Draft Order in Council laid before Parliament under the Northern Ireland Act 1998, section 85(3), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No. (N.I.)

NORTHERN IRELAND

Life Sentences (Northern Ireland) Order 2001

Made - - - -

Coming into operation in accordance with Article 1(2)

At the Court at , the day of 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a 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(**1**) and 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 I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Life Sentences (Northern Ireland) Order 2001.

(2) This Order shall come into operation on such day as the Secretary of State may by order appoint.

(3) An order under paragraph (2) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions brought into operation by the order.

(**1**) 1998 c. 47.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**2**) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Northern Ireland Assembly.

(2) In this Order—

"the appointed day" means the day on which this Order comes into operation;

"the Commissioners" means the Life Sentence Review Commissioners;

"the release provisions" means the provisions of paragraphs (3) to (7) of Article 6;

"life prisoner" means a person serving one or more life sentences;

"life sentence" means either of the following imposed for an offence, whether committed before or after the appointed day, namely—

(a) a sentence of imprisonment for life;

(b) a sentence of detention during the pleasure of the Secretary of State under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998(**3**);

"prison" includes—

(a) a young offenders centre; and

(b) any other place in which a person may be detained under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998.

PART II

THE LIFE SENTENCE REVIEW COMMISSIONERS

Life Sentence Review Commissioners

3.—(1) The Secretary of State shall appoint Life Sentence Review 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(**4**);

(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; and

(e) 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) The Commissioners shall—

(**2**) 1954 c. 33 (N.I.).
(**3**) 1998 N.I. 9).
(**4**) 1990 c. 41.

(a) advise the Secretary of State with respect to any matter referred to them by him which is connected with the release or recall of life prisoners; and

(b) have the functions conferred by Part III.

(4) In discharging any functions under this Order the Commissioners shall—

(a) have due regard to the need to protect the public from serious harm from life prisoners; and

(b) have regard to the desirability of—

(i) preventing the commission of life prisoners of further offences; and

(ii) securing the rehabilitation of life prisoners.

(5) Schedule 1 (which makes further provision about the Commissioners) shall have effect.

(6) In 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(**5**).

Commissioners' procedure

4. Schedule 2 (which makes provision about the procedure to be followed in relation to the Commissioners' functions) shall have effect.

Part III

LIFE SENTENCES

Determination of tariffs

Determination of tariffs

5.—(1) Where a court passes a life sentence, the court shall, unless it makes an order under paragraph (3), order that the release provisions shall apply to the offender in relation to whom the sentence has been passed as soon as he has served the part of his sentence which is specified in the order.

(2) The part of a sentence specified in an order under paragraph (1) shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.

(3) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under paragraph (1), the court shall order that, subject to paragraphs (4) and (5), the release provisions shall not apply to the offender.

(4) If, in a case where an order under paragraph (3) is in force, the offender was aged over 18 when he committed the offence, the Secretary of State may at the appropriate stage direct that the release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(**5**) 1983 c. 54.

(5) If, in a case where an order under paragraph (3) is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall at the appropriate stage direct that the release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(6) The appropriate stage, for the purposes of paragraphs (4) and (5), is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.

(7) An offence is associated with another for the purposes of this Article if—

(a) the offender is convicted of it in the proceedings in which he is convicted of the other offence, or (although convicted of it in earlier proceedings) is sentenced for it at the same time as he is sentenced for that offence; or

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

(8) This Article has effect in relation to life sentences passed after the appointed day.

Release on licence

Duty to release certain life prisoners

6.—(1) In this Order—

(a) references to a life prisoner to whom this Article applies are references to a life prisoner in respect of whom—

(i) an order has been made under paragraph (1) of Article 5; or

(ii) a direction under paragraph (4) or (5) of that Article has been given; and

(b) references to the relevant part of his sentence are references to the part of his sentence specified in the order or direction,

and in this Article "appropriate stage", in relation to such a direction, has the same meaning as in Article 5(6).

(2) But if a life prisoner is serving two or more life sentences—

(a) he is not to be treated for the purposes of this Order as a life prisoner to whom this Article applies unless such an order or direction has been made or given in respect of each of those sentences or such a direction will be required to be given at the appropriate stage; and

(b) the release provisions do not apply in relation to him until he has served the relevant part of each of them.

(3) As soon as—

(a) a life prisoner to whom this Article applies has served the relevant part of his sentence; and

(b) the Commissioners have directed his release under this Article,

it shall be the duty of the Secretary of State to release him on licence.

(4) The Commissioners shall not give a direction under paragraph (3) with respect to a life prisoner to whom this Article applies unless—

(a) the Secretary of State has referred the prisoner's case to the Commissioners; and

(b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.

(5) A life prisoner to whom this Article applies may require the Secretary of State to refer his case to the Commissioners at any time—

(a) after he has served the relevant part of his sentence; and

(b) where there has been a previous reference of his case to the Commissioners, after the end of the period of two years beginning with the disposal of that reference; and

(c) where he is also serving a sentence of imprisonment or detention for a term, after the time when, but for his life sentence, he would be entitled to be released,

and in this paragraph "previous reference" means a reference under paragraph (4) or Article 9(4).

(6) In determining for the purpose of this Article whether a life prisoner to whom this Article applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large, unless the Secretary of State otherwise directs.

(7) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment or detention, nothing in this Order shall require the Secretary of State to release the person in respect of any life sentences unless and until the Secretary of State is required to release him in respect of each of the terms.

Power to release life prisoners on compassionate grounds

7.—(1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.

(2) Before releasing a life prisoner under paragraph (1), the Secretary of State shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

Licences and recall

Duration and conditions of licences

8.—(1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under Article 9(1) or (2), remain in force until his death.

(2) A life prisoner subject to a licence shall comply with such conditions (which may include on his release conditions as to his supervision by a probation officer) as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any descriptions of such persons.

(3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, except in accordance with recommendations of the Commissioners.

(4) Rules made under paragraph (2) 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(**6**) shall apply accordingly.

Recall of life prisoners while on licence

9.—(1) If recommended to do so by the Commissioners, in the case of a life prisoner who has been released on licence, the Secretary of State may revoke his licence and recall him to prison.

(2) The Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Commissioners, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.

(**6**) 1946 c. 36.