Changes to legislation: *The Treatment of Offenders (Northern Ireland) Order 1989 is up to date with all changes known to be in force on or before 03 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1989 No. 1344 (N.I. 15)

The Treatment of Offenders (Northern Ireland) Order 1989

- - - - - - *2nd August 1989*

Modifications etc. (not altering text)

C1 Order: transfer of functions 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)**

Title and commencement

1.—(1) This Order may be cited as the Treatment of Offenders (Northern Ireland) Order 1989.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

F1 1954 c. 33 (N.I.)

Art.3 rep. by 1996 NI 24

Arts.4#6 rep. by 1998 NI 9

Detention in a young offenders centre

7.—(1) For section 5 of the Treatment of Offenders Act (Northern Ireland) 1968[F2] there shall be substituted the following section—

"**Detention in a young offenders centre.**

5.—(1) Where—

(a) a person of not less than sixteen but under twenty#one years of age has been convicted (whether summarily or on indictment) of an offence which is punishable with imprisonment in the case of a person aged twenty#one years or over; and

(b) the court considers that he should serve a term of detention,

the court may, subject to section 72(3) of the Children and Young Persons Act (Northern Ireland) 1968[F3] , order him to be detained in a young offenders centre for a term which shall not exceed—

(i) the maximum term of imprisonment which the court could impose for the offence in the case of a person aged twenty#one years or over; or

(ii) four years,

whichever is the lesser.

(2) Where a court orders a person to be detained in a young offenders centre under subsection (1) for a term which exceeds—

(a) eighteen months, in the case of a person who has previously served a sentence of imprisonment or a term of detention in a young offenders centre;

(b) six months, in any other case,

it shall state the reason and cause it to be entered in the record of the proceedings along with the sentence.

(3) Where—

(a) a person of not less than sixteen but under twenty#one years of age has been guilty of any default for which the court could, if he were aged twenty#one years or over, commit him to prison; and

(b) the court considers that he should serve a term of detention,

the court may, subject to section 72(3) of the Children and Young Persons Act (Northern Ireland) 1968, order him to be detained in a young offenders centre for a term not exceeding that for which, if he were aged twenty#one years or over, he could be committed to prison.

(4) Where a court orders a person to be detained in a young offenders centre, it may order that the term of that detention shall commence on the expiration of any other term of detention ordered by that or any other court.

(5) Where the Crown Court orders a person to be detained in a young offenders centre for two or more terms of detention to run consecutively, the aggregate of those terms shall not exceed four years.

(6) Where a magistrates' court orders a person to be detained in a young offenders centre for two or more terms of detention to run consecutively, the aggregate of those terms shall not exceed—

(a) except as provided by paragraph (*b*) or any other enactment, twelve months;

(b) in the case of terms of detention in respect of indictable offences tried summarily, eighteen months.”.

(2) In section 1(2) of that Act (power to pass sentence of imprisonment for term of three years or more on a person under 21 years) for the words “three years or more” there shall be substituted the words “ more than four years ” .

F2 1968 c. 29 (N.I.)
F3 1968 c. 34 (N.I.)

Abolition of power to pass recorded sentence

8.—(1) A court shall not after the coming into operation of this Article pass a recorded sentence of imprisonment on any person or make a recorded order for detention in a young offenders centre in relation to any person.

(2) Paragraph (3) applies to a case where—

(a) a court has before the coming into operation of this Article passed a recorded sentence of imprisonment on any person or made a recorded order for detention in a young offenders centre in relation to any person; and

(b) the court has not ordered that the sentence or order take effect.

(3) In a case to which this paragraph applies—

(a) the recorded sentence of imprisonment or order for detention shall, subject to the following provisions of this Article, have effect as if it were a suspended sentence of imprisonment or order for detention;

(b) sections 18(5), 19, 20 and 21 of the Act of 1968 shall apply to the recorded sentence or order for detention as if it were a suspended sentence or order for detention passed or made at the same time and for the same term as the recorded sentence under—

(i) where the offence in respect of which it was imposed was not a serious offence within the meaning of section 18(1B) of the Act of 1968, section 18(1) of that Act; and

(ii) in any other case, section 18(1A) of that Act; and

(c) for the purposes of the provisions mentioned in sub#paragraph (*b*), the operational period of the suspended sentence shall be—

(i) where the period for which the court, in connection with imposing the recorded sentence on a person, bound that person over to be of good behaviour and keep the peace (in this sub#paragraph referred to as "the recorded period") is 5 years or less, the same period as the recorded period;

(ii) where the recorded period is more than 5 years and has expired before the coming into operation of this Article, the same period as the recorded period; and

(iii) where the recorded period is more than 5 years and has not expired before the coming into operation of this Article, the period of 5 years from the date on which the sentence was imposed or the period beginning on that date and ending on the date on which this Article comes into operation, whichever is the longer.

(4) Paragraph (3) applies—

(a) notwithstanding that a suspended sentence of imprisonment or order for detention for the same term as the recorded sentence of imprisonment could not be passed or made under subsection (1) or (as the case may be) (1A) of section 18 of the Act of 1968;

(b) notwithstanding that the operational period provided for by paragraph (3)(*c*) is not one which could be specified by a court in relation to a suspended sentence under subsection (1) or (as the case may be) (1A) of section 18 of that Act;

(c) whether any offence committed during the operational period provided for by paragraph (3)(*c*) was committed before or after the coming into operation of this Article.

(5) The references in section 26(2) and (3) of the Act of 1968 to a suspended sentence shall not be construed as including references to a recorded sentence which by virtue of this Article has effect as if it were a suspended sentence.

(6) Any statutory provision (other than the Act of 1968) which applies to a suspended sentence shall, with such modifications as are appropriate in consequence of this Article, apply to a sentence which by virtue of this Article has effect as if it were a suspended sentence.

(7) A notice issued by a court before the coming into operation of this Article to any person on whom that court has imposed a recorded sentence requiring that person to appear before the court on a date after the coming into operation of this Article shall have effect as if it were a summons issued under section 21(1) of the Act of 1968 requiring that person to appear at the place and time specified therein.

(8) In this Article "the Act of 1968" means the Treatment of Offenders Act (Northern Ireland) 1968[F4] .

F4 1968 c. 29 (N.I.)

Suspended sentences

9.—(1) In section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) for subsection (1) there shall be substituted the following subsections—

"(1) A court which—

(a) passes a sentence of imprisonment for a term of not more than two years for an offence which is not a serious offence within the meaning of subsection (1B); or

(b) makes an order for detention in a young offenders centre for a term of not more than two years for such an offence,

may order that the sentence or order for detention shall not take effect unless, during the period specified in the order, being not less than one year or more than three years from the date of the order, the offender commits in Northern Ireland another offence punishable with imprisonment in the case of a person aged twenty#one years or over, and thereafter a court having power to do so orders under section 19 that the original sentence or order for detention shall take effect.

(1A) A court which—

(a) passes a sentence of imprisonment for a term of not more than seven years for a serious offence within the meaning of subsection (1B); or

(b) makes an order for detention in a young offenders centre for such an offence,

may order that the sentence or order for detention shall not take effect unless, during the period specified in the order, being not less than one year or more than five years from the date of the order, the offender commits in Northern Ireland another offence punishable with imprisonment in the case of a person aged twenty#one years or over, and thereafter a court having power to do so orders under section 19 that the original sentence shall take effect.

(1B) In—

(a) subsections (1) and (1A) "serious offence" means an offence for which a person aged twenty#one years or over may, on conviction on indictment, be sentenced to imprisonment for a term of five years or more; and

(b) this section and sections 19 to 21 "operational period" in relation to a suspended sentence or order for detention means the period specified in the order under subsection (1) or, as the case may be, (1A)." .

(2) In section 19(1) of that Act (power of court on conviction of further offence to deal with suspended sentence)—

(a) for paragraph (*c*) there shall be substituted the following paragraph—

"(c) it may by order vary the original order under section 18—

(i) where it was made under subsection (1) of that section, by substituting for the period specified therein a period expiring not later than three years from the date of the variation;

(ii) where it was made under subsection (1A) of that section, by substituting for the period specifiedtherein a period expiring not later than five years from the date of the variation;" .