Status: *This version of this Order contains provisions that are prospective.*
Changes to legislation: *Criminal Justice (Northern Ireland) Order 1980 is up to date with all changes known to be in force on or before 03 April 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

1980 No. 704 (N.I. 6)

Criminal Justice (Northern Ireland) Order 1980

- - - - - - *[21st May 1980]*

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)**

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 1980.

(2) *Commencement*

Interpretation

2. 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.

Arts. 3#5 rep. by 1994 NI 15

Restitution orders

Restitution orders

6.—(1) The following provisions of this Article shall have effect with respect to section 27 of the Theft Act (Northern Ireland) 1969 (which enables orders for restitution and certain other orders to be made in relation to stolen property).

(2) The powers conferred by—

(a) subsection (1)(*c*) of the said section 27 (payment to owner of stolen goods out of money taken from the offender on his apprehension); and

(b) subsection (3) of that section (payment to purchaser of, and lender on the security of, stolen goods out of money so taken),

shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.

(3) The powers conferred by the said section 27 shall be exercisable not only where a person is convicted of an offence with reference to the theft of the goods in question but also where, on the conviction of a person of any other offence, the court takes an offence with reference to the theft of those goods into consideration in determining sentence.

(4) Where an order is made under the said section 27 against any person in respect of an offence taken into consideration in determining his sentence—

(a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;

(b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

(5) Any order under the said section 27 made by a court of summary jurisdiction shall be suspended—

(a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a court of summary jurisdiction;

(b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;

but this paragraph shall not apply where the order is made under section 27(1)(*a*) or (*b*) and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.

Miscellaneous and supplementary

Art. 7 rep. by 1994 NI 15

Driving disqualification where vehicle used for purposes of crime

8.—(1) This Article applies where a person is convicted of an offence punishable on indictment with imprisonment for a term of two years or more.

[F1(1A) This Article also applies where a person is convicted by or before any court of common assault or of any other offence involving an assault (including an offence of aiding, abetting, counselling or procuring, or inciting to the commission of, an offence).**]**

(2) If in a case to which this Article applies**[**F1 by virtue of paragraph (1)**]** a court is satisfied that a motor vehicle was used (by the person convicted or by anyone else) for the purpose of committing, or facilitating the commission of, the offence in question the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence or a provisional licence granted under [F2 Part II of the Road Traffic (Northern Ireland) Order 1981] so, however, that**[**F3 Article 49(1) of the Road Traffic Offenders (Northern Ireland) Order 1996**]** shall not have effect so as to require particulars of the conviction and disqualification to be endorsed on any such licence held by that person.

[F1(2A) If in a case to which this Article applies by virtue of paragraph (1A) the court is satisfied that the assault was committed by driving a motor vehicle, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining such a licence.**]**

(3) A court which makes an order under this Article disqualifying a person for holding or obtaining any such licence as is mentioned in paragraph (2) shall require him to produce to the court any such licence held by him within five days or such longer time as the court may determine; and—

(a) if the licence is not produced within such time, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F4 level 3 on the standard scale**]**;

(b) if he applies under**[**F3 Article 47 of the Road Traffic Offenders (Northern Ireland) Order 1996**]** for the disqualification to be removed and the court so orders, [F2**[**F3 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.

[[F1](4) Facilitating the commission of an offence shall be taken for the purposes of this Article to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection, and references in this Article to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of young offenders.**]**

[[F3](5) Paragraphs (3B), (4) and (4AA) of Article 180 of the Road Traffic (Northern Ireland) Order 1981 shall apply for the purposes of paragraph (3) in the same manner as they apply for the purposes of Article 29 of the Road Traffic Offenders (Northern Ireland) Order 1996.**]**

F1 1994 NI 15
F2 1981 NI 1
F3 1996 NI 10
F4 1984 NI 3

Modifications etc. (not altering text)
C2 Art. 8(1A) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 6** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)**

PROSPECTIVE

[[F5]**Extension of disqualification where custodial sentence also imposed**

8A.—(1) This Article applies where a person is convicted of an offence for which the court—

(a) imposes a custodial sentence, and

(b) orders the person to be disqualified under Article 8 for holding or obtaining a driving licence or a provisional licence granted under Part 2 of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)).

(2) The order under Article 8 must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.

(3) The discretionary disqualification period is the period for which, in the absence of this Article, the court would have disqualified the person under Article 8.

(4) The appropriate extension period is—

(a) where a court imposes a sentence under Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (punishment of grave crimes: indeterminate sentences), a period equal to the period specified in the sentence under Article 45(2) of that Order less any relevant discount;

(b) where an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) (determination of tariffs) is made in relation to the custodial sentence, a period equal to the part of the sentence specified in that order less any relevant discount;

(c) where Article 8(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (sentence for a determinate term) applies in relation to the custodial sentence, a period equal to the custodial period specified pursuant to Article 8(2) of that Order less any relevant discount;

(d) where a court imposes a sentence under Article 13(3) of the Criminal Justice (Northern Ireland) Order 2008 (indeterminate custodial sentences for serious offences), a period

equal to the period specified pursuant to Article 13(3)(b) of that Order less any relevant discount;

(e) where Article 14(3) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the offender is aged over 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(3)(a) of that Order calculated after that term has been reduced by any relevant discount;

(f) where Article 14(5) of the Criminal Justice (Northern Ireland) Order 2008 (extended custodial sentences for certain offences where the offender is aged under 21) applies in relation to the custodial sentence, a period equal to half of the term imposed pursuant to Article 14(5)(a) of that Order calculated after that term has been reduced by any relevant discount;

(g) in any other case, a period equal to half the custodial sentence imposed calculated after that sentence has been reduced by any relevant discount.

(5) If a period determined under paragraph (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.

(6) The "relevant discount" is the number of days by which the custodial sentence is treated as reduced by virtue of section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (periods in custody before sentence passed etc).

(7) This Article does not apply where—

(a) the custodial sentence was a suspended sentence, or

(b) the court has made an order under Article 5(3) of the Life Sentences (Northern Ireland) Order 2001 (life sentence: no early release) in relation to the custodial sentence.

(8) Paragraph (9) applies where an amending order provides that the proportion of a prisoner's sentence referred to in Article 18(2)(b) of the Criminal Justice (Northern Ireland) Order 2008 (duty to release prisoners serving extended custodial sentences) is to be read as a reference to another proportion ("the new proportion").

(9) The Secretary of State may by order provide that the proportion specified in paragraph (4)(e) and (f) of this Article is to be read, in the case of a custodial sentence to which the amending order applies, as a reference to the new proportion.

(10) An order under paragraph (9) is subject to **[**[F6]negative resolution **]**.

(11) In this Article—

"amending order" means an order under Article 18(9) of the Criminal Justice (Northern Ireland) Order 2008 (alteration by order of relevant part of sentence);

"custodial sentence" has the meaning given by Article 4 of the Criminal Justice (Northern Ireland) Order 2008;

"suspended sentence" means a suspended sentence or order for detention under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968.

F5 Arts. 8A, 8B inserted (prosp.) by Coroners and Justice Act 2009 (c. 25), ss. 137, 182(5), **Sch. 16 para. 1** (with s. 180, Sch. 22 para. 29)

F6 Art. 8A(10): words substituted (12.4.2010) to earlier affecting provision Coroners and Justice Act 2009 (c. 25), Sch. 16 para. 1 by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 104(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**