Changes to legislation: *Treatment of Offenders (Northern Ireland) Order 1976 is up to date with all changes known to be in force on or before 13 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

1976 No. 226 (N.I. 4)

Treatment of Offenders (Northern Ireland) Order 1976

[18th February 1976]

\- - - - - - [F1]

F1 Order repealed (prosp.) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 102(2), **Sch. 6 Pt. 1**

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 Treatment of Offenders (Northern Ireland) Order 1976.

Para.(2)—Commencement

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—

Definition rep. by 1982 NI 10

Definition rep. by 1996 NI 24

"court" does not include a court-martial [F2 or a Standing Civilian Court established under the Armed Forces Act 1976];

"enactment" includes any statutory provision within the meaning of section 1(*f*) of the Interpretation Act (Northern Ireland) 1954;

"prison rules" means rules made under section 13 of the Prison Act (Northern Ireland) 1953 ;

Definition rep. by 1996 NI 24

"sentence of imprisonment", does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

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

Para. (3) rep. by 1996 NI 24

(4) 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.

(5) 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).

F2 1976 c. 52

PART II

DISCHARGE FROM PRISON, ETC.

Conviction within certain period after discharge from prison, etc.

3.—(1) Subject to paragraph (2), where—

(a) after a person is discharged from prison or a young offenders centre after the commencement of this Part in pursuance of prison rules, but before any sentence of imprisonment or term of detention to which he was subject immediately before his discharge would (but for that discharge) have expired, he commits, and is convicted of, an offence in Northern Ireland; and

[[F3](b) the offence is punishable with imprisonment in the case of a person aged twenty-one years or over,**]**

the court may, without prejudice to its powers to deal with him in respect of the offence, order that he be returned to prison or, where appropriate, to a young offenders centre for such period, not exceeding that referred to in paragraph (3), as it thinks fit and, where it is a magistrates' court, exercise the powers conferred by paragraph (4).

(2) Paragraph (1) shall not apply to any person unless, immediately before his discharge from prison or a young offenders centre, the sentence of imprisonment or term of detention which he was serving (as pronounced by the court) exceeded one year or such other period as the Secretary of State may prescribe by order.

(3) The period referred to in paragraph (1) is—

(a) where the court is a magistrates' court, the lesser of—

(i) twelve months; or

(ii) the period between the date of the order referred to in paragraph (1) and the date on which any sentence of imprisonment or term of detention so referred to would have expired in his case but for his discharge in pursuance of prison rules;

(b) where the court is not a magistrates' court, the period referred to in sub-paragraph (*a*)(ii).

(4) Where, at the date on which a magistrates' court convicts an offender, the period [F4 between that date and the date on which any sentence of imprisonment or term of detention referred to in paragraph (1) would have expired in his case but for his discharge in pursuance of prison rules] exceeds twelve months, the court may, without prejudice to its powers to deal with him in respect of the offence, commit him in custody or on bail to [F5 the Crown Court].

(5) Where a person is committed [F5 under paragraph (4), the Crown Court] may, without prejudice to any sentence passed or order made by the magistrates' court in respect of the offence, order that he be returned to prison or, where appropriate, to a young offenders centre for such period, not exceeding that referred to in paragraph (3)(*a*)(ii), as it thinks fit.
Para.(6) rep. by 1978 c.23

(7) Where, on consideration of the case of an offender under this Article, a court makes no order with respect to his return to prison or a young offenders centre, the appropriate officer of the court shall record that fact.

(8) Where, under paragraph (1) or (5), a person is ordered to be returned to prison or a young offenders centre, the period for which he is ordered to be returned to prison or a young offenders centre under that paragraph shall, notwithstanding anything in any other enactment, take effect on the date of the order.

(9) A magistrates' court shall not exercise the powers conferred by paragraph (1) unless the offender is before the court.

(10) For the purposes of the Prison Act (Northern Ireland) 1953 and of the Treatment of Offenders Act (Northern Ireland) 1968 , the period for which a person is ordered under this Article to be returned to prison or a young offenders centre shall be taken to be a sentence of imprisonment or term of detention.

F3 1989 NI 15
F4 1980 NI 6
F5 1978 c. 23

Appeals

4. Where under Article 3(1) [F6 a magistrates'] court orders that a person be returned to prison or to a young offenders centre, that person shall have the like right of appeal against that order as if—

(a) the court had immediately before making it convicted him; and

(b) the order were a sentence passed upon that conviction.

[F7 and where under Article 3(1) or (5) the Crown Court orders that a person be returned to prison or to a young offenders centre, that person may appeal against that order in accordance with section 9 of the Criminal Appeal (Northern Ireland) Act 1980 .]

F6 1980 c. 47
F7 1980 c. 47

Ascertainment of person's liability to be dealt with under Article 3

5.—(1) Where—

(a) after the discharge of any such person as is mentioned in Article 3(1)(a), he has been convicted as**[**F8 so mentioned of an offence mentioned in Article 3(1)(b); and**]**

(b) it appears on complaint to a justice of the peace F9..., that he has not been ordered under Article 3 to be returned to prison or a young offenders centre and that there is no such record as is mentioned in Article 3(7),

the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the complaint is in writing and substantiated on oath, issue a warrant for his arrest.

(2) A summons or warrant issued under this Article shall, subject to paragraph (3), direct the offender to appear or to be brought before

[F8(a) where the offender was convicted as mentioned in paragraph (1)(a) on indictment, the Crown Court; and

(b) where the offender was so convicted by a magistrates' court, a magistrates' court F10....**]**

[F8(2A) Where a person who has been convicted as mentioned in paragraph (1)(a) appears or is brought before a court under this Article, Articles 3 and 4 shall apply as if that person had just been so convicted by or before that court**]**

(3) If—

(a) a warrant is issued under paragraph (1) requiring an offender to be brought before [F11 the Crown Court]; and

(b) the offender cannot forthwith be brought before [F11 the Crown Court] because it is not being held,

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court having jurisdiction in the place where he is arrested.

(4) Where an offender is brought before a magistrates' court in pursuance of paragraph (3), that court shall commit him in custody or on bail to [F11 the Crown Court].

F8 1989 NI 15
F9 Words in art. 5(1)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 71(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
F10 Words in art. 5(2)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 71(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
F11 1978 c. 23

Evidence

6. For the purposes of Article 3, a certificate purporting to be signed by the governor or deputy governor of a prison or young offenders centre which specifies—

(a) the date on which a person was discharged from prison or a young offenders centre;

(b) the sentence or term which the person was serving at the time of his discharge, the offence in respect of which the sentence or term was imposed and the date on which he was convicted of that offence;

(c) the date on which the person would, but for his discharge in pursuance of prison rules, have been discharged from prison or a young offenders centre,

shall be evidence of the matters so specified.