

Draft Order in Council laid before Parliament under section 85 of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2007 No. (N.I.)

NORTHERN IRELAND

The Criminal Justice (Northern Ireland) Order 2007

Made - - - - - 2007

*Coming into operation in accordance with Article
1(2) to (5)*

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At the Court at Buckingham Palace, the ** day of ** 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council 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:—

PART 1

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2007.

(2) The following provisions come into operation one month after the day on which this Order is made—

- (a) this Part;
- (b) Articles 83 to 85, 87, 88 and 92 to 100; and
- (c) Part 2 of Schedule 7, and Article 101(2) so far as relating thereto.

(3) The other provisions of this Order come into operation on such day or days as the Secretary of State may by order appoint.

(4) 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.

(5) Article 11A of the Road Traffic (Northern Ireland) Order 1995 (NI 18) (inserted by Article 53) has effect only in relation to driving occurring after the coming into operation of that Article; and Article 12B of that Order (inserted by Article 54) has effect only in relation to driving occurring after the coming into operation of that Article.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

PART 2
SENTENCING

CHAPTER 1
DANGEROUS OFFENDERS

Meaning of “specified offence” etc.

3.—(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 during the pleasure of the Secretary of State under paragraph (1) of Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (punishment of certain grave crimes);
- (c) a sentence of detention for life under paragraph (2) of that Article.

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

“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 a finding of guilt under Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

Life sentence or indeterminate custodial sentence for serious offences

4.—(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, and
- (b) the court considers 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 a sentence under Article 5 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 impose an indeterminate custodial sentence and specify a period of at least two years as the minimum period for the purposes of Article 7 (release on licence of certain prisoners).

(4) An indeterminate custodial sentence is a custodial sentence for an indeterminate period, subject to the provisions of this Part as to the release of prisoners and duration of licences.

(5) 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.

(6) In section 1 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (restrictions on imprisonment), in subsection (2), after the words “more than four years” there shall be added the words “or a public protection sentence under Article 4 of the Criminal Justice (Northern Ireland) Order 2007”.

(7) In this Article “custodial sentence” means—

- (a) a sentence of detention under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);
- (b) in relation to an offender under the age of 18, a sentence of detention in a young offenders centre;
- (c) in relation to an offender aged 18 or over, a sentence of imprisonment.

Extended custodial sentence for certain violent or sexual offences

5.—(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 considers—
 - (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 4 to impose a life sentence or a sentence for public protection.

(2) The court shall impose on the offender an extended custodial sentence, that is to say, a custodial sentence 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.

(3) In paragraph (2) “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 12 (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.
- (4) The extension period 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.
- (5) The term of an extended custodial sentence passed under this Article in respect of an offence shall not exceed the maximum term.
- (6) In this Article “maximum term” means the maximum term of imprisonment that is, apart from Article 4, permitted for the offence where the offender is aged 21 or over.
- (7) In this Article “custodial sentence” means—
 - (a) a sentence of detention under Article 45(2) of the Criminal Justice (Children) Order 1998 (NI 9);
 - (b) a sentence of detention in a young offenders centre;
 - (c) subject to paragraph (8), a sentence of imprisonment.
- (8) A court shall not impose a sentence of imprisonment under this Article—
 - (a) if the offender is under the age of 18; or
 - (b) for a term of less than 4 years if the offender is aged 18 or over but under 21.

The assessment of dangerousness

- 6.**—(1) This Article applies where—
- (a) a person has been convicted on indictment of a specified offence, and
 - (b) it falls to a court to assess under Article 4 or 5 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.

Release on licence of prisoner serving sentence under Article 4 or 5

- 7.**—(1) This Article applies to a prisoner who is serving a sentence imposed under Article 4 or 5.
- (2) In this Article—
- “P” means a prisoner to whom this Article applies;
 - “relevant part of the sentence” means—
 - (a) in relation to a sentence imposed under Article 4, the period specified by the court under Article 4(3) as the minimum period for the purposes of this Article;

- (b) in relation to a sentence imposed under Article 5, one-half of the period determined by the court as the appropriate custodial term under Article 5.
- (3) As soon as—
- (a) P has served the relevant part of the sentence mentioned in paragraph (2), and
- (b) the Parole Commissioners have directed P’s release under this Article, the Secretary of State shall release P on licence.
- (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 two years beginning with the disposal of that reference or such shorter period as the Parole Commissioners may on the disposal of that reference determine.
- (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 two 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 imposed under Article 4, 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 a sentence imposed under Article 5, the Secretary of State shall release P on licence as soon as the appropriate custodial term (within the meaning given by paragraph (3) of that Article) ends unless P has previously been recalled under Article 27.
- (9) Where P is released on licence, the Secretary of State shall not by virtue of Article 23(4) subsequently include an additional condition in the licence, or vary or cancel a condition in the licence, except after consultation with the Parole Commissioners.
- (10) For the purposes of paragraph (9), the Secretary of State is to be treated as having consulted the Parole Commissioners about a proposal to include subsequently or vary or cancel a condition in any case if they have been consulted about the implementation of proposals of that description generally or in that class of case.

Sentences under Article 4: duration and termination of licences

8.—(1) This Article applies where a person who is serving a sentence imposed under Article 4 but no other sentence is released on licence under Article 7.

(2) The licence shall, subject to any revocation under Article 27 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 ten 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 Secretary of State to do so, the Secretary of State 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 two 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 that the licence should remain in force, direct the Secretary of State to make an order under paragraph (4) that the licence is to cease to have effect;

(b) shall otherwise dismiss the application.

Determination of day when offence committed

9. Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this Chapter to have been committed on the last of those days.

CHAPTER 2

CUSTODIAL SENTENCES

Interpretation

10.—(1) In this Chapter—

"Board" means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14);

"custodial sentence" means—

(a) in relation to an offender of or over the age of 21 years, a sentence of imprisonment; and

(b) in relation to an offender under that age,—

(i) a sentence of imprisonment for a term of more than 4 years;

(ii) a sentence of detention in a young offenders centre;

- (iii) a sentence of detention under Article 45(1) or (2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (iv) an order under Article 39 of that Order sending the offender to a juvenile justice centre;
- (v) an order under Article 44A of that Order sending the offender to secure accommodation;

“HSS trust” means a Health and Social Services trust established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1) and “authorised HSS trust” shall be construed in accordance with paragraph (7);

“Order Book” means the Order Book required to be kept under rule 19 of the Magistrates’ Courts Rules (Northern Ireland) 1984 (SR 1984 No.225);

“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 a Board or authorised HSS 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;

“sentence of imprisonment” does not include a committal or attachment for contempt of court;

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

“youth conference order” means an order under Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 24).

(2) For the purposes of any reference (however expressed) in this Chapter to a term of imprisonment or to a term of detention in a young offenders centre, consecutive terms shall be treated as a single term.

(3) For the purposes of any reference in this Chapter to a sentence of imprisonment or detention in a young offenders centre, that reference includes—

- (a) a sentence or term passed by a court in the United Kingdom, the Channel Islands or the Isle of Man;
- (b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence (within the meaning of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957).

(4) For the purposes of this Chapter, 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.

(5) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of young offenders.

- (6) For the purposes of this Chapter—
- (a) a sentence falls to be imposed under Article 4 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;
 - (b) a sentence falls to be imposed under Article 5 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;
 - (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, and
 - (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.
- (7) In the definition of “pre-sentence report” in paragraph (2), the reference to an “authorised HSS Trust” is a reference to an HSS trust by which functions relating to such reports are exercisable by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994 (NI 2).

Restrictions on imposing discretionary custodial sentences

11.—(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
 - (b) falling to be imposed under—
 - (i) Article 4 or 5;
 - (ii) Article 70(2) of the Firearms (Northern Ireland) Order 2004 (NI 3); or
 - (iii) paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006 (c. 38).
- (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 probation order or supervision order and which requires an expression of such willingness; or
 - (b) a requirement which is proposed by the court to be included in—
 - (i) a drug treatment and testing order or 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.

Length of discretionary custodial sentences

12.—(1) This Article applies where a court passes a custodial sentence other than one fixed by law or falling to be imposed under Article 4.

(2) Subject to Articles 5(2) and any statutory provision mentioned in paragraph (3), the custodial 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).

Length of custodial periods

13.—(1) This Article applies where a court passes a custodial sentence other than one fixed by law or falling to be imposed under Article 4.

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

(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 the probation officer on release from custody in protecting the public from harm from the offender or for preventing the commission by the offender of further offences.

Procedural requirements for custodial sentences

14.—(1) In forming any such opinion as is mentioned in Article 11(2) or 12(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 4(1)(b), 5(1)(b)(i), 11(2) or 12(2).

(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 years, 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.

Additional requirements in the case of mentally disordered offenders

15.—(1) Subject to paragraph (2), in any case where Article 14(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.

(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).

(6) In this Article “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).

(7) Nothing in this Article shall be taken as prejudicing the generality of Article 14.

Disclosure of pre-sentence reports

16.—(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 years 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.

CHAPTER 3

RELEASE ON LICENCE

Preliminary

Interpretation

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

(2) In this Chapter—

“custodial sentence” means—

- (a) a sentence of imprisonment; or
- (b) a sentence of detention in a young offenders centre;
- (c) a sentence of detention under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);

but does not include a committal or attachment for contempt of court;

“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 (2)(b) or (c) is liable to be detained;

“prisoner” includes a person serving a sentence falling within paragraph (2)(b) or (c).

Power of court to recommend licence conditions

Power of court to recommend licence conditions for sentences of 12 months or more

18.—(1) A court which sentences an offender to a determinate custodial sentence of twelve months or more in respect of any offence may, when passing sentence, recommend to the Secretary of State particular conditions which in its view should be included in any licence granted to the offender under this Chapter on release from prison.

(2) In exercising the powers under Article 23 in respect of an offender, the Secretary of State 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.

(4) In paragraph (1), “determinate custodial sentence” does not include a sentence of detention under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

Release on licence

Duty to release prisoners

19.—(1) As soon as a fixed-term prisoner, other than a prisoner to whom Article 7 applies, 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 13;

(b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under Articles 32(2) and Article 33(2).

Power to release prisoners on licence before required to do so

20.—(1) The Secretary of State 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 six weeks, and

(b) the prisoner has served—

(i) at least four weeks of his sentence, and

(ii) at least one-half of the requisite custodial period.

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

- (a) the sentence is imposed under Article 5;
- (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 28;
- (f) the prisoner has been released on licence under Article 21, and has been recalled to prison under Article 27.

(4) The Secretary of State 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); and
- (c) amend the fraction specified in paragraph (2)(b)(ii).

(5) In this Article “fixed-term prisoner” includes a person serving a determinate custodial sentence, for an offence committed on or before the commencement of Article 17.

(6) In paragraph (2) “the requisite custodial period” has the same meaning as in Article 19.

Power to release prisoners on compassionate grounds

21.—(1) The Secretary of State may, if satisfied that exceptional circumstances exist which justify the release of a prisoner on compassionate grounds, release the prisoner on licence at any time.

(2) The Secretary of State shall, before releasing a prisoner to whom Article 7 applies, consult the Parole Commissioners unless the circumstances are such as to render such consultation impracticable.

Duration of licence

22.—(1) Where a fixed-term prisoner is released on licence, the licence shall, subject to any revocation under Article 27 or 28, remain in force for the remainder of the sentence.

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

Licence conditions

23.—(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 Secretary of State by rules.

(2) Subject to paragraph (6) and Article 24, any licence under this Chapter in respect of any prisoner serving one or more custodial sentences of less than

twelve months and no determinate custodial sentence of twelve months or more shall include—

- (a) the conditions required by the relevant court order; and
- (b) so far as not inconsistent with them, the standard conditions.

(3) In any other case, a licence under this Part—

- (a) shall include the standard conditions; and
- (b) may include such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

(4) The Secretary of State may vary or cancel any conditions specified in a licence under this Part and may subsequently include additional conditions.

(5) A licence under Article 20 shall include a curfew condition complying with Article 26.

(6) Where—

- (a) a licence under Article 20 is granted to a prisoner serving one or more custodial sentences of less than twelve months and no determinate custodial sentence of twelve months or more, and
- (b) the relevant court order requires the licence to be granted subject to a condition requiring compliance with a curfew requirement (as defined by Article 36),

that condition shall not be included in the licence at any time while a curfew condition required by Article 26 is in force.

(7) Paragraphs (1) to (6) have effect subject to Article 33(3) and (4) (consecutive terms) and paragraph (4) has effect subject to Article 7(9) (sentences under Article 4 or 5).

(8) In exercising the powers to prescribe standard conditions or other conditions referred to in paragraph (3), the Secretary of State 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.

Licence conditions on re-release of prisoner serving sentence of less than 12 months

24.—(1) In relation to any licence under this Chapter which is granted to a prisoner serving one or more custodial sentences of less than twelve months and no determinate custodial sentence of twelve months or more on release in pursuance of a direction of the Parole Commissioners under Article 27 or 29, paragraphs (2) and (3) apply instead of Article 23(2).

(2) The licence—

- (a) shall include the standard conditions, and

(b) may include such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

(3) In exercising the powers conferred by paragraph (2)(b), the Secretary of State shall have regard to the terms of the relevant court order.

(4) In this Article “the standard conditions” has the same meaning as in Article 23.

Duty to comply with licence conditions

25. A person subject to a licence under this Part shall comply with such conditions as may for the time being be specified in the licence.

Curfew condition to be included in licence under Article 20

26.—(1) For the purposes of this Chapter, a curfew condition is a condition which—

(a) requires the released person to remain, for specified periods at a specified place, and

(b) includes an electronic monitoring requirement,

and in this Article “specified” means specified in the condition.

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

(3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released on licence under Article 19.

(4) Nothing in this Article is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons’ whereabouts in any particular part of Northern Ireland.

Recall after release

Recall of prisoners while on licence

27.—(1) In this Article “P” means a prisoner who has been released on licence under this Part.

(2) The Secretary of State may revoke P’s licence and recall P to prison.

(3) P—

(a) shall, on his return to prison, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and

(b) may make representations in writing with respect to the recall.

(4) 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 Part, the Secretary of State shall give effect to the direction.

(6) On the revocation of P’s licence, P shall be—

- (a) liable to be detained in pursuance of his sentence; and
- (b) if at large, deemed to be unlawfully at large.

(7) Nothing in paragraphs (3) to (6) applies in relation to a person recalled under Article 28.

Recall of prisoners released early under Article 20

28.—(1) If it appears to the Secretary of State, as regards a person released on licence under Article 20 (“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 Secretary of State may, if the curfew condition is still in force, revoke the licence and recall P to prison under this Article.

(2) A person whose licence under Article 20 is revoked under this Article—

- (a) may make representations in writing with respect to the revocation, and
- (b) must, on return to prison, be informed of the reasons for the revocation and of the right to make representations.

(3) The Secretary of State, after considering any representations under paragraph (2)(b) or any other matters, may cancel a revocation under this Article.

(4) Where the revocation of a person’s licence is cancelled under paragraph (3), the person is to be treated for the purposes of Article 20 as not having been recalled to prison under this Article.

(5) A person whose licence is revoked under Article 20, is liable to be detained in pursuance of the sentence and, if at large, is to be treated as being unlawfully at large.

Further release after recall

29.—(1) Where on a reference under Article 27(4), the Parole Commissioners do not direct a person’s immediate release on licence under this Part, they may—

- (a) unless the person is serving a sentence under Article 4 or 5, recommend a date for release on licence, or
- (b) in any case recommend a date as the date for the next review of the person’s case by them.

(2) Any date fixed under paragraph (1)(a) or (b) must not be later than the second anniversary of the date on which the decision is taken.

(3) The Parole Commissioners need not make a recommendation under paragraph (1)(a) or (b) if the prisoner will fall to be released unconditionally at any time within the next 24 months.

(4) The Secretary of State shall consult the Parole Commissioners before deciding to release a prisoner on a date later than the date recommended by them under paragraph (1)(a) unless the circumstances are such as to render such consultation impracticable.

(5) The Secretary of State shall consult the Parole Commissioners as soon as practicable if they have not been consulted under paragraph (4).

(6) On a review required by paragraph (1)(b), the Parole Commissioners may—

(a) direct a person's immediate release on licence, or

(b) recommend a date under paragraph (1)(a) or (b).

(7) In the case of a person to whom Article 7 applies, paragraph (6) is subject to the Parole Commissioners being satisfied as mentioned in paragraph (4)(b) of that Article.

Conviction while licence remains in force

30. 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 Part; and

(b) that the person has not been recalled to prison,

the court shall inform the Secretary of State of the conviction.

Persons liable to removal from the United Kingdom

31. For the purposes of this Chapter 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;

(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. 23).

Concurrent or consecutive terms

Concurrent terms

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 Part 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 Part requires the Secretary of State to release the offender in respect of any of the terms unless and until the Secretary of State is required to release the offender in respect of each of the others,

(b) Article 19 does not authorise the Secretary of State to release the offender on licence under that Article in respect of any of the terms unless and until that Article authorises the Secretary of State to do so in respect of each of the others,

(c) on and after release under this Part the offender is to be on licence for so long, and subject to such conditions, as is required by this Part in respect of any of the sentences.

(3) Where the sentences include one or more sentences of twelve months or more and one or more sentences of less than twelve months, the terms of the licence may be determined by the Secretary of State in accordance with Article 23(3)(b).

Consecutive terms

33.—(1) This Article applies where—

(a) a person (“the offender”) has been sentenced to two or more 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 Part at any time during the period beginning with the first and ending with the last of those occasions.

(2) Nothing in this Part requires the Secretary of State 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 terms of imprisonment.

(3) Where any of the sentences is a sentence of twelve months or more, the offender is, on and after release under this Part, 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 Part in respect of each of those sentences.

(4) Where each of the sentences is a sentence of less than twelve months, the offender is, on and after release under this Part, to be on licence until the relevant time, and subject to such conditions as are required by this Part 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 a sentence imposed under Article 5, means the appropriate custodial term determined under that Article,

- (ii) in relation to any other custodial sentence, means the custodial period specified under Article 13(2);
- (b) “licence period” has the meaning given by Article 13(5).

Supplemental

Alteration by order of relevant proportion of sentence

34. The Secretary of State may by order provide that any reference in—

- (a) Article 7(2); or
- (b) Article 33(6)(a)(ii),

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.

CHAPTER 4

CURFEWS AND ELECTRONIC MONITORING

Application of this Chapter

35. This Chapter applies where it is proposed to make a curfew requirement or an electronic monitoring requirement—

- (a) a condition of bail imposed by a court;
- (b) a condition of a licence under—
 - (i) this Part;
 - (ii) the Life Sentences (Northern Ireland) Order 2001 (NI 2); or
 - (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);
- (c) a requirement of—
 - (i) a probation order or a combination order under the Criminal Justice (Northern Ireland) Order 1996 (NI 24); or
 - (ii) a youth conference order under the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9); or
- (d) a requirement under Article 40(2) or (3) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (supervision under a juvenile justice centre order).

Curfews

Curfew requirement

36.—(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 two hours; or
 - (b) more than twelve 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).

Power to amend Article 26(2) or 36(2)

37. The Secretary of State may by order amend Article 26(2) or 36(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.

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, receives training, or attends school or any 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

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.

Electronic monitoring requirements

Electronic monitoring requirement

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.

(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 responsible officer, the responsible officer 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.

(5) In this Article “responsible officer” means, in relation to an electronic monitoring requirement, the person responsible for the monitoring.

Availability of electronic monitoring arrangements

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.

Provision of copies of relevant orders

42. Where a court, the Secretary of State or a person other than the Secretary of State imposes an electronic monitoring requirement, the court by which, or the Secretary of State or other person by whom, the requirement is imposed shall also 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
- (b) to any person to whom Article 40(2)(b) applies.

Release of children on bail

Release of child on bail: curfew and electronic monitoring requirements

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.

Rules

Rules

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

- (a) electronic monitoring in pursuance of an electronic monitoring requirement,

- (b) without prejudice to sub-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 5

SUPERVISED ACTIVITY ORDERS

Supervised activity orders

45.—(1) A supervised activity order is an order made by a court requiring an offender to—

- (a) attend at a place of supervision for a specified period, and
- (b) during that period, engage in activities in accordance with instructions given by the supervising officer.

(2) A specified period for the purposes of paragraph (1)(a) shall not be—

- (a) less than ten hours; or
- (b) more than—
 - (i) 50 hours if the amount in question does not exceed level 1 on the standard scale, or
 - (ii) 100 hours in any other case.

(3) In this Article—

- “place of supervision” means such place as may be determined by the supervising officer;
- “specified” means specified in the order;
- “supervising officer” means a person prescribed in rules made by the Secretary of State.

(4) Schedule 3 shall have effect.

Payment of sums adjudged to be paid by a conviction of a magistrates’ court, etc.

46.—(1) Where under section 35 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15) or Article 91(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26) a court orders a person to pay a sum forthwith, allows time for payment or orders payment by instalments, the court may make a supervised activity order.

(2) Paragraph (1) does not apply if the person is under the age of 16 or unless, but for the availability of a supervised activity order, a sentence of imprisonment would have been imposed.

(3) A supervised activity order made under paragraph (1)—

- (a) shall come into force either on a specified date unless the person pays the sum before that date or on the occurrence of a specified event; and
- (b) shall, for the purposes of Schedule 7, be deemed to be made on the date on which it comes into force.

(4) If the person pays part of the sum before the supervised activity order comes into force, the period specified in the order shall be reduced by the proportion which the part of the sum paid bears to the whole sum, the resulting figure being rounded up or down to the nearest ten hours; but this paragraph shall not operate to reduce the period to less than ten hours.

Supervised activity orders where court allows further time to pay fine

47. Where a court, on an application to it allows a person further time for payment of a fine or instalments thereof it may, in addition, subject to paragraph 1 of Schedule 3, impose a supervised activity order in default of payment of the fine or any instalment of it on the due date.

CHAPTER 6

PAROLE COMMISSIONERS

Parole Commissioners

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

(2) In this Order “Commissioners” means Parole Commissioners for Northern Ireland.

(3) In discharging their functions the Commissioners shall—

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

(4) The Commissioners shall advise the Secretary of State with respect to any matter referred to them connected with the release or recall of prisoners.

(5) Schedule 4 (which re-enacts provisions of the 2001 Order relating to the appointment of Commissioners and other matters) shall have effect.

(6) In this Article—

- “2001 Order” means the Life Sentences (Northern Ireland) Order 2001 (NI 2);
- “referred” means referred under this Order or the 2001 Order;
- “serious harm” has the meaning given by Article 3.

Commissioners' procedure

49. Schedule 5 (which re-enacts Schedule 2 to the Life Sentences (Northern Ireland) Order 2001 (NI 2) (procedure to be followed in relation to the Commissioners' functions)) shall have effect.

PART 3

RISK ASSESSMENT AND MANAGEMENT

Interpretation

50.—(1) In this Part—

“agencies” means—

- (a) the Police Service of Northern Ireland;
- (b) the Probation Board of 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;
- (g) educational institutions which are exclusively or mainly for the provision of full-time education to children;
- (h) Health and Social Services Boards and Health and Social Services trusts;
- (i) the Northern Ireland Housing Executive;
- (j) the National Society for the Prevention of Cruelty to Children;

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

“specified” means specified in guidance under Article 51.

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

Guidance to agencies on assessing and managing certain risks to the public

51.—(1) The Secretary of State may issue guidance to agencies on the discharge of any of their functions connected with assessing and managing 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 between them.

(3) Paragraph (2) does 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.

Review of arrangements and report on functions

52.—(1) The agencies shall, in consultation with the lay advisers appointed under paragraph (2), keep any arrangements mentioned in Article 51(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 two 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 period of twelve months beginning with 1st April, 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 51(2)(a), and
- (b) information of such descriptions as the Secretary of State may determine.

PART 4

ROAD TRAFFIC OFFENCES

New offences

Causing death, or grievous bodily injury, by careless or inconsiderate driving

53.—(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 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 11 of that Order insert—

“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

PART 4

Traffic Orders), after the entry relating to Article 11 of the Road Traffic (Northern Ireland) Order 1995 insert—

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

Causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers

54.—(1) In the Road Traffic (Northern Ireland) Order 1995 (NI 18), after Article 12A (inserted by Article 61) insert—

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

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) Summarily.	(a) 6 months or the statutory maximum or both.	Obligatory.	Obligatory.	3-11”
		(b) On indictment.	(b) 2 years or a fine or both.			

Speed assessment equipment detection devices

55.—(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—

- (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). (b) Level 3 on the standard scale in any other case.	Discretionary. Obligatory.	3-6”
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Increase in penalties

Failure to stop vehicle

56. 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) Act 1981 substitute—

Draft Order in Council laid before Parliament under section 85 of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament

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“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 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

57. 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

58.—(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) 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
- (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

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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.”.

Alcohol ignition interlocks

59.—(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 3 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—
- (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—

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- (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,
- (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, or (if the supervising court is not the Crown Court or the relevant local court) to either the supervising court or the relevant local court, 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 34A 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

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- (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,
- (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 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 for the petty sessions district for which the court acts, and
- (b) otherwise, the chief clerk;

“relevant local court”, in relation to an alcohol ignition interlock programme order in the case of an offender, means a magistrates' court acting for the petty sessions district in which the offender resides,

“rules of court” means—

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

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(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 acting for the same petty sessions district as the court which made the order.

(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 38C

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 passengers. Level 3 on the standard scale in any other case.”.
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Experimental period for Article 59

60.—(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 59) 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 59 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 acting for a petty sessions district 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 petty sessions district for the purposes of this Article is exercisable by the Department by order, and includes power to revoke a designation previously made.

(7) An order under paragraph (6) must specify the period for which a district is designated, and may—

- (a) specify different periods for different districts, 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) An order under paragraph (6) is subject to negative resolution.

Other provisions about offences

Meaning of driving without due care and attention

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

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“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.”.

Extension of offence under Article 14 of the 1995 Order

62.—(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

63. 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 manner causing alarm, distress or annoyance

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

64.—(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 Articles 12 or 48 of the Road Traffic (Northern Ireland) Order 1995 (NI18) (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—

- (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;

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- (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 65 are in force.
- (9) In this Article and Article 65—
- “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 64

- 65.**—(1) The Secretary of State may by regulations make provision as to—
- (a) the removal and retention of motor vehicles seized under Article 64; 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 64 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 64 may seek to have it released;
 - (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 64 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 64;
 - (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 64.

(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

MISCELLANEOUS AND SUPPLEMENTARY

Purchase and consumption of alcohol

Test purchases of alcohol

66. 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) a parent of that person has consented in writing to his being sent into those premises for that purpose.”.

Alcohol consumption in designated public places

67.—(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.

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(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.

Fixed penalty notice for offence under Article 67

68.—(1) A constable who has reason to believe that a person aged 16 or over has committed an offence under Article 67 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—

- (a) no proceedings may be instituted for that offence before the expiration of the period of 14 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 67, 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.

Designated public places

69.—(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).

(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;
- (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.

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(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).

Effect of Articles 67 and 69 on byelaws

70.—(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 69(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.

Interpretation of Articles 67 to 70

71. In Articles 67 to 70—

“council” means a district council;

“designated public place” has the meaning given by Article 69(1);

“intoxicating liquor”, “licensed premises” and “occasional licence” have the same meanings as in the Licensing (Northern Ireland) Order 1996 (NI 22);

“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).

Prisons

Removal of requirement to appoint medical officers

72. 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

73. 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

74. For sections 29 and 30 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

“Assisting or permitting a person to escape from lawful custody

29.—(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

75. For section 33 of the Prison Act (Northern Ireland) 1953 (c.18) substitute—

“Facilitating escape by conveying things into prison

33.—(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.

(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

76. For sections 34 and 35 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

“Sections 34A and 34B: classification of articles

34.—(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”)

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- (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 34D) 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 sub-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.

Conveyance etc. of List A articles into or out of prison

34A—(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).

Conveyance etc. of List B or C articles into or out of prison

34B.—(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—

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- (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,
 - (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

77. After section 34B of the Prison Act (Northern Ireland) 1953 (c. 18) (as inserted by Article 76), insert—

“Other offences relating to prison security

34C.—(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

(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.

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(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)—

“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

78.—(1) Articles 79 and 80—

- (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 79 and 80—
- (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;
 - (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) “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;
 - (d) “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;
 - (e) “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 79 or 80 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; and
 - (b) the notice has not been withdrawn.

Use of live link at preliminary hearings

79.—(1) This Article applies in relation to a preliminary hearing in a magistrates’ court or the Crown 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 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 during the hearing, to attend it through a live link from the place at which he is being held.

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(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
- (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.

(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.

Use of live link at sentencing hearings

80.—(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 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 during the hearing, to attend it through a live link from the place at which he is being held.

(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.

(4) 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.

(5) 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 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.

(6) 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.

(7) 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.

Evidence of vulnerable accused

81.—(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

USE OF LIVE LINK FOR EVIDENCE OF CERTAIN ACCUSED PERSONS

Live link directions

21A.—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

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- (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).

(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, or
- (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

82.—(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—

“(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) must not give a live link direction unless the parties to the appeal have 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.”.

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(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

83.—(1) In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (NI 10) (civil legal services: excluded services) in paragraph 2 after subparagraph (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

84.—(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)”.

(2) In Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8) (proceedings in which legal aid may be given under Part 2 of that Order) in paragraph 2A(2)(a) for “head (b)” substitute “head (a)”.

PACE

Entry for purposes of arrest

85. 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;
- (iv) Article 25 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6);”.

Pre-charge bail

86.—(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

87. 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”.

Police officers performing duties of higher rank

88. 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.

89.—(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) In section 139A of the Criminal Justice Act 1988 (c.33) (having knife etc. on school premises) 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.”.

(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.”.

(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 sub-paragraph (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.”.

Driving disqualification for any offence

90.—(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.

PART 5

(2) Where the person is convicted of an offence the sentence for which is fixed by law, 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 3 of the Road Traffic (Northern Ireland) Order 1981 (NI 1)), his Community licence and its counterpart (if any),

within 5 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.

Proving execution of arrest warrants

Jurisdiction of magistrates’ court in relation to proving execution of arrest warrant

91.—(1) This Article applies where—

- (a) a warrant for the arrest of any person (“D”) is issued under Article 20 or 25 of the Magistrates’ Courts (Northern Ireland) Order 1981 (NI 26) or Article 6 of the Criminal Justice (Northern Ireland) Order 2003 (NI 13), by a resident magistrate, lay magistrate or magistrates’ court for a county court division (“division A”); and
- (b) D is arrested on foot of the warrant.

(2) The execution of the warrant may be proved before a magistrates’ court for—

- (a) division A;

- (b) the county court division in which D is arrested (“division B”); or
- (c) a county court division which adjoins division B (“division C”).

(3) Where the execution of the warrant is proved under paragraph (2) before a magistrates’ court for division B or division C, that court—

- (a) may remand D in custody or on bail to appear before a magistrates’ court for division A; and
- (b) may hear and determine any application by D for the grant of a right to representation under Article 26 of the Access to Justice (Northern Ireland) Order 2003 (NI 10);

but, subject to paragraph (4), that court may not exercise any other power in relation to D or that offence.

(4) Paragraph (3) does not prevent the court from exercising any jurisdiction which the court has apart from this Article.

(5) Anything done before or by a magistrates’ court for division B or division C under paragraph (2) or (3) shall have effect as if done before or by a magistrates’ court for division A.

(6) In Article 20(3) of the Magistrates’ Courts (Northern Ireland) Order 1981 for the words from “issue a warrant to arrest” to the end substitute “issue a warrant for the arrest of that person”.

(7) Until the coming into operation of Article 26 of the Access to Justice (Northern Ireland) Order 2003 (NI 10) paragraph (3) has effect as if for subparagraph (b) there were substituted—

- “(b) may hear and determine any application by D under Article 28(1) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8) as if D had been charged before that court with the offence in respect of which the warrant was issued;”.

(8) The preceding provisions of this Article apply in relation to a warrant which is executed on or after the day on which this Article comes into operation, whether the warrant was issued before, on or after that day.

Anti-social behaviour orders

Applications for interim order

92. 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

93. 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

94.—(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

95.—(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) 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

96. 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

97.—(1) Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1989 (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

98.—(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).

PART 6

SUPPLEMENTARY

Regulations, orders and rules

99.—(1) Regulations, orders and 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 (c.36) shall apply accordingly.

(2) Paragraph (1) does not apply to an order under Article 1 or 8.

(3) Regulations, orders and rules made by 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 Secretary of State considers necessary or expedient.

PART 6

Supplementary and consequential provision, etc.

100.—(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 99(3)(b) to include transitory, transitional or saving provision in an order under Article 1.

(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

101.—(1) The statutory provisions set out in Schedule 6 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 7 are repealed to the extent specified in the second column of that Schedule.

SCHEDULES

SCHEDULE 1

Article 3(2).

SERIOUS OFFENCES

1. Manslaughter.
2. Rape.
3. Indecent assault upon a female.
4. Kidnapping.
5. Riot.
6. Affray.
7. False imprisonment.

Offences against the Person Act 1861 (c. 100)

8. 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).

Explosive Substances Act 1883 (c. 3)

9. An offence under—
 - section 2 (causing explosion likely to endanger life or property), or
 - section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).

Criminal Law Amendment Act 1885 (c. 69)

10. An offence under section 4 of attempted intercourse with girl under 14.

SCH. 1

Infanticide Act (Northern Ireland) 1939 (c. 5)

11. An offence under section 1 (infanticide).

Criminal Justice Act (Northern Ireland) 1945 (c. 15)

12. An offence under section 25 (child destruction).

Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

13. An offence under—
section 20 (cruelty to children), or
section 22 (indecent conduct towards child).

Theft Act (Northern Ireland) 1969 (c. 16)

14. An offence under section 8 (robbery or assault with intent to rob).

15. An offence under section 9 of burglary with intent to—
(a) inflict grievous bodily harm on a person, or
(b) do unlawful damage to a building or anything in it.

16. An offence under section 10 (aggravated burglary).

Criminal Damage (Northern Ireland) Order 1977 (NI 4)

17. An offence of arson under Article 3.

18. An offence under Article 3(2) (destroying or damaging property) other than offence of arson.

Protection of Children (Northern Ireland) Order 1978 (NI 17)

19. An offence under Article 3 (indecent photographs of children).

Road Traffic (Northern Ireland) Order 1981 (NI 1)

20. An offence under Article 172B (aggravated vehicle-taking causing death or grievous bodily injury).

Taking of Hostages Act 1982 (c. 28)

21. An offence under section 1 (hostage-taking).

Aviation Security Act 1982 (c. 36)

22. 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).

Criminal Justice Act 1988 (c. 33)

23. An offence under section 134 (torture).

Aviation and Maritime Security Act 1990 (c. 31)

24. 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).

Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

25. An offence under Part 2 (offences relating to Channel Tunnel trains and the tunnel system).

Road Traffic (Northern Ireland) Order 1995 (NI 18)

26. 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).

International Criminal Court Act 2001 (c. 17)

27. An offence under section 51 or 52 (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

Female Genital Mutilation Act 2003 (c. 31)

28. 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).

Sexual Offences Act 2003 (c. 42)

29. 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),
section 57 (trafficking into the UK for sexual exploitation),
section 58 (trafficking within the UK for sexual exploitation), or
section 59 (trafficking out of the UK for sexual exploitation).

Criminal Justice (Northern Ireland) Order 2003 (NI 13)

30. An offence under—
Article 20 (assault with intent to commit buggery), or
Article 21 (indecent assault on a male).

SCH. 1

Domestic Violence, Crime and Victims Act 2004 (c. 28)

31. An offence under section 5 (causing or allowing the death of a child or vulnerable adult).

Firearms (Northern Ireland) Order 2004 (NI 3)

32. An offence under—

- Article 58 (possession with intent),
- Article 59 (use of firearm to resist arrest), or
- Article 60 (carrying firearm with criminal intent).

Other offences

33. 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, or
- (c) attempting to commit an offence so specified.

34. An attempt to commit murder or a conspiracy to commit murder.

Article 3(3).

SCHEDULE 2

SPECIFIED OFFENCES

PART 1

SPECIFIED VIOLENT OFFENCES

1. Manslaughter.
2. Kidnapping.
3. Riot.
4. Affray.
5. False imprisonment.

Offences against the Person Act 1861 (c. 100)

6. An offence under—

- section 4 (soliciting murder),
- section 16 (threats to kill),
- 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.

Explosive Substances Act 1883 (c. 3)

8. An offence under—

section 2 (causing explosion likely to endanger life or property), or
section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).

Infanticide Act (Northern Ireland) 1939 (c. 5)

9. An offence under section 1 (infanticide).

Criminal Justice Act (Northern Ireland) 1945 (c. 15)

10. An offence under section 25 (child destruction).

Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28)

11. An offence under section 7(1)(b) (assault with intent to resist arrest).

Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

12. An offence under section 20 (cruelty to children).

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, or
- (b) do unlawful damage to a building or anything in it.

15. An offence under section 10 (aggravated burglary).

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.

Road Traffic (Northern Ireland) Order 1981 (NI 1)

18. An offence under Article 172B (aggravated vehicle-taking causing death or grievous bodily injury).

Taking of Hostages Act 1982 (c. 28)

19. An offence under section 1 (hostage-taking).

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).

Mental Health (Northern Ireland) Order 1986 (NI 4)

21. An offence under Article 121 (ill-treatment of patients).

Criminal Justice Act 1988 (c. 33)

22. An offence under section 134 (torture).

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).

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).

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).

Protection from Harassment (Northern Ireland) Order 1997 (NI 9)

26. An offence under Article 6 (putting people in fear of violence).

Police (Northern Ireland) Act 1998 (c. 32)

27. An offence under section 66 (assaulting or obstructing a constable etc.).

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.

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).

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).

Firearms (Northern Ireland) Order 2004 (NI 3)

31. An offence under—
Article 58 (possession with intent),
Article 59 (use of firearm to resist arrest), or
Article 60 (carrying firearm with criminal intent).

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
(c) attempting to commit an offence so specified.
33. An attempt to commit murder or a conspiracy to commit murder.

PART 2

SPECIFIED SEXUAL OFFENCES

1. Rape.
2. Indecent assault upon a female.

Offences against the Person Act 1861 (c. 100)

3. 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).

Criminal Law Amendment Act 1885 (c. 69)

4. 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),

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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),
section 8 (unlawful detention of woman or girl in brothel etc.), or
section 13 (keeping brothel etc.).

Punishment of Incest Act 1908 (c. 45)

5. An offence under—
section 1 (incest by a man), or
section 2 (incest by a woman).

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).

Theft Act (Northern Ireland) 1969 (c. 16)

7. An offence under section 9 of burglary with intent to commit rape.

Protection of Children (Northern Ireland) Order 1978 (NI 17)

8. An offence under Article 3 (indecent photographs of children).

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).

Criminal Justice (Northern Ireland) Order 1980 (NI 6)

10. An offence under Article 9 (inciting girl under 16 to have incestuous sexual intercourse).

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).

Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (NI 17)

12. An offence under Article 15 (possession of indecent photograph of a child).

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),
- section 57 (trafficking into the UK for sexual exploitation),
- section 58 (trafficking within the UK for sexual exploitation),
- section 59 (trafficking out of the UK for sexual exploitation),
- section 66 (exposure),
- section 67 (voyeurism),
- section 69 (intercourse with an animal), or
- section 70 (sexual penetration of a corpse).

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).

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.

SCHEDULE 3

Article 45.

SUPERVISED ACTIVITY ORDERS: FURTHER PROVISIONS

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 petty sessions district in which the offender resides or will reside to carry out the requirements of a supervised activity order; and

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- (b) the court is satisfied that provision can be made under the arrangements for the offender to carry out the requirements of the order which the court proposes to make.

2.—(1) A supervised activity order shall specify the petty sessions district in which the offender resides or will reside; and the offender shall be required to be under the supervision of the supervising officer for that district.

(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, but so that at no time shall the offender have an outstanding number of hours to carry out the requirements of those orders in excess of the largest number specified in Article 45.

(3) The court by which a supervised activity order is made shall as soon as practicable give copies of the order to a probation officer assigned to the court and the officer shall send copies of the order—

- (a) to the offender; and
- (b) to the supervising officer.

(4) The officer shall also send 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 3;
- (b) of the consequences under paragraph 4 of failure to comply with any of those requirements; and
- (c) that the court has, under paragraph 5, power to review the order on the application either of the offender or of a probation officer for the petty sessions district in which the offender for the time being resides.

(5) If the court is not the appropriate court, the court shall send a copy of the order to the clerk of the appropriate court (together with such documents and information relating to the case as are considered useful).

3.—(1) An offender in respect of whom a supervised activity order is in force shall report to the supervising officer and 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).

(2) Subject to paragraph 5(1), instructions given under a supervised activity order shall be carried out during the period of twelve months beginning with the date of the order; but, unless revoked, the order shall remain in force until the offender has carried out the instructions given under it for the number of hours specified in it.

(3) The instructions given by the supervising officer under the order shall, so far as practicable, be such as to avoid any conflict with the offender's religious beliefs and 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.

4.—(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 3 or of the order (including any failure satisfactorily to carry out any instructions which he has been given by the supervising officer under the order), the lay magistrate may—

- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
- (b) if the complaint is in writing and on oath, issue a warrant for the offender's arrest.

(2) If it is proved to the satisfaction of the court before which an offender appears or is brought under sub-paragraph (1) that the offender has failed without reasonable excuse to comply with any of the requirements of paragraph 3 or of the order (including any failure satisfactorily to carry out any instructions which he has been given by the supervising officer under the order) the court may—

- (a) revoke the order and impose such period of imprisonment not exceeding—
 - (i) in the case of the Crown Court, 30 days; and
 - (ii) in the case of a magistrates' court, 20 days, as the court considers appropriate; or
- (b) subject to Article 45(2) and paragraph 2(2), vary the number of hours specified in the order.

5.—(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 twelve months specified in paragraph 3;
- (b) subject to Article 45(2) and paragraph 2(2), vary the numbers of hours specified in the order;
- (c) revoke the order; or
- (d) revoke the order and impose such period of imprisonment not exceeding—
 - (i) in the case of the Crown Court, 30 days; and
 - (ii) in the case of a magistrates' court, 20 days, as the court considers appropriate.

(2) If—

- (a) the appropriate court is satisfied that the offender proposes to reside in another petty sessions district instead of the petty sessions district for the time being specified under paragraph 2(1)(a) or that such a change of residence has taken place; and
- (b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the other petty sessions district to carry out instructions under supervised activity orders; and
- (c) it appears to that court that provision can be made under those arrangements for the offender to carry out instructions under the order,

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that court may, and on application of the supervising officer shall, amend the order by substituting the other petty sessions district for the district specified in the order.

(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—

- (a) if the order amends the relevant order otherwise than by substituting a new petty sessions district or a new place for the one specified in the relevant order, give copies of the amending order to the supervision officer;
- (b) if the order amends the relevant order in the manner excepted by paragraph (a), send to the clerk of petty sessions for the new petty sessions district—
 - (i) copies of the amending order; and
 - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that district in exercising its functions in relation to the order;

and in a case falling within paragraph (b) the clerk of petty sessions for that district shall give copies of the amending order to the supervising officer.

6.—(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.

7. In this Schedule—

“the appropriate court” in relation to a supervised activity order, means—

- (a) the Crown Court if the Crown Court made the order;
- (b) a magistrates' court if a magistrates' court made the order;

“supervising officer” has the same meaning as in Article 45.

SCHEDULE 4

Article 48.

PAROLE COMMISSIONERS

Appointment

- 1.—(1) The Secretary of State shall appoint Parole Commissioners.
- (2) The Secretary of State 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 ten years' standing; or
 - (ii) an advocate or solicitor in Scotland of at least ten years' standing; or
 - (iii) a person who has a ten 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 Secretary of State to have knowledge and experience of the supervision or aftercare of discharged prisoners;
 - (e) at least one is a person appearing to the Secretary of State to have knowledge and experience of working with victims of crime; and
 - (f) at least one is a person appearing to the Secretary of State 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 Secretary of State shall appoint a Chief Commissioner from among the Commissioners.
- (5) The Secretary of State may appoint a deputy Chief Commissioner from among the Commissioners.

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 Secretary of State.
3. The Secretary of State 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 three months beginning not earlier than six months before the day of dismissal;
 - (b) that the Commissioner has been convicted of a criminal offence;

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- (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.

Remuneration and allowances

4.—(1) The Secretary of State shall pay to or in respect of a Commissioner such remuneration, fees and allowances as the Secretary of State thinks fit.

(2) If a Commissioner resigns in accordance with paragraph 2(b), the Secretary of State may pay the Commissioner compensation if in the Secretary of State's opinion special circumstances make it appropriate.

Staff, premises, etc.

5. The Secretary of State shall provide for the Commissioners the services of such staff, and the use of such premises and other facilities, as the Secretary of State thinks appropriate.

Annual report

6.—(1) The Chief Commissioner shall, as soon as reasonably practicable after the end of each financial year, make a report to the Secretary of State on the performance of the Commissioners' functions during the year.

(2) The Secretary of State shall lay a copy of the report before each House of Parliament.

(3) In sub-paragraph (1) "financial year" means—

- (a) the period starting with the date on which the first Commissioner is appointed and ending on 31st March following that date, and
- (b) each successive period of twelve months.

Disqualification of Commissioners

7. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) at the appropriate place insert—

"Parole Commissioner".

8. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (other disqualifying offices) at the appropriate place insert—

"Parole Commissioner".

SCHEDULE 5

Article 49.

COMMISSIONERS' PROCEDURE

Rules

1. The Secretary of State may make rules prescribing the procedure to be followed in relation to proceedings of the Commissioners, and in particular rules may—

- (a) make provision for the matters set out in this Schedule;
- (b) confer functions on the Chief Commissioner or deputy Chief Commissioner.

Allocation of cases

2. The rules may provide—

- (a) for the allocation of proceedings to panels of Commissioners;
- (b) for the taking of specified decisions by a single Commissioner.

Evidence and information

3. The rules may make provision about evidence and information, including provision—

- (a) requiring Commissioners to send to the Secretary of State copies of such documents as the rules may specify;
- (b) requiring the Secretary of State to provide specified information to Commissioners;
- (c) for the giving of evidence by or on behalf of the Secretary of State, the Police Service of Northern Ireland and others;
- (d) about the way in which information or evidence is to be given;
- (e) for evidence or information about a prisoner not to be disclosed to anyone other than a Commissioner if the Secretary of State certifies that the evidence or information satisfies conditions specified in the rules;
- (f) preventing a person from calling any witness without leave of Commissioners.

Exclusion of persons from proceedings

4. The rules may provide for proceedings to be held in private except where Commissioners direct otherwise.

5. The rules may prevent a person who is serving a sentence of imprisonment or detention from representing or acting on behalf of a prisoner.

6.—(1) The rules may permit Commissioners to hold proceedings in specified circumstances in the absence of any person, including the prisoner concerned and any representative appointed by the prisoner.

(2) Where a prisoner and any representative appointed by the prisoner are excluded from proceedings by virtue of sub-paragraph (1), the Advocate General for Northern Ireland may appoint a person to represent the prisoner's interests in those proceedings.

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(3) A person appointed under sub-paragraph (2) shall not be responsible to the prisoner whose interests the person so appointed represents.

(4) Until paragraph 18 of Schedule 7 of the Justice (Northern Ireland) Act 2002 (c. 26) comes into force, sub-paragraph (2) shall have effect as if the reference to the Advocate General for Northern Ireland were a reference to the Attorney General for Northern Ireland.

Article 101.

SCHEDULE 6

AMENDMENTS

The Treatment of Offenders Act (Northern Ireland) 1968 (c. 29)

In section 7 (transfer of persons under 21 from young offenders centre to prison), after subsection (1) insert the following subsections—

“(1A) Where a person serving an indeterminate custodial sentence under Article 4(3) of the Criminal Justice (Northern Ireland) Order 2007 has been transferred to prison under this section, that person shall be treated as if the sentence were a sentence of imprisonment under that Article.

(1B) Where a person serving an extended custodial sentence under Article 5 of that Order has been transferred to prison under this section, that person shall be treated as if the sentence were a sentence of imprisonment under that Article.”.

In section 8 (transfer of persons aged 21 or over from young offenders centre to prison), after subsection (3) add the following subsections—

“(4) Where a person serving an indeterminate custodial sentence under Article 4(3) of the Criminal Justice (Northern Ireland) Order 2007 has been transferred to prison under this section, that person shall be treated as if the sentence were a sentence of imprisonment under that Article.

(5) Where a person serving an extended custodial sentence under Article 5 of that Order has been transferred to prison under this section, that person shall be treated as if the sentence were a sentence of imprisonment under that Article.”.

The Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27)

In Article 6(1) (rehabilitation periods for particular sentences), after sub-paragraph (g) add the following sub-paragraph—

“(h) a sentence imposed under Article 4 or 5 of the Criminal Justice (Northern Ireland) Order 2007, ”.

The Criminal Justice (Northern Ireland) Order 1996 (NI 24)

In Article 4 (absolute and conditional discharge), in paragraph (1), after “2004” insert “or Article 4 or 5 of the Criminal Justice (Northern Ireland) Order 2007”.

The Justice (Northern Ireland) Act 2002 (c. 26)

In section 46(1)(ea) (organisations to be inspected by Chief Inspector of Criminal Justice), for “Life Sentence Review” substitute “Parole”.

The Life Sentences (Northern Ireland) Order 2001 (NI 2)

In Article 2(2) (interpretation), in the definition of “the Commissioners” for “Life Sentence Review” substitute “Parole”.

The Sexual Offences Act 2003 (c. 42)

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 “or Article 4 of the Criminal Justice (Northern Ireland) Order 2007”.

SCHEDULE 7

Article 101.

REPEALS

PART 1

SENTENCING

Short Title	Extent of repeal
The Criminal Justice (Northern Ireland) Order 1996 (NI 24)	In Article 2(2), the definition of “custody probation order”. Articles 19 to 22. Articles 24 and 25. Articles 26 to 28. In Article 57, “21A(4)”.
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.

Draft Order in Council laid before Parliament under section 85 of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament

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Short Title	Extent of repeal
The Criminal Justice (Northern Ireland) Order 2005 (NI 15)	In Article 16(2), sub-paragraph (a).

PART 2

REPEALS COMING INTO OPERATION IN ACCORDANCE WITH ARTICLE 1(2)

Short Title	Extent of repeal
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.

PART 3

PRISONS

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).

Draft Order in Council laid before Parliament under section 85 of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament

Short Title	Extent of repeal
The Criminal Justice and Public Order Act 1994 (c.33)	In section 47(1) the definition of “intoxicating liquor”.
The Justice (Northern Ireland) Act 2002 (c.26)	In section 128(5)(aa) the words “or as a medical officer”.
	In Schedule 4, paragraph 1(2)(f).

PART 4

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.