

STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

Penalties

Increase of maximum sentences for offences relating to knives, weapons etc.

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) ^{F1}

(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

- “(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.”.

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

Changes to legislation: The Criminal Justice (Northern Ireland) Order 2008, Cross Heading: Penalties is up to date with all changes known to be in force on or before 03 May 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 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

F1 [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))

Driving disqualification for any offence

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.

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

Changes to legislation: The Criminal Justice (Northern Ireland) Order 2008, Cross Heading: Penalties is up to date with all changes known to be in force on or before 03 May 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

(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

[F²Extension of disqualification where custodial sentence also imposed

91A.—(1) This Article applies where a person is convicted of an offence for which the court—

- (a) imposes a custodial sentence, and
- (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;

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

Changes to legislation: The Criminal Justice (Northern Ireland) Order 2008, Cross Heading: Penalties is up to date with all changes known to be in force on or before 03 May 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) 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—
- “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.

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

Changes to legislation: The Criminal Justice (Northern Ireland) Order 2008, Cross Heading: Penalties is up to date with all changes known to be in force on or before 03 May 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

- F2** 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)

- C1** 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

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

- F2** 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](#))

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

The Criminal Justice (Northern Ireland) Order 2008, Cross Heading: Penalties is up to date with all changes known to be in force on or before 03 May 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.

[View outstanding changes](#)

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\(2\)](#)