Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Criminal Justice (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1996 No. 3160 (N.I. 24)

The Criminal Justice (Northern Ireland) Order 1996

- - - - - - *19th December 1996*

Modifications etc. (not altering text)

C1 Order: functions transferred from Secretary of State to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), **Sch. 1** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 1996.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint[F1].

(3) An order under paragraph (2) may also appoint a day for the coming into operation of any provision of an order made under section 38(2) of the Northern Ireland Constitution Act 1973 as necessary or expedient in consequence of this Order.

F1 partly exercised SRs 1997/267, 523; 1999/230

Interpretation

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

(2) In this Order—

"attendance centre order" means an order under**[**[F2] Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998;**]**

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

"combination order" means an order under Article 15;

"community order" means any of the following orders, namely—

(a) a probation order;

(b) a community service order;

(c) a combination order;

(ca) **[**F3a reparation order;

(cb) a community responsibility order;**]**

Sub.#para. (d) rep. by 1998 NI 9

and

(e) an attendance centre order;

[F3"community responsibility order" means an order under Article 36E of the Criminal Justice (Children) (Northern Ireland) Order 1998 (N.I. 9);**]**

"community sentence" means a sentence which consists of or includes one or more community orders;

"community service order" means an order under Article 13;

"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) **[**F2a sentence of detention in a young offenders centre or a sentence of detention during the Secretary of State's pleasure under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 **[**F4or a sentence of detention under Article 13(4)(b) or 14(5) of the Criminal Justice (Northern Ireland) Order 2008**]**;

(iii) an order under Article 39 of that Order sending the offender to a juvenile justice centre;**]**

"custody probation order" means an order under Article 24;

"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 and "authorised HSS trust" shall be construed in accordance with paragraph (3);

"mentally disordered", in relation to any person, means suffering from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986;

"Order Book" means the Order Book required to be kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984;

"order for conditional discharge" means an order under Article 4 discharging a person subject to the condition specified in Article 4(1)(b);

"period of conditional discharge" means the period specified in an order for conditional discharge;

"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;

"Probation Board" means the Board established by the Probation Board (Northern Ireland) Order 1982;

"probation order" means an order under Article 10;

"probation period" means the period specified in a probation order;

[[F3]"reparation order" means an order under Article 36A of the Criminal Justice (Children) (Northern Ireland) Order 1998;**]**

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

"sexual offence", except in Article 45(1)(b),**[**[F5] means any of the following—

(a) a sexual offence within the meaning of Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998;

(b) an offence under section 3 of the Sexual Offences (Amendment) Act 2000;

(c) an offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of attempting to commit any of the offences in paragraph (a) or (b);

(d) an offence under Article 9 of that Order of conspiracy to commit any of those offences;

(e) an offence of inciting another to commit any of those offences;**]**

"statutory provision" has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954;

Definition rep. by 1998 NI 9

"violent offence" means an offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, and includes an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition);

"young offenders centre" has the meaning assigned to it by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968.

[[F3]"youth conference order" means an order under Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1998;**]**

(3) A reference in any provision of this Order to an "authorised HSS trust" is a reference to an HSS trust by which functions under that provision 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.

(4) For the purposes of this Order except Article 10(4) or 13(S), where an order for discharge, a probation order or a community service order has been made on appeal, the order shall be treated as if it had been made by the court from which the appeal was brought.

(5) For the purposes of any reference (however expressed) in this Order 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.

(6) For the purposes of any reference in this Order 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).

(7) For the purposes of this Order, an offence is associated with another 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) In this Order any reference, in relation to an offender convicted of a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.

[F6(9) For the purposes of this Order, a sentence falls to be imposed under paragraph (2) of**[**F7 Article 70**]** of the Firearms (Northern Ireland) Order**[**F7 2004**]****[**F8 or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006**]****[**F9or section 7(2) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015**]** if it is required by **[**F10that provision**]** and the court is not of the opinion there mentioned.**]**

F2 1998 NI 9
F3 2002 c. 26
F4 Words in art. 2(2) in definition of "custodial sentence" added (15.5.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(1), **Sch. 5 para. 7(1)**; S.R. 2008/217, **art. 2**, Sch. (subject to saving in art. 3(1)(2)(b)(ii))
F5 2003 NI 13
F6 2003 c. 44
F7 2004 NI 3
F8 Words in art. 2(9) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 51, 66(2), **Sch. 2 para. 2(11)(a)**; S.I. 2007/858, **art. 2(i)(j)**
F9 Words in art. 2(9) inserted (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(7)(a)**, 28(2)
F10 Words in art. 2(9) substituted (14.1.2015) by Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2), **ss. 7(7)(a)**, 28(2)

PART II

TREATMENT OF OFFENDERS

Preliminary

Deferment of sentence

3.—(1) Subject to the provisions of this Article, the Crown Court or a magistrates' court may defer passing sentence on an offender for the purpose of enabling the court to have regard, in determining his sentence, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.

(2) Any deferment under this Article shall be until such date as may be specified by the court, not being more than **[**F11the relevant period**]** after the date on which the deferment is announced by the court; and where the passing of sentence has been deferred under this Article it shall not be further deferred thereunder.

[F12(2A) In paragraph (2) "the relevant period" means—

(a) if the court makes an order under Article 28(1) of the Road Traffic Offenders (Northern Ireland) Order 1996 in respect of the offender, 6 months;

(b) in any other case, 12 months.**]**

(3) The power conferred by this Article shall be exercisable only if the offender consents and the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

(4) A court which under this Article has deferred passing sentence on an offender may pass sentence on him before the expiration of the period of deferment if during that period he is convicted in Northern Ireland of any offence.

(5) If an offender on whom a court has under this Article deferred passing sentence in respect of one or more offences is during the period of deferment convicted in Northern Ireland of any offence ("the subsequent offence"), then, without prejudice to paragraph (4) but subject to paragraph (6), the court which (whether during that period or not) passes sentence on him for the subsequent offence may also, if this has not already been done, pass sentence on him for the first-mentioned offence or offences.

(6) The power conferred by paragraph (5) shall not be exercised by a magistrates' court if the court which deferred passing sentence was the Crown Court; and the Crown Court, in exercising that power in a case in which the court which deferred passing sentence was a magistrates' court, shall not pass any sentence which could not have been passed by a magistrates' court in exercising it.

(7) A court which under this Article has deferred passing sentence on an offender may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest where—

(a) the court proposes to sentence him, whether on the date originally specified by the court or by virtue of paragraph (4) before that date; or

(b) the offender does not appear on the date so specified.

(8) In deferring the passing of sentence under this Article a magistrates' court shall be regarded as exercising the power of adjourning the trial which is conferred by Article 161(1) of the Magistrates' Courts (Northern Ireland) Order 1981 and accordingly Articles 23 and 25(3) of that Order (non-appearance of the accused) apply (without prejudice to paragraph (7)) if the offender does not appear on the date specified in pursuance of paragraph (2).

(9) A court which under this Article defers passing sentence on an offender shall not on the same occasion remand him.

(10) Nothing in this Article shall affect the power of the Crown Court to bind over an offender to come up for judgment when called upon or the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this Article.

(11) The power of a court under this Article to pass sentence on an offender in a case where the passing of sentence has been deferred thereunder includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him.

F11 Words in art. 3(2) substituted (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 53(2)**, 111(2)(b) (with s. 106(4))

F12 Art. 3(2A) inserted (5.7.2011) by Justice Act (Northern Ireland) 2011 (c. 24), **ss. 53(3)**, 111(2)(b) (with s. 106(4))

Discharge

Absolute and conditional discharge

4.—(1) Where a court by or before which a person is convicted of an offence**[**F13 (not being an offence for which the sentence is fixed by law or falls to be imposed under**[**F14 Article 70(2)**]** of the Firearms (Northern Ireland) Order**[**F14 2004 **[**F15or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006**]][**F16 or Article 13 or 14 of the Criminal Justice (Northern Ireland) Order