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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

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

**PART 2**

**SENTENCING**

**CHAPTER 4**

**RELEASE ON LICENCE**

*Duty of Secretary of State to release on licence*

**Duty to release certain fixed-term prisoners**

**17.—**(1) As soon as a fixed-term prisoner, other than a prisoner serving an extended custodial sentence, has served the requisite custodial period, the Secretary of State 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)

**Duty to release prisoners serving indeterminate or extended custodial sentences**

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

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

(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.

(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 Secretary of State 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 Secretary of State 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 Secretary of State 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 Secretary of State 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 Secretary of State otherwise directs.

(8) Where P is serving an extended custodial sentence, the Secretary of State 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 Secretary of State 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.