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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

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

**PART 2**

**SENTENCING**

**CHAPTER 3**

**DANGEROUS OFFENDERS**

**Meaning of “specified offence” etc.**

**12.**—(1) An offence is a “specified offence” for the purposes of this Chapter if it is a specified violent offence or a specified sexual 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—

“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.

(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.

**Life sentence or indeterminate custodial sentence for serious offences**

**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 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 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.

(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.

#### **Extended custodial sentence for certain violent or sexual offences**

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

- (a) a person is convicted on indictment of a specified offence 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; and
  - (ii) where the specified 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.

(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.

(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) 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—
- (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.
- (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; and
  - (b) eight years in the case of a specified sexual offence.
- (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 that is, apart from Article 13, permitted for the offence where the offender is aged 21 or over.
- (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.

### **The assessment of dangerousness**

- 15.**—(1) This Article applies where—
- (a) a person has been convicted on indictment of a specified offence; an
  - (b) it falls to a court to assess under Article 13 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.