with criminal intent), or
  - Article 64 (possession of a firearm in suspicious circumstances).

*[<sup>F158</sup>The Terrorism Act 2006 (c. 11)]*

**Textual Amendments**

**F158** Sch. 2 Pt. I para. 31A and preceding cross-heading inserted (12.1.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), **ss. 139(8), 182(5)** (with s. 180, Sch. 22 para. 38); S.I. 2010/28, **art. 2(a)**

<sup>F159</sup>**31A** .....

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**Textual Amendments**

**F159** Sch. 2 Pt. 1 para. 31A omitted (12.4.2019) by virtue of [Counter-Terrorism and Border Security Act 2019](#) (c. 3), s. 27(3), **Sch. 4 para. 14(c)** (with s. 25(5))

*[<sup>F160</sup>The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*

**Textual Amendments**

**F160** Sch. 2 Pt. 1 para. 31A and crossheading inserted (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) (c. 2), **ss. 5(3), 28(2)**

**31A** An offence under—

- section 1 (slavery, servitude and forced or compulsory labour);
- section 2 (human trafficking) which is not within Part 2 of this Schedule.]

*[<sup>F161</sup>The Space Industry Act 2018 (c. 00)*

**Textual Amendments**

**F161** Sch. 2 Pt. 1 para. 31B and cross-heading inserted (29.7.2021) by [Space Industry Act 2018](#) (c. 5), s. 70(1), **Sch. 12 para. 31**; S.I. 2021/817, reg. 2, **Sch. para. 117** (with reg. 3)

**31B** An offence under—

- paragraph 1 of Schedule 4 (hijacking of spacecraft),
- paragraph 2 of that Schedule (destroying, damaging or endangering safety of spacecraft),
- paragraph 3 of that Schedule (other acts endangering or likely to endanger safety of spacecraft),
- paragraph 4 of that Schedule (endangering safety at spaceports), or
- paragraph 5 of that Schedule (offences in relation to certain dangerous articles).]

*[<sup>F162</sup>The Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022*

**Textual Amendments**

**F162** Sch. 2 Pt. 1 para. 31C and cross-heading inserted (26.6.2023) by [Justice \(Sexual Offences and Trafficking Victims\) Act \(Northern Ireland\) 2022](#) (c. 19), s. 30(2), **Sch. 4 para. 3(b)**; S.R. 2023/87, art. 2(b)

**31C.** An offence under section 28 (non-fatal strangulation or asphyxiation).]

*Other offences*

**32.** An offence of—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule,
- (b) conspiring to commit an offence so specified, or

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(c) attempting to commit an offence so specified.

33. An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Part of this Schedule.

34. An attempt to commit murder or a conspiracy to commit murder.

## PART 2 N.I.

### SPECIFIED SEXUAL OFFENCES

1. Rape.

*The Offences against the Person Act 1861 (c. 100)*

2. An offence under—

section 52 (indecent assault upon a female),

section 53 (abduction of woman etc.),

section 54 (abduction of woman by force), or

section 55 (abduction of unmarried girl under 16 from parent or guardian)

*The Criminal Law Amendment Act 1885 (c. 69)*

3. An offence under—

section 2 (procuration),

section 3 (procurement of woman or girl by threats etc. or administering drugs),

section 4 (intercourse or attempted intercourse with girl under 14),

section 5 (intercourse or attempted intercourse with girl under 17),

section 6 (permitting girl under 17 to use premises for intercourse),

section 7 (abduction of girl under 18 from parent or guardian), or

section 8 (unlawful detention of woman or girl in brothel etc.).

*The Vagrancy Act 1898 (c. 38)*

4. An offence under section 1 (living on earnings of prostitution or soliciting or importuning in a public place).

*The Punishment of Incest Act 1908 (c. 45)*

5. An offence under—

section 1 (incest by a man), or

section 2 (incest by a woman).

*The Children and Young Persons Act (Northern Ireland) 1968 (c. 34)*

6. An offence under—

section 21 (causing or encouraging seduction or prostitution of girl under 17), or

section 22 (indecent conduct towards child).

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*The Theft Act (Northern Ireland) 1969 (c. 16)*

7. An offence under section 9 of burglary with intent to commit rape.

*The Protection of Children (Northern Ireland) Order 1978 (NI 17)*

8. An offence under Article 3 (indecent photographs of children).

*The Customs and Excise Management Act 1979 (c. 2)*

9. An offence under section 170 (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles).

*The Criminal Justice (Northern Ireland) Order 1980 (NI 6)*

10. An offence under Article 9 (inciting girl under 16 to have incestuous sexual intercourse).

*The Mental Health (Northern Ireland) Order 1986 (NI 4)*

11. An offence under—  
Article 122 (protection of women suffering from severe mental handicap), or  
Article 123 (protection of patients).

*The Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (NI 17)*

12. An offence under Article 15 (possession of indecent photograph of a child).

*The Sexual Offences Act 2003 (c. 42)*

13. An offence under—  
section 15 (meeting a child following sexual grooming etc.),  
section 16 (abuse of position of trust: sexual activity with a child),  
section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity),  
section 18 (abuse of position of trust: sexual activity in the presence of a child),  
section 19 (abuse of position of trust: causing a child to watch a sexual act),  
section 47 (paying for sexual services of a child),  
section 48 (causing or inciting child prostitution or pornography),  
section 49 (controlling a child prostitute or a child involved in pornography),  
section 50 (arranging or facilitating child prostitution or pornography),  
section 52 (causing or inciting prostitution for gain),  
section 53 (controlling prostitution for gain),  
F163 ...  
F163 ...  
F163 ...  
F163 ...  
section 66 (exposure),

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section 67 (voyeurism),  
section 69 (intercourse with an animal),  
section 70 (sexual penetration of a corpse),  
section 91 (offences relating to notification),  
section 113 (breach of sexual offences prevention order, etc),  
section 122 (breach of foreign travel order),  
section 128 (breach of risk of sexual harm order, etc).

#### Textual Amendments

**F163** Words in Sch. 2 Pt. 2 para.13 repealed (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015 \(c. 2\), s. 28\(2\), Sch. 5](#)

#### *The Criminal Justice (Northern Ireland) Order 2003 (NI 13)*

#### 14. An offence under—

Article 20 (assault with intent to commit buggery), or  
Article 21 (indecent assault on a male).

#### <sup>F164</sup>*The Sexual Offences (Northern Ireland) Order 2008 (NI 2)*

#### Textual Amendments

**F164** Sch. 2 Pt. 2 para. 14A and preceding cross-heading inserted (2.2.2009) by [Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\), arts. 1\(3\), 81, Sch. 1 para. 35\(3\); S.R. 2008/510, art. 2](#)

#### 14A. An offence under—

Article 5 (rape),  
Article 6 (assault by penetration),  
Article 7 (sexual assault),  
Article 8 (causing a person to engage in sexual activity without consent),  
Article 12 (rape of a child under 13),  
Article 13 (assault of a child under 13 by penetration),  
Article 14 (sexual assault of a child under 13),  
Article 15 (causing or inciting a child under 13 to engage in sexual activity),  
Article 16 (sexual activity with a child),  
Article 17 (causing or inciting a child to engage in sexual activity),  
Article 18 (engaging in sexual activity in the presence of a child),  
Article 19 (causing a child to watch a sexual act),  
Article 20 (sexual offences against children committed by children or young persons),  
Article 21 (arranging or facilitating commission of a sexual offence against a child),  
Article 22 (meeting a child following sexual grooming etc.),  
[<sup>F165</sup>Article 22A (sexual communication with a child),]

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[<sup>F166</sup>Article 22B (communicating with a person with a view to grooming a particular child),  
Article 22C (communicating with a group with a view to grooming a particular child),  
Article 22D (communicating with a person with a view to grooming any child),  
Article 22E (communicating with a group with a view to grooming any child),]  
Article 23 (abuse of position of trust: sexual activity with a child),  
Article 24 (abuse of position of trust: causing or inciting a child to engage in sexual activity),  
Article 25 (abuse of position of trust: sexual activity in the presence of a child),  
Article 26 (abuse of position of trust: causing a child to watch a sexual act),  
Article 32 (sexual activity with a child family member),  
Article 33 (inciting a child family member to engage in sexual activity),  
Article 37 (paying for sexual services of a child),  
Article 38 (causing or inciting child prostitution or pornography),  
Article 39 (controlling a child prostitute or a child involved in pornography),  
Article 40 (arranging or facilitating child prostitution or pornography),  
Article 43 (sexual activity with a person with a mental disorder impeding choice),  
Article 44 (causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity),  
Article 45 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice),  
Article 46 (causing a person, with a mental disorder impeding choice, to watch a sexual act),  
Article 47 (inducement, threat or deception to procure sexual activity with a person with a mental disorder),  
Article 48 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception),  
Article 49 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder),  
Article 50 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception),  
Article 51 (care workers: sexual activity with a person with a mental disorder),  
Article 52 (care workers: causing or inciting sexual activity),  
Article 53 (care workers: sexual activity in the presence of a person with a mental disorder),  
Article 54 (care workers: causing a person with a mental disorder to watch a sexual act),  
Article 62 (causing or inciting prostitution for gain),  
Article 63 (controlling prostitution for gain),  
Article 65 (administering a substance with intent),  
Article 66 (committing an offence with intent to commit a sexual offence),  
Article 67 (trespass with intent to commit a sexual offence),  
[<sup>F167</sup>Article 70 (exposure),  
Article 71 (voyeurism),  
Article 71A (voyeurism: additional offences (genitals and buttocks)),  
Article 71B (voyeurism: additional offences (breasts)),



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Article 72A (sending etc an unwanted sexual image),

Article 73 (intercourse with an animal),

Article 74 (sexual penetration of a corpse).]]

#### Textual Amendments

**F165** Words in Sch. 2 Pt. 2 para. 14A inserted (25.7.2018) by Justice Act (Northern Ireland) 2015 (c. 9), ss. **90(5)**, 106(1)(b)

**F166** Words in Sch. 2 Pt. 2 para. 14A inserted (27.11.2023) by Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), ss. **4(3)**, 30(2), S.R. 2023/188, art **3(a)**

**F167** Words in Sch. 2 Pt. 2 para. 14A substituted (27.11.2023) by Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 (c. 19), s. 30(2), **Sch. 1 para 5**, S.R. 2023/188, art **3(b)**

*[<sup>F168</sup>The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015*

#### Textual Amendments

**F168** Sch. 2 Pt. 2 para. 14A and crossheading inserted (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), ss. **5(4)**, 28(2)

**14A** An offence under section 2 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation)..2 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).]

#### *Other offences*

**15.** An offence of—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule
- (b) conspiring to commit an offence so specified, or
- (c) attempting to commit an offence so specified.

**16.** An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Part of this Schedule.

## **[<sup>F169</sup>PART 3 N.I.]**

### Specified terrorism offences

#### Textual Amendments

**F169** Sch. 2 Pt. 3 inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. **11(4)**, 27(3) (with s. 25(5))

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

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### **The Terrorism Act 2000 (c. 11) N.I.**

#### **1** An offence under—

section 11 (membership of a proscribed organisation),  
section 12 (inviting support for a proscribed organisation),  
section 54 (weapons training),  
section 56 (directing a terrorist organisation),  
section 57 (possession of article for terrorist purposes),  
section 58 (collection of information likely to be of use to a terrorist),  
section 58A (publishing information about members of the armed forces etc),  
section 58B (entering or remaining in a designated area), or  
section 59 (inciting terrorism overseas).

### **The Anti-terrorism, Crime and Security Act 2001 (c. 24) N.I.**

#### **2** An offence under—

section 47 (use etc of nuclear weapons),  
section 50 (assisting or inducing certain weapons-related acts overseas), or  
section 113 (use of noxious substance or thing to cause harm or intimidate).

### **The Terrorism Act 2006 (c. 11) N.I.**

#### **3** An offence under—

section 1 (encouragement of terrorism),  
section 2 (dissemination of terrorist publications),  
section 5 (preparation of terrorist acts),  
section 6 (training for terrorism),  
section 8 (attendance at a place used for terrorist training),  
section 9 (making or possession of radioactive device or material),  
section 10 (misuse of radioactive device or material for terrorist purposes etc), or  
section 11 (terrorist threats relating to radioactive devices etc).

### **Other offences N.I.**

#### **4** An offence of—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this Part of this Schedule,
- (b) conspiring to commit an offence so specified, or
- (c) attempting to commit an offence so specified.

### **N.I.**

**5** An offence under Part 2 of the Serious Crime Act 2007 (c. 27) (encouraging or assisting crime) in relation to an offence specified in this Part of this Schedule.]

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[<sup>F170</sup>SCHEDULE 2A N.I.]

Article 12(6)

Offences specified for various purposes of this Order relating to terrorism

**Textual Amendments**

**F170** Sch. 2A inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(a), Sch. 3

**PART 1 N.I.**

Introduction

1.—(1) In this Schedule—

- (a) Part 2 specifies certain terrorism offences that are—
  - (i) offences under the law of Northern Ireland; and
  - (ii) punishable with imprisonment for life;
- (b) Part 3 specifies certain offences that—
  - (i) are offences under the law of Northern Ireland;
  - (ii) are not terrorism offences (but are offences capable of being determined to have a terrorist connection); and
  - (iii) are punishable with imprisonment for life;
- (c) Part 4 specifies certain terrorism offences that are—
  - (i) offences under the law of Northern Ireland; and
  - (ii) punishable with imprisonment for more than two years (but not for life);
- (d) Part 5 specifies certain terrorism offences that are—
  - (i) offences only under the law of a part of the United Kingdom other than Northern Ireland; and
  - (ii) punishable with imprisonment for life;
- (e) Part 6 specifies certain offences that—
  - (i) are offences only under the law of a part of the United Kingdom other than Northern Ireland;
  - (ii) are not terrorism offences (but are offences capable of being determined to have a terrorist connection); and
  - (iii) are punishable with imprisonment for life;
- (f) Part 7 specifies certain terrorism offences that are—
  - (i) offences only under the law of a part of the United Kingdom other than Northern Ireland; and
  - (ii) punishable with imprisonment for more than two years (but not for life).

(2) An offence specified in Parts 2 to 4 includes, for the purposes of Article 20A, that offence to the extent that it also forms part of the law of another part of the United Kingdom (and see also paragraph 15(2) of Schedule 1 to the Crime (Sentences) Act 1997 for provision relevant to the application of Article 20A to offences under the law of another part of the United Kingdom).

(3) In this Schedule any reference to an offence includes—

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- (a) an ancillary offence in relation to that offence (unless the reference is specifically to an ancillary offence); and
  - (b) an abolished offence in relation to that offence.
- (4) In this Schedule—
- (a) “ancillary offence”, in relation to an offence, has the same meaning as in the Counter-Terrorism Act 2008 (see section 94 of that Act);
  - (b) “abolished offence”, in relation to an offence (“the current offence”), means an offence that—
    - (i) was abolished before the commencement of section 3 of the Counter-Terrorism and Sentencing Act 2021; and
    - (ii) would, if committed on the day on which the offender is or was convicted, have constituted the current offence.

## PART 2 N.I.

Terrorism offences in Northern Ireland punishable with imprisonment for life

- 2 An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 54 (weapons training);
  - (b) section 56 (directing a terrorist organisation);
  - (c) section 60 (inciting terrorism overseas), other than an offence which is an offence by virtue of subsection (2)(c) of that section.
- 3 An offence under any of the following provisions of the Terrorism Act 2006—
- (a) section 5 (preparation of terrorist acts);
  - (b) section 6 (training for terrorism);
  - (c) section 9 (making or possession of radioactive device or material);
  - (d) section 10 (misuse of radioactive device or material for terrorist purposes etc);
  - (e) section 11 (terrorist threats relating to radioactive devices etc).

## PART 3 N.I.

Other offences in Northern Ireland punishable with imprisonment for life

- 4 An ancillary offence in relation to murder, other than one which must (in the case of an offender aged 21 or over) be punished by imprisonment for life.
- 5 Manslaughter.
- 6 Kidnapping.
- 7 False imprisonment.
- 8 Riot.
- 9 Affray.
- 10 An offence under any of the following provisions of the Offences against the Person Act 1861—
- (a) section 4 (soliciting murder);

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- (b) section 18 (wounding with intent to cause grievous bodily harm);
  - (c) section 21 (attempting to choke, suffocate or strangle in order to commit or assist in the committing of an indictable offence);
  - (d) section 22 (using chloroform etc to commit or assist in the committing of any indictable offence);
  - (e) section 28 (causing bodily injury by explosives);
  - (f) section 29 (using explosives etc with intent to do grievous bodily harm);
  - (g) section 32 (endangering the safety of railway passengers).
- 11** An offence under any of the following provisions of the Explosive Substances Act 1883—
- (a) section 2 (causing explosion likely to endanger life or property);
  - (b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property);
  - (c) section 4 (making or possession of explosive under suspicious circumstances);
  - (d) section 5 (punishment of accessories to offences of causing or attempting to cause explosions or making or possessing explosives).
- 12** An offence under section 1 of the Infanticide Act (Northern Ireland) 1939 (infanticide).
- 13** An offence under section 25 of the Criminal Justice Act (Northern Ireland) 1945 (child destruction).
- 14** An offence under either of the following provisions of the Theft Act (Northern Ireland) 1969—
- (a) section 8 (robbery);
  - (b) section 10 (aggravated burglary).
- 15** An offence under section 1 of the Biological Weapons Act 1974 (developing certain biological agents and toxins or biological weapons).
- 16.**—(1) An offence of arson under Article 3 of the Criminal Damage (Northern Ireland) Order 1977.
- (2) An offence under Article 3(2) of that Order (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 17** An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).
- 18** An offence under any of the following provision of the Aviation Security Act 1982—
- (a) section 1 (hijacking);
  - (b) section 2 (destroying, damaging or endangering safety of aircraft);
  - (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
  - (d) section 6(2) (inducing or assisting the commission of offences relating to safety of aircraft).
- 19** An offence under either of the following provisions of the Nuclear Material (Offences) Act 1983—
- (a) section 1B (offences relating to damage to the environment);
  - (b) section 2 (preparatory acts and threats).
- 20** An offence under section 134 of the Criminal Justice Act 1988 (torture).
- 21** An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—

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- (a) section 1 (endangering safety at aerodromes);
  - (b) section 9 (hijacking of ships);
  - (c) section 10 (seizing or exercising control of fixed platforms);
  - (d) section 11 (destroying ships or fixed platforms or endangering their safety);
  - (e) section 12 (other acts endangering or likely to endanger safe navigation);
  - (f) section 13 (offences involving threats);
  - (g) section 14(4) (inducing or assisting the commission of offences relating to hijacking of ships, or destroying ships or fixed platforms or endangering their safety).
- 22** An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).
- 23** An offence under either of the following provisions of the Chemical Weapons Act 1996—
- (a) section 2 (use etc of chemical weapons);
  - (b) section 11 (premises or equipment for producing chemical weapons).
- 24** An offence under section 58 or 59 of the International Criminal Court Act 2001 (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.
- 25** An offence under either of the following provisions of the Anti-Terrorism, Crime and Security Act 2001—
- (a) section 47 (use etc of nuclear weapons);
  - (b) section 50 (assisting or inducing certain weapons-related acts overseas).
- 26** An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004—
- (a) Article 58(1) (possession of firearm with intent to endanger life etc);
  - (b) Article 59(1) (use of firearm to resist arrest);
  - (c) Article 59(2) (possession of firearm while committing other offence);
  - (d) Article 60 (carrying a firearm with criminal intent).
- 27** An offence under either of the following provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 28** An offence under any of the following provisions of Schedule 4 to the Space Industry Act 2018—
- (a) paragraph 1 (hijacking of spacecraft);
  - (b) paragraph 2 (destroying, damaging or endangering the safety of spacecraft);
  - (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft);
  - (d) paragraph 4 (endangering safety at spaceports).

## **PART 4** **N.I.**

### **Terrorism offences in Northern Ireland punishable with imprisonment for more than two years (but not life)**

- 29** An offence under any of the following provisions of the Terrorism Act 2000—

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- (a) section 11 (membership of a proscribed organisation);
- (b) section 12 (inviting or expressing support for a proscribed organisation);
- (c) section 15 (fund-raising);
- (d) section 16 (use of money or property for terrorist purposes);
- (e) section 17 (involvement in terrorist funding arrangements);
- (f) section 17A (insuring payments made in response to terrorist threats);
- (g) section 18 (laundering of terrorist property);
- (h) section 19 (failure to disclose professional belief or suspicion about terrorist offences);
- (i) section 21A (failure in regulated sectors to disclose knowledge or suspicion about terrorist offences);
- (j) section 38B (failure to disclose information about acts of terrorism);
- (k) section 39 (disclosure of information prejudicial to a terrorist investigation etc);
- (l) section 57 (possession of article for terrorist purposes);
- (m) section 58 (collection of information likely to be of use to a terrorist);
- (n) section 58A (publishing information about members of the armed forces etc);
- (o) section 58B (entering or remaining in a designated area);
- (p) section 60 (inciting terrorism overseas), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861.

**30** An offence under section 113 of the Anti-terrorism, Crime and Security Act 2001 (use of noxious substance or thing to cause harm or intimidate).

**31** An offence under any of the following provisions of the Terrorism Act 2006—

- (a) section 1 (encouragement of terrorism);
- (b) section 2 (dissemination of terrorist publications);
- (c) section 8 (attendance at a place used for terrorist training).

**32** An offence under section 54 of the Counter-Terrorism Act 2008 (breach of police notification requirements etc).

**33** An offence under section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (breach of notices imposing terrorism prevention and investigation measures).

**34** An offence under section 10 of the Counter-Terrorism and Security Act 2015 (breach of temporary exclusion order).

## **PART 5** **N.I.**

### Terrorism offences only in other parts of the United Kingdom punishable with imprisonment for life

**35** An offence under either of the following provisions of the Terrorism Act 2000—

- (a) section 59 (inciting terrorism overseas: England and Wales), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
- (b) section 61 (inciting terrorism overseas: Scotland).

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## PART 6 N.I.

### Other offences only in other parts of the United Kingdom punishable with imprisonment for life

- 36 Culpable homicide (under the law of Scotland).
- 37 Abduction (under the law of Scotland).
- 38 Assault by explosive device (under the law of Scotland).
- 39 Assault to severe injury (under the law of Scotland).
- 40 Assault and poisoning (under the law of Scotland).
- 41 Poisoning (under the law of Scotland).
- 42 Robbery (under the law of Scotland).
- 43 Assault with intent to rob (under the law of Scotland).
- 44 Wilful fire-raising (under the law of Scotland).
- 45 Malicious mischief (under the law of Scotland).
- 46 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).
- 47 An offence under section 1 of the Infanticide Act 1938 (infanticide).
- 48 An offence under any of the following provisions of the Firearms Act 1968—
  - (a) section 16 (possession of firearm with intent to endanger life);
  - (b) section 17(1) (use of firearm to resist arrest);
  - (c) section 17(2) (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act);
  - (d) section 18 (carrying a firearm with criminal intent).
- 49 An offence under either of the following provisions of the Theft Act 1968—
  - (a) section 8 (robbery or assault with intent to rob);
  - (b) section 10 (aggravated burglary).
- 50.—(1) An offence of arson under section 1 of the Criminal Damage Act 1971.  
(2) An offence under section 1(2) of that Act (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 51 An offence under section 51 or 52 of the International Criminal Court Act 2001 (genocide, crimes against humanity, war crimes and related offences: England and Wales), other than one involving murder.
- 52 An offence under section 1 or 2 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.
- 53 An offence under either of the following provisions of the Modern Slavery Act 2015—
  - (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 54 An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12)—



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- (a) section 1 (human trafficking);
- (b) section 4 (slavery, servitude and forced or compulsory labour).

## PART 7 N.I.

### Terrorism offences only in other parts of the United Kingdom punishable with imprisonment for more than two years (but not life)

**55** An offence under section 59 of the Terrorism Act 2000 (inciting terrorism overseas: England and Wales), in the case of an offence which is an offence by virtue of the reference in subsection (2) (c) of that section to an offence under section 23 of the Offences against the Person Act 1861.]

## SCHEDULE 3 N.I.

Article 45.

### SUPERVISED ACTIVITY ORDERS: FURTHER PROVISIONS

#### *Restrictions on power to make order*

1. A court shall not make a supervised activity order in respect of any offender unless—
  - (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the [<sup>F171</sup>locality] in which the offender resides<sup>F172</sup>... to carry out the requirements of a supervised activity order [<sup>F173</sup>and the notice has not been withdrawn]; and
  - (b) the court is satisfied that provision can be made under those arrangements for the offender to carry out the requirements of the order which the court proposes to make.

#### Textual Amendments

- F171** Word in Sch. 3 para. 1 substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(5)(a) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
- F172** Words in Sch. 3 para. 1(a) omitted (1.6.2018) by virtue of Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(2), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F173** Words in Sch. 3 para. 1(a) inserted (1.1.2012) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 110(1), 111, Sch. 7 para. 14 (with s. 106(4)); S.R. 2011/370, art. 3

#### *Making of order*

2.—<sup>F174</sup>(1) .....

(2) Where, whether on the same occasion or on separate occasions, an offender is made subject to more than one supervised activity order, the court may direct that the requirements specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders.

(3) But at no time shall the offender have an outstanding number of hours during which the offender is to carry out the requirements of those orders in excess of the largest number specified in Article [<sup>F175</sup>45(4)] .

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**Textual Amendments**

- F174** Sch. 3 para. 2(1) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 136(5)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F175** Word in Sch. 3 para. 2(3) substituted (1.6.2018) by [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), **ss. 29(3)**, 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)

F176 ...

**Textual Amendments**

- F176** Sch. 3 para. 3 cross-heading omitted (1.6.2018) by virtue of [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), **ss. 29(4)**, 61(2) (with s. 29(12)); S.R. 2018/99, **art. 2(a)**

3.—(1) Sub-paragraphs (2) to (5) apply where a supervised activity order [<sup>F177</sup>is made] in relation to an offender.

(2) The court which made the order shall as soon as practicable give a copy of the order to a probation officer assigned to the court.

(3) That probation officer shall send copies of the order to—

- (a) the offender; and
- (b) the supervising officer.

<sup>F178</sup>(4) .....

(5) The supervising officer shall as soon as practicable give the offender an explanation in ordinary language—

- (a) of the purpose and effect of the order and in particular the obligations on the offender as specified in paragraph 4;
- (b) of the consequences under paragraph 5 of failure to comply with any of the requirements mentioned there; and
- (c) that the appropriate court has, under paragraph 6, power to review the order on the application of the offender or the supervising officer.

**Textual Amendments**

- F177** Words in Sch. 3 para. 3(1) substituted (1.6.2018) by [Justice Act \(Northern Ireland\) 2016 \(c. 21\)](#), **ss. 29(4)**, 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F178** Sch. 3 para. 3(4) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 136(5)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

*Requirements of order*

4.—(1) An offender in respect of whom a supervised activity order is in force shall—

- (a) report to the supervising officer; and
- (b) notify the officer without delay of any change of address or in the times, if any, at which the offender usually works (or carries out voluntary work) or attends a school or other educational establishment.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

(2) Subject to paragraph 6(1), instructions given under a supervised activity order shall be carried out during the period of 12 months beginning with the date of the order; but, unless revoked, the order shall remain in force until <sup>F179</sup>it is discharged in accordance with Article 45(8) ] .

(3) The instructions given by the supervising officer under the order shall, so far as practicable, be such as to avoid—

- (a) any conflict with the offender's religious beliefs; and
- (b) any interference with the times, if any, at which the offender normally works (or carries out voluntary work) or attends a school or other educational establishment.

#### Textual Amendments

**F179** Words in Sch. 3 para. 4(2) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(5), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)

#### *Failure to comply with order*

5.—(1) If at any time while a supervised activity order is in force in respect of any offender it appears, on complaint to a lay magistrate, that the offender has failed to comply with any of the requirements of paragraph 4 or of the order (including any failure satisfactorily to carry out any instructions which the offender has been given by the supervising officer under the order), <sup>F180</sup>or that the offender, having chosen to pay the outstanding amount, is in default on the payment,] the lay magistrate may—

- (a) issue a summons requiring the offender to appear before the appropriate court at a time specified in the summons; or
- (b) if the complaint is in writing and on oath, issue a warrant for the offender to be arrested and brought before the appropriate court.

(2) If—

- (a) a warrant is issued under sub-paragraph (1) requiring an offender to be brought before the Crown Court; and
- (b) the offender cannot forthwith be brought before the Crown Court because it is not being held

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court <sup>F181</sup>....

(3) Where an offender is brought before a magistrates' court in pursuance of sub-paragraph (2), that court shall commit the offender in custody or on bail to the Crown Court.

(4) If it is proved to the satisfaction of the appropriate court before which an offender appears or is brought under this paragraph that the offender has failed without reasonable excuse to comply with any of the requirements of paragraph 4 or of the order (including any failure satisfactorily to carry out any instructions which the offender has been given by the supervising officer under the order) <sup>F182</sup>or that the offender is in default as mentioned in sub-paragraph (1), ] the court may—

- <sup>F183</sup>(a) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;]
- (b) subject to Article <sup>F184</sup>45(4)] and paragraph 2(3), vary the number of hours specified in the order.

<sup>F185</sup>(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).]

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

**Textual Amendments**

- F180** Words in Sch. 3 para. 5(1) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(6), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F181** Words in Sch. 3 para. 5(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(5)(d), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F182** Words in Sch. 3 para. 5(4) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(7)(a), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F183** Sch. 3 para. 5(4)(a) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(7)(b), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F184** Word in Sch. 3 para. 5(4)(b) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(3), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F185** Sch. 3 para. 5(5) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 32(2), 61(2) (with s. 32(4)); S.R. 2018/99, art. 2(a)

*Amendment, extension or revocation of order*

6.—(1) On the application of the offender or of the supervising officer in relation to a supervised activity order, the appropriate court may—

- (a) extend, in relation to the order, the period of 12 months specified in paragraph 4(2);
- (b) subject to Article [F186 45(4)] and paragraph 2(3), vary the number of hours specified in the order;
- (c) revoke the order; or

[F187(d) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;]

[F188(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)]

[F189(2) . . . . .]

(3) Where the court proposes to exercise its powers under sub-paragraph (1)(a), (b) or (d) otherwise than on the application of the offender, the court—

- (a) shall summon the offender to appear before the court, and
- (b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.

(4) If the appropriate court is a magistrates' court and it amends or revokes an order, the court shall as soon as practicable [F190 give a copy of the amending order to the supervising officer].

[F191(5) . . . . .]

**Textual Amendments**

- F186** Word in Sch. 3 para. 6(1)(b) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(3), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F187** Sch. 3 para. 6(1)(d) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 29(8), 61(2) (with s. 29(12)); S.R. 2018/99, art. 2(a)
- F188** Sch. 3 para. 6(1A) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), ss. 32(3), 61(2) (with s. 32(4)); S.R. 2018/99, art. 2(a)

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- F189** Sch. 3 para. 6(2) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(5)(e), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F190** Words in Sch. 3 para. 6(4) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 136(5)(f)** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
- F191** Sch. 3 para. 6(5) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(5)(g), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### *Rules*

7.—(1) The Secretary of State may make rules for regulating the carrying out of the requirements of supervised activity orders.

- (2) Without prejudice to the generality of sub-paragraph (1), rules under this paragraph may—
- (a) limit the number of hours during which the requirements of an order are to be met on any one day;
  - (b) make provision as to the reckoning of time for the purposes of the carrying out of those requirements;
  - (c) make provision for the types of activity to be available for the purposes of carrying out those requirements;
  - (d) make provision for the payment of travelling and other expenses in connection with the carrying out of those requirements;
  - (e) provide for records to be kept of what has been done by any person carrying out those requirements;
  - (f) make provision for the assignment of a supervising officer in relation to a supervised activity order.

### *Interpretation*

8.—(1) In this Schedule “the appropriate court”, in relation to a supervised activity order, means—

- (a) if the Crown Court made the order, the Crown Court;
- (b) if a magistrates' court made the order, a magistrates' court<sup>F192</sup>...

(2) Where a supervised activity order is made on appeal, the order shall be treated as if made by the court from which the appeal was brought.

#### **Textual Amendments**

- F192** Words in Sch. 3 para. 8(1)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 136(5)(h), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

SCHEDULE 4 **N.I.**

Article 46.

## THE PAROLE COMMISSIONERS

### *Appointment*

1.—(1) The [<sup>F193</sup>Department of Justice] shall appoint Parole Commissioners.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

- (2) The [F193Department of Justice] shall so far as reasonably practicable ensure that at any time—
- (a) at least one of the Commissioners is a person who holds or has held judicial office in any part of the United Kingdom or who is—
    - (i) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing; or
    - (ii) an advocate or solicitor in Scotland of at least 10 years' standing; or
    - (iii) a person who has a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41);
  - (b) at least one is a registered medical practitioner who is a psychiatrist;
  - (c) at least one is a chartered psychologist;
  - (d) at least one is a person appearing to the [F193Department of Justice] to have knowledge and experience of the supervision or aftercare of discharged prisoners;
  - (e) at least one is a person appearing to the [F193Department of Justice] to have knowledge and experience of working with victims of crime; and
  - (f) at least one is a person appearing to the [F193Department of Justice] to have made a study of the causes of delinquency or the treatment of offenders.

(3) In sub-paragraph (2)—

“chartered psychologist” means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 (c. 54).

(4) The [F193Department of Justice] shall appoint a Chief Commissioner from among the Commissioners.

(5) The [F193Department of Justice] may appoint a deputy Chief Commissioner from among the Commissioners.

#### Textual Amendments

**F193** Words in Sch. 4 para. 1 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 31(2) (with arts. 28-31); S.I. 2010/977, art. 1(2)

#### Modifications etc. (not altering text)

**C14** Sch. 4 para. 1(2)(c) modified (temp. from 3.6.2009 to 30.6.2012) by Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (Commencement No. 1 and Transitional Provisions) Order of Council 2009 (S.I. 2009/1357), art. 3(b)

### Tenure

2. A Commissioner—

- (a) shall hold office in accordance with the terms of appointment; and
- (b) may resign by notice in writing to the [F194Department of Justice].

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

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#### Textual Amendments

**F194** Words in Sch. 4 para. 2 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), Sch. 5 para. 31(2) (with arts. 28-31); S.I. 2010/977, art. 1(2)

3. The [F195Department of Justice] may, after consultation with the Lord Chief Justice, dismiss a Commissioner if satisfied

- (a) that the Commissioner has without reasonable excuse failed to carry out any functions for a continuous period of 3 months beginning not earlier than 6 months before the day of dismissal;
- (b) that the Commissioner has been convicted of a criminal offence;
- (c) that a bankruptcy order has been made against the Commissioner, or the Commissioner's estate had been sequestrated, or the Commissioner has made a composition or arrangement with, or granted a trust deed for, the Commissioner's creditors; or
- (d) that the Commissioner is unable or unfit to carry out any functions of a Commissioner.

#### Textual Amendments

**F195** Words in Sch. 4 para. 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), 6(2), Sch. 5 para. 31(2) (with arts. 28-31); S.I. 2010/977, art. 1(2)

### Rules

4.—(1) The [F196Department of Justice] may make rules with respect to the proceedings of the Commissioners.

(2) In particular rules may include provision—

- (a) for the allocation of proceedings to panels of Commissioners;
- (b) for the taking of specified decisions by a single Commissioner;
- (c) conferring functions on the Chief Commissioner or deputy Chief Commissioner;
- (d) about evidence and information, including provision—
  - (i) requiring the Commissioners to send to the [F196Department of Justice] copies of such documents as the rules may specify;
  - (ii) requiring the [F196Department of Justice] to provide specified information to the Commissioners;
  - (iii) for the giving of evidence by or on behalf of the [F196Department of Justice], the Police Service of Northern Ireland and others;
  - (iv) about the way in which information or evidence is to be given;
  - (v) for evidence or information about a prisoner not to be disclosed to anyone other than a Commissioner if the [F196Department of Justice] certifies that the evidence or information satisfies conditions specified in the rules;
  - (vi) preventing a person from calling any witness without leave of the Commissioners;
- (e) for proceedings to be held in private except where the Commissioners direct otherwise;

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- (f) preventing a person who is serving a sentence of imprisonment or detention from representing or acting on behalf of a prisoner;
- (g) permitting the Commissioners to hold proceedings in specified circumstances in the absence of any person, including the prisoner concerned and any representative appointed by the prisoner.

(3) Where a prisoner and any representative appointed by the prisoner are excluded from proceedings by virtue of sub-paragraph (2)(g), the Advocate General for Northern Ireland may appoint a person to represent the prisoner's interests in those proceedings

(4) A person appointed under sub-paragraph (3) shall not be responsible to the prisoner whose interests the person so appointed represents.

(5) Until section 27 of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force, sub-paragraph (3) shall have effect as if the reference to the Advocate General for Northern Ireland were a reference to the Attorney General for Northern Ireland.

#### Textual Amendments

**F196** Words in [Sch. 4 para. 4](#) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 31\(2\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

<sup>F197</sup>**4A.**—(1) The Secretary of State may make rules with respect to the proceedings of the Commissioners for purposes connected with the holding, disclosure or use of protected information (as defined in Article 16(4)).

(2) In particular, rules under this paragraph may include—

- (a) provision for the purpose of ensuring that the Secretary of State is informed of cases where protected information may be relevant;
- (b) provision for dealing with cases pending a decision of the Secretary of State as to whether protected information is relevant;
- (c) provision for dealing with cases where protected information is relevant, including (in particular) provision modifying any rules made by the Department of Justice so as to require the Commissioners (or any of them), so far as required by the Secretary of State for purposes connected with any protected information—
  - (i) to conduct such cases, and otherwise carry out their functions, under the rules as if the Secretary of State were a party to the proceedings instead of, or in addition to, the Department of Justice, and
  - (ii) to permit the Secretary of State to carry out functions of the Department of Justice under the rules accordingly;
- (d) any provision mentioned in paragraph 4(2)(a) to (g).

(3) For the purposes of sub-paragraph (2)(d) above—

- (a) in paragraph 4(2) references to the Department of Justice are to be read as including references to the Secretary of State;
- (b) paragraph 4(3) and (4) applies in relation to any provision made by virtue of paragraph 4(2)(g).

(4) Rules made by the Department of Justice under paragraph 4 have effect subject to rules made by the Secretary of State under this paragraph.]



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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

#### Textual Amendments

**F197** Sch. 4 para. 4A inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### *Remuneration and allowances*

5.—(1) The [<sup>F198</sup>Department of Justice] shall pay to or in respect of a Commissioner such remuneration, fees and allowances as the [<sup>F198</sup>Department of Justice] thinks fit.

(2) If a Commissioner resigns in accordance with paragraph 2(b), the [<sup>F198</sup>Department of Justice] may pay the Commissioner compensation if in the [<sup>F199</sup>Department of Justice's] opinion special circumstances make it appropriate.

#### Textual Amendments

**F198** Words in Sch. 4 para. 5 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F199** Words in Sch. 4 para. 5 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### *Staff, premises, etc.*

6. The [<sup>F200</sup>Department of Justice] shall provide for the Commissioners the services of such staff, and the use of such premises and other facilities, as the [<sup>F200</sup>Department of Justice] thinks appropriate.

#### Textual Amendments

**F200** Words in Sch. 4 para. 6 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### *Annual report*

7.—(1) The Chief Commissioner shall, as soon as reasonably practicable after the end of each financial year, make a report to the [<sup>F201</sup>Department of Justice] on the performance of the Commissioners' functions during the year.

[<sup>F202</sup>(2) The Department of Justice shall lay a copy of the report before the Assembly.]

#### Textual Amendments

**F201** Words in Sch. 4 para. 7(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(5)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F202** Sch. 4 para. 7(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 31(5)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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

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SCHEDULE 5 **N.I.**

Article 102.

## AMENDMENTS

*The Treatment of Offenders Act (Northern Ireland) 1968 (c. 29)*

1. In section 33(2) (interpretation) at the end add “if—
  - (a) the sentences were passed on the same occasion; or
  - (b) where they were passed on different occasions, the person has not been released under Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 at any time during the period beginning with the first and ending with the last of those occasions.”.

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

2. In Part 3 of Schedule 1 (other disqualifying offices) at the appropriate place insert— “ Parole Commissioner for Northern Ireland ”.

*The Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27)*

3. In Article 6(1) (sentences excluded from rehabilitation), after sub-paragraph (d) add—
  - “(e) an indeterminate custodial sentence imposed under Article 13 of the Criminal Justice (Northern Ireland) Order 2008 or an extended custodial sentence imposed under Article 14 of that Order.”.

*The Repatriation of Prisoners Act 1984 (c. 47)*

- 4.—(1) In section 2 (transfer out of the United Kingdom) in subsection (4)(b) after sub-paragraph (iii) insert—

“(iiia) released on licence under Article 17 or 19 of the Criminal Justice (Northern Ireland) Order 2008;”.

- (2) In the Schedule (operation of certain enactments in relation to the prisoner) after paragraph 2 insert—

“**2A.**—(1) This paragraph applies to a prisoner repatriated to Northern Ireland.

(2) In determining for the purposes of Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 whether the prisoner has at any time served a particular proportion or part of his sentence specified in that Chapter, the prisoner's sentence shall subject to sub-paragraph (3), be deemed to begin with the day on which the relevant provisions take effect.

(3) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the amount of time the prisoner has served shall, so far only as the question whether he has served a particular proportion or part of his sentence, be deemed to be increased by that period.

(4) Where the prisoner's sentence is for a term of less than 12 months, Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 shall apply as if the sentence were for a term of 12 months or more.

(5) In this paragraph “sentence” means the provision included in the warrant which is equivalent to sentence.”.

**Commencement Information**

**I29** Sch. 5 para. 4 partly in operation; Sch. 5 para. 4 not in operation at date Order made see art. 1(4); Sch. 5 para. 4(2) in operation at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4);

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

Sch. 5 para. 4(1) in operation for certain purposes at 1.4.2009 by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(b), 2(3)(5), 4)

### *The Mental Health (Northern Ireland) Order 1986 (NI 4)*

5.—(1) In Article 44 (power of court to order hospital admission or guardianship) after paragraph (1) insert—

“(1A) In the case of an offence the sentence for which would otherwise fall to be imposed—

- (a) under Article 70(2) of the Firearms (Northern Ireland) Order 2004 (NI 3),
- (b) under paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38), or
- (c) under Article 13 or 14 of the Criminal Justice (Northern Ireland) Order 2008,

nothing in those provisions shall prevent a court from making an order under paragraph (1) for the admission of the offender to a hospital

(1B) References in paragraph (1A) to a sentence falling to be imposed under any of the provisions mentioned in that paragraph are to be read in accordance with Article 4(2) of the Criminal Justice (Northern Ireland) Order 2008.”

(2) In Articles 56(3) and 79(5A) for “Life Sentence Review Commissioners” (wherever occurring) substitute “ Parole Commissioners for Northern Ireland ”.

#### **Commencement Information**

**I30** Sch. 5 para. 5 wholly in operation at 15.5.2008; see art. 1(4) and S.R. 2008/217, art. 2, Sch. (with savings and transitory provision in arts. 3, 4)

### *The Criminal Justice Act 1988 (c. 33)*

6. In section 36(9) (reviews of sentencing) after paragraph (ab) insert—

“(ac) the reference to any of sections 225 to 229 of the Criminal Justice Act 2003 shall be construed as a reference to either of Articles 13 and 14 of the Criminal Justice (Northern Ireland) Order 2008.”

### *The Criminal Justice (Northern Ireland) Order 1996 (NI 24)*

7.—(1) In Article 2(2) (interpretation) in the definition of “custodial sentence” in paragraph (b) (ii) at the end add “ or a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008 ”.

(2) In Article 4(1) (absolute and conditional discharge) after “2006” insert “ or Article 13 or 14 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(3) In Article 10(1) (probation orders) after “2006” insert “ or Article 13 or 14 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(4) In Article 13(1) (community service orders) after “2006” insert “ or Article 13 or 14 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(5) In Article 15(1) (combination orders) after “2006” insert “ or Article 13 or 14 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(6) In Article 25(3) (custody probation orders) for “7(2)(a)(ii)” substitute “ 7(2)(b) ”.

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

**Changes to legislation:** The Criminal Justice (Northern Ireland) Order 2008 is up to date with all changes known to be in force on or before 27 April 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) View outstanding changes

(7) In Article 36(1) (savings) after “this Part” insert “ or Part 2 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(8) In Article 39(3) (juvenile justice orders) for “Articles 19 and 20 of that Order” substitute “ Article 5 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(9) In Article 44A(4) (custody care orders) for “Articles 19 and 20 of that Order” substitute “ Article 5 of the Criminal Justice (Northern Ireland) Order 2008 ”.

#### Commencement Information

**I31** Sch. 5 para. 7 wholly in operation at 1.4.2009; Sch. 5 para. 7 not in operation at date Order made see art. 1(4); Sch. 5 para. 7(1)-(5)(7) in operation at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with savings and transitory provision in arts. 3, 4); Sch. 5 para. 7(6)(8)(9) in operation at 1.4.2009 by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(b), 4)

#### *The Life Sentences (Northern Ireland) Order 2001 (NI 2)*

**8.** In Article 2(2) (interpretation), in the definition of “the Commissioners” for “Life Sentence Review Commissioners” substitute “ Parole Commissioners for Northern Ireland ”.

#### *The Justice (Northern Ireland) Act 2002 (c. 26)*

**9.** In section 46(1)(ea) (organisations to be inspected by Chief Inspector of Criminal Justice), for “Life Sentence Review Commissioners” substitute “ Parole Commissioners for Northern Ireland ”.

#### *The Sexual Offences Act 2003 (c. 42)*

**10.—(1)** In the table in section 82(1) (notification period for persons convicted of sexual offences under requirement to notify the police about certain matters), in the entry relating to a person sentenced to imprisonment for life, to imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or to imprisonment for a term of 30 months or more, after “2003” insert “ , to an indeterminate custodial sentence under Article 13(4)(a) of the Criminal Justice (Northern Ireland) Order 2008 ”.

(2) In section 131 (application of Part 2 to young offenders) at the end add—

“(m) a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008.”.

#### *The Access to Justice (Northern Ireland) Order 2003 (NI 10)*

**11.** In Article 25(2)(b)(ii) (right to representation) for “Life Sentence Review Commissioners” substitute “ Parole Commissioners for Northern Ireland ”.

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SCHEDULE 6 **N.I.**

Article 102.

## REPEALS

**PART 1** **N.I.**

## SENTENCING

**Commencement Information**

**I32** Sch. 6 Pt. 1 partly in operation; Sch. 6 Pt. 1 not in operation at date Order made see art. 1(4); Sch. 6 Pt. 1 in operation for specified entries at 15.5.2008 by S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4); Sch. 6 Pt. 1 in operation for specified entry at 6.10.2008 by S.R. 2008/383, art. 2, Sch.; Sch. 6 Pt. 1 in operation for specified entries at 1.4.2009 by S.R. 2009/120, art. 2, Sch. 1 (subject to Sch. 2 paras. 1(1)(2)(c), 2(4)(5), 4)

<b>Short Title</b>	<b>Extent of repeal</b>
The Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 3 of Schedule 1, the entry relating to a Life Sentence Review Commissioner
The Treatment of Offenders (Northern Ireland) Order 1976 (NI 4)	The whole Order.
The Judicature (Northern Ireland) Act 1978 (c. 23)	In Schedule 5, the amendments to the Treatment of Offenders (Northern Ireland) Order 1976.
The Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	In Schedule 4, paragraph 11.
The Treatment of Offenders (Northern Ireland) Order 1989 (NI 15)	In Schedule 1, the amendments to the Treatment of Offenders (Northern Ireland) Order 1976.
The Criminal Justice (Northern Ireland) Order 1996 (NI 24)	In Article 2(2), the definitions of “custody probation order, “sexual offence” and “violent offence”. Article 2(8). Articles 18 to 22. Articles 24 to 28. In Article 57, “26(5)” and “21A(4)”. In Schedule 2— (a) in paragraph 3(1)(d) the words “where the relevant order was made by a magistrates’ court”; (b) paragraph 3(3) and (4); (c) in paragraph 4(1) the words “or by virtue of paragraph 3(3)”; (d) paragraph 7(5).
The Crime (Sentences) Act 1997 (c. 43)	In Schedule 2, paragraphs 9 and 10.
The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9)	In Schedule 1A, paragraph 5(2). In Schedule 5, paragraph 53.

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The Criminal Justice (Northern Ireland) Order 1998 (NI 20)	In the Schedule, paragraphs 3 and 7(a).
The Life Sentences (Northern Ireland) Order 2001 (NI 2)	Part 2. Schedules 1 and 2.
The Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 7, paragraph 18. In Schedule 11, paragraph 12.
The Criminal Justice Act 2003 (c. 44)	In Part 1 of Schedule 32, paragraphs 80 and 81.
The Criminal Justice (Northern Ireland) Order 2003 (NI 13)	Article 32.
The Firearms (Northern Ireland) Order 2004 (NI 3)	In Schedule 7, paragraphs 18 to 20.
The Criminal Justice (Northern Ireland) Order 2005 (NI 15)	In Article 16(2), sub-paragraph (a).
The Criminal Justice (Northern Ireland) Order 2008 (NI )	Article 34. Article 35(1)(b)(iv) and (3). In Schedule 5, paragraph 7(6).

## PART 2 **N.I.**

### REPEALS COMING INTO OPERATION IN ACCORDANCE WITH ARTICLE 1(3)

<b>Short Title</b>	<b>Extent of repeal</b>
The Police (Northern Ireland) Act 1998 (c. 32)	In Schedule 4, paragraph 18(6).
The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9)	Article 43.
The Criminal Justice (Northern Ireland) Order 1998 (NI 20)	Article 4.
The Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 13, the entry relating to Article 6(6)(c) of the Rehabilitation of Offenders (Northern Ireland) Order 1978.
The Access to Justice (Northern Ireland) Order 2003 (NI 10)	In Schedule 2, paragraph 2(k).
The Criminal Justice (Northern Ireland) Order 2005 (NI 15)	Article 8.
The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (NI 2)	Article 39.

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## PART 3 **N.I.**

### PRISONS

#### Commencement Information

**I33** Sch. 6 Pt. 3 partly in operation; Sch. 6 Pt. 3 not in operation at date Order made see art. 1(4); Sch. 6 Pt. 3 in operation for specified entries at 16.7.2008 by S.R. 2008/293, art. 2, Sch.

Short Title	Extent of repeal
The Prison Act (Northern Ireland) 1953 (c. 18).	In section 2(2) the words “, medical officers” Section 19. Section 24(5). In section 47(1) the definition of “intoxicating liquor”.
The Criminal Justice and Public Order Act 1994 (c. 33)	In section 128(5)(aa) the words “or as a medical officer”.
The Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 4, paragraph 1(2)(f).

## PART 4 **N.I.**

### LIVE LINKS

Short Title	Extent of repeal
The Criminal Justice (Northern Ireland) Order 1998 (NI 18)	Article 5.
The Criminal Justice (Northern Ireland) Order 2003 (NI 13).	Article 33.

### EXPLANATORY NOTE

*(This note is not part of the Order)*

Part 2 of this Order makes provision about sentencing, including provision for extended and indeterminate custodial sentences for certain offences and for the release on licence of persons serving custodial sentences.

Part 3 makes provision about the assessment and management of the risks posed by certain offenders. Part 4 contains provisions on road traffic offences and Part 5 contains miscellaneous provisions relating to criminal justice.

**Status:**

This version of this Order contains provisions that are prospective.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 5 para. 7(6) repealed by S.I. 2008/1216 (N.I.) Sch. 6 Pt. 1
- art. 13 excluded by 2016 c. 18 (N.I.) s. 170(1)s. 170(2)(c)
- art. 14 excluded by 2016 c. 18 (N.I.) s. 170(1)s. 170(2)(c)
- art. 34 repealed by S.I. 2008/1216 (N.I.) Sch. 6 Pt. 1
- art. 35(1)(b)(iv) repealed by S.I. 2008/1216 (N.I.) Sch. 6 Pt. 1
- art. 35(3) repealed by S.I. 2008/1216 (N.I.) Sch. 6 Pt. 1
- art. 45(5)(6) words inserted by 2011 c. 24 (N.I.) s. 58(3)
- art. 45(7) words added by 2011 c. 24 (N.I.) s. 58(4)
- art. 91A91B inserted by 2009 c. 25 Sch. 16 para. 6

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 Pt. 1 para. 31A renumbered as 31(B) by 2022 c. 19 (N.I.) Sch. 4 para. 3(a)
- art. 19(1A) inserted by 2015 c. 9 (N.I.) s. 82
- art. 45(1A) inserted by 2011 c. 24 (N.I.) s. 58(2)