
STATUTORY INSTRUMENTS

1998 No. 1504

The Criminal Justice (Children) (Northern Ireland) Order 1998

PART VI

SENTENCING AND OTHER POWERS

Grave crimes

Punishment of certain grave crimes

45.—(1) A person convicted of an offence who appears to the court to have been^[F1] a child] at the time the offence was committed shall not be sentenced to imprisonment for life nor shall a sentence of death be passed on him but the court shall instead (notwithstanding any other statutory provisions) sentence him to be detained during the pleasure of the ^[F2]Minister of Justice] in such place and under such conditions as the ^[F2]Minister of Justice] may direct.

(2) Where—

- (a) a child is convicted on indictment of any offence punishable in the case of an adult with imprisonment for fourteen years or more, not being an offence the sentence for which is fixed by law; and
- (b) the court is of the opinion that none of the other methods in which the case may be dealt with is suitable,

the court may sentence the child to be detained for such period as may be specified in the sentence; and where such a sentence has been passed the child shall, during that period, ^[F3]subject to Articles 46 to 46B], be liable to be detained in such place and under such conditions as the ^[F2]Minister of Justice] may direct.

^[F4](2A) Where a court passes a sentence under paragraph (2), the court shall specify such part of the sentence as the court considers appropriate as the relevant part of the sentence for the purposes of Article 46 (release on licence).]

(3) A person detained pursuant to the directions of the ^[F2]Minister of Justice] under this Article shall, while so detained, be deemed to be in legal custody.

(4) The ^[F2]Minister of Justice] may by order direct that a^[F1] child] in respect of whom the ^[F2]Minister of Justice] is authorised to give directions under paragraph (2) shall be transferred and detained in a juvenile justice centre specified in the order.

(5) An order under paragraph (4) shall be an authority for the detention in that centre or in such other centre as the ^[F2]Minister of Justice] may determine of the^[F1] child] to whom it relates until such date as may be specified in the order.

(6) The date to be specified under paragraph (5) shall not be later than—

- (a) the date on which the^[F1] child will, in the opinion of the ^[F2]Minister of Justice], become an adult]; or

(b) the date on which his detention under paragraph (2) would have expired.

(7) Nothing in paragraphs (4) to (6) shall prejudice the power of the [^{F2}Minister of Justice] to give directions under paragraph (2).

[^{F5}(8) In this Article and Article 46 “ the Minister of Justice ” means the Minister in charge of the Department of Justice.]

F1 2002 c. 26

F2 Words in art. 45 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F3 Words in art. 45(2) substituted (26.4.2013) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 10(1), 15(1)** (with s. 10(5)-(9))

F4 Art. 45(2A) inserted (26.4.2013) by Criminal Justice Act (Northern Ireland) 2013 (c. 7), **ss. 10(2), 15(1)** (with s. 10(5)-(9))

F5 Art. 45(8) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 12, **Sch. 14 para. 40(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Modifications etc. (not altering text)

C1 mod. (temp.) 2000 c. 11

Release on licence

[^{F6}46.—(1) In this Article—

- (a) “ P ” means a person detained under Article 45(2);
- (b) “ the Commissioners ” means the Parole Commissioners for Northern Ireland;
- (c) “ the Department ” means the Department of Justice; and
- (d) references to the relevant part of P's sentence are references to the part of P's sentence specified as such under Article 45(2A).

(2) As soon as—

- (a) P has served the relevant part of P's sentence, and
- (b) the Commissioners have directed P's release under this Article,

the Department shall release P on licence.

(3) The Commissioners shall not give a direction under paragraph (2) with respect to P unless—

- (a) the Department has referred P'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 P should be detained.

(4) P may require the Department to refer P's case to the Commissioners at any time—

- (a) after P has served the relevant part of P's sentence; and
- (b) where there has been a previous reference of P's case to the Commissioners under paragraph (3) or Article 46B(4), after the end of the period of 12 months beginning with the disposal of that reference.

(5) In determining for the purposes of this Article whether P has served the relevant part of P's sentence, no account shall be taken of any time during which P was unlawfully at large, unless the Department otherwise directs.

(6) The Department may at any time release P on licence if it is satisfied that exceptional circumstances exist which justify P's release on compassionate grounds.

(7) Before releasing P under paragraph (6), the Department shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

(8) Nothing in this Article requires the Department to release a person in respect of a sentence under Article 45(2) at any time when that person is liable to be detained in respect of any other sentence.]

F6 Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 10\(3\), 15\(1\)](#) (with [s. 10\(5\)-\(9\)](#))

[^{F7}Duration and conditions of licences under Article 46

46A.—(1) Where a person is released on licence under Article 46, the licence shall, unless previously revoked under Article 46B, remain in force until the expiry of the period for which the person was sentenced to be detained.

(2) A person released on licence under Article 46 shall comply with such conditions as may for the time being be specified in the licence (which may include on release conditions as to supervision by a probation officer).

(3) The Department of Justice shall not, except in accordance with recommendations of the Parole Commissioners for Northern Ireland—

- (a) include a condition in a licence on release,
- (b) subsequently insert a condition in a licence, or
- (c) vary or cancel any condition in a licence.

F7 Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 10\(3\), 15\(1\)](#) (with [s.10\(5\)-\(9\)](#))

Recall of licensees

46B.—(1) In this Article —

“P” means a person who has been released on licence under Article 46;

“the Commissioners” and “the Department” have the meanings given in Article 46(1).

(2) The Department may revoke P's licence and recall P to detention—

- (a) if recommended to do so by the Commissioners, or
- (b) without such a recommendation, if it appears to the Department that it is expedient in the public interest to recall P before such a recommendation is practicable.

(3) P—

- (a) shall, on P's return to detention, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and
- (b) may make representations in writing to the Department with respect to the recall.

(4) The Department shall refer P's case to the Commissioners.

(5) Where on a reference under paragraph (4) the Commissioners direct P's immediate release on licence under Article 46, the Department shall give effect to the direction.

Changes to legislation: There are currently no known outstanding effects for the *The Criminal Justice (Children) (Northern Ireland) Order 1998*, Cross Heading: *Grave crimes*. (See end of Document for details)

(6) The Commissioners shall not give a direction under paragraph (5) unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(7) On the revocation of P's licence, P shall be liable to be detained in pursuance of P's sentence and, if at large, shall be treated as being unlawfully at large.]

F7 Arts. 46-46B substituted for art. 46 (26.4.2013) by [Criminal Justice Act \(Northern Ireland\) 2013 \(c. 7\)](#), [ss. 10\(3\), 15\(1\)](#) (with [s.10\(5\)-\(9\)](#))

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Justice (Children) (Northern Ireland) Order 1998, Cross Heading: Grave crimes.