

STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 2

SENTENCING

CHAPTER 3

DANGEROUS OFFENDERS [^{F1}and other terrorist offenders]

Textual Amendments

- F1** Words in Pt. 2 Ch. 3 heading inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), [Sch. 13 para. 72\(6\)](#)

Meaning of “specified offence” etc.

12.—(1) An offence is a “specified offence” for the purposes of this Chapter if it is a specified violent offence [^{F2}, a specified sexual offence or a specified terrorism offence].

(2) A specified offence is a “serious offence” for the purposes of this Chapter if it is an offence specified in Schedule 1.

(3) In this Chapter—

[^{F3}“determination of terrorist connection”, in relation to an offence, means a determination by the court that the offence has a terrorist connection under section 30 of the Counter-Terrorism Act 2008;]

“life sentence” means—

- (a) a sentence of imprisonment for life; or
- (b) a sentence of detention under Article 45(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9);

“specified violent offence” means an offence specified in Part 1 of Schedule 2;

“specified sexual offence” means an offence specified in Part 2 of that Schedule.

[^{F4}“specified terrorism offence” means an offence specified in Part 3 of that Schedule.]

(4) References in this Chapter to conviction on indictment include references to a finding of guilt under Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

(5) The Secretary of State may by order amend Schedules 1 and 2.

[^{F5}(6) Schedule 2A specifies certain terrorism offences, and other offences which may be determined to have a terrorist connection, for the purposes of various provisions of this Chapter and Chapter 4, and makes related provision.

(7) In this Chapter “serious terrorism offence” means—

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- (a) an offence within Part 2 of Schedule 2A (terrorism offences punishable with life imprisonment); or
- (b) an offence within Part 3 of that Schedule (offences with possible terrorist connection punishable with life imprisonment) in respect of which a determination of terrorist connection is made.]

Textual Amendments

- F2** Words in art. 12(1) substituted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 11(2)(a), 27(3) (with s. 25(5))
- F3** Words in art. 12(3) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 3(2)(a), 50(1)(a)
- F4** Words in art. 12(3) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 11(2)(b), 27(3) (with s. 25(5))
- F5** Art. 12(6)(7) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 3(2)(b), 50(1)(a)

Life sentence or indeterminate custodial sentence for serious offences

13.—(1) This Article applies where—

- (a) a person is convicted on indictment of a serious offence committed after the commencement of this Article; and
- (b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences.

(2) If—

- (a) the offence is one in respect of which the offender would apart from this Article be liable to a life sentence, an
- (b) the court is of the opinion that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of such a sentence,

the court shall impose a life sentence.

(3) If, in a case not falling within paragraph (2), the court considers that an extended custodial sentence [^{F6}or a serious terrorism sentence] would not be adequate for the purpose of protecting the public from serious harm occasioned by the commission by the offender of further specified offences, the court shall—

- (a) impose an indeterminate custodial sentence; and
- (b) specify a period of at least 2 years as the minimum period for the purposes of Article 18, being [^{F7}(subject to paragraphs (3A) to (3E))] such period as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.

[^{F8}(3A) In a serious terrorism case, the period specified under paragraph (3)(b) must (subject to paragraphs (3C) to (3E)) be at least 14 years.

(3B) A “serious terrorism case” is a case where, but for the fact that the court is required to impose an indeterminate custodial sentence, it would be required by Article 13A to impose a serious terrorism sentence (assuming for this purpose that the court was not of the opinion mentioned in paragraph (2) of that Article).

(3C) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify a period of less than 14 years but (subject to paragraphs (3D) and (3E)) no less than 11 years and 73 days.

(3D) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that it is appropriate to do so on taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).

(3E) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that there are exceptional circumstances which—

- (a) relate to the offence or to the offender; and
- (b) justify the specification of a lesser period.]

(4) An indeterminate custodial sentence is—

- (a) where the offender is aged 21 or over, a sentence of imprisonment for an indeterminate period,
- (b) where the offender is under the age of 21, a sentence of detention for an indeterminate period at such place and under such conditions as the Secretary of State may direct,

subject (in either case) to the provisions of this Part as to the release of prisoners and duration of licences.

(5) A person detained pursuant to the directions of the Secretary of State under paragraph (4)(b) shall while so detained be in legal custody.

(6) An offence the sentence for which is imposed under this Article is not to be regarded as an offence the sentence for which is fixed by law.

(7) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.

Textual Amendments

- F6** Words in art. 13(3) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(8)**
- F7** Words in art. 13(3)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 14(2), 50(2)(g)**
- F8** Art. 13(3A)-(3E) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), **ss. 14(3), 50(2)(g)**

Modifications etc. (not altering text)

- C1** Art. 13 excluded by S.I. 1986/595 (N.I. 4), art. 44(1A)(c) (as inserted (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. 5(1)); S.R. 2008/217, **art. 2, Sch.** (with transitory provision in art. 4)

[^{F9}Serious terrorism sentence

13A.—(1) This Article applies where—

- (a) a person is convicted on indictment of a serious terrorism offence;
- (b) the offence was committed after the commencement of section 7 of the Counter-Terrorism and Sentencing Act 2021;
- (c) at the time when the offence was committed the offender was aged 18 or over;

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- (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or specified offences;
 - (e) the court does not impose a life sentence or an indeterminate custodial sentence; and
 - (f) the risk of multiple deaths condition is met.
- (2) The court shall impose a serious terrorism sentence, unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender; and
 - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
 - (i) the offence referred to in paragraph (1)(a); or
 - (ii) the combination of that offence and one or more offences associated with it, was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000); and
 - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) Where the offender is aged 21 or over, a serious terrorism sentence is a sentence of imprisonment the term of which is equal to the aggregate of—
- (a) the appropriate custodial term; and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (6) Where the offender is under the age of 21, a serious terrorism sentence is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
- (a) the appropriate custodial term; and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (7) A person detained pursuant to the directions of the Department of Justice under paragraph (6) shall while so detained be in legal custody.
- (8) In paragraphs (5)(a) and (6)(a), “the appropriate custodial term” means (subject to paragraphs (9) and (10))—
- (a) a term of 14 years; or
 - (b) if longer, the term that would (apart from this Article and Articles 14 and 15A) be imposed in compliance with Article 7 (length of custodial sentences).
- (9) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify an appropriate custodial term of less than 14 years but no less than 11 years and 73 days.
- (10) The court may specify a lesser period than that otherwise required by paragraph (8) or (9) if the court is of the opinion that it is appropriate to do so on taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).
- (11) The extension period under paragraph (5)(b) or (6)(b)—
- (a) must be at least seven years and must not exceed 25 years; and

- (b) subject to those limits, is to be of such length as the court considers necessary for the purpose of protecting members of the public from the risk of harm referred to in paragraph (1)(d).

(12) A court which imposes a serious terrorism sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.

(13) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.]

Textual Amendments

F9 Art. 13A inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 7, 50(2)(e)

Extended custodial sentence for certain violent or sexual offences

14.—(1) This Article applies where—

- (a) a person is ^{F10}—
- (i) convicted on indictment of a specified offence; or
 - (ii) convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021 of any other offence that is a serious terrorism offence;]

^{F11}(aa) the offence was committed after the commencement of this Article; and]

- (b) the court is of the opinion—
- (i) that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences ^{F12}or serious terrorism offences;]
 - (ii) where the specified offence ^{F13}or serious terrorism offence] is a serious offence, that the case is not one in which the court is required by Article 13 to impose a life sentence or an indeterminate custodial sentence ^{F14}; and
 - (iii) where the offence, or an offence associated with it, is a serious terrorism offence, that the case is not one in which the court is required by Article 13A to pass a serious terrorism sentence.]

(2) The court shall impose on the offender an extended custodial sentence.

(3) Where the offender is aged 21 or over, an extended custodial sentence is a sentence of imprisonment the term of which is equal to the aggregate of

- (a) the appropriate custodial term; and
- (b) a further period (“the extension period”) for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences ^{F15}or serious terrorism offences].

(4) In paragraph (3)(a) “the appropriate custodial term” means a term (not exceeding the maximum term) which—

- (a) is the term that would (apart from this Article ^{F16}and Article 15A)] be imposed in compliance with Article 7 (length of custodial sentences); or
- (b) where the term that would be so imposed is a term of less than 12 months, is a term of 12 months.

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(5) Where the offender is under the age of 21, an extended custodial sentence is a sentence of detention at such place and under such conditions as the Secretary of State may direct for a term which is equal to the aggregate of—

- (a) the appropriate custodial term; and
- (b) a further period (“the extension period”) for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences [^{F17}or serious terrorism offences].

(6) In paragraph (5)(a) “the appropriate custodial term” means such term (not exceeding the maximum term) as the court considers appropriate, not being a term of less than 12 months.

(7) A person detained pursuant to the directions of the Secretary of State under paragraph (5) shall while so detained be in legal custody.

(8) The extension period under paragraph (3)(b) or (5)(b) shall not exceed—

- (a) five years in the case of a specified violent offence [^{F18}(unless sub-paragraph (c) applies);]
- (b) eight years in the case of a specified sexual offence [^{F19}or a specified terrorism offence][^{F20}(unless sub-paragraph (c) applies); and]
- [^{F21}(c) ten years in the case of a serious terrorism offence for which the offender is convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021.]

(9) The term of an extended custodial sentence in respect of an offence shall not exceed the maximum term.

(10) In this Article “maximum term” means the maximum term of imprisonment [^{F22}with which the offence is punishable (apart from Article 13)].

(11) A court which imposes an extended custodial sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (suspended sentences) in relation to that sentence.

(12) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.

Textual Amendments

F10 Art. 14(1)(a)(i)(ii) substituted for words (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. **20(2)(a)**, 50(2)(l)

F11 Art. 14(1)(aa) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. **20(2)(b)**, 50(2)(l)

F12 Words in art. 14(1)(b)(i) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(i)**

F13 Words in art. 14(1)(b)(ii) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(ii)**

F14 Art. 14(1)(b)(iii) and word inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(a)(iii)**

F15 Words in art. 14(3)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(b)**

F16 Words in art. 14(4)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 72(7)**

F17 Words in art. 14(5)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 66(9)(b)**

F18 Words in art. 14(8)(a) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. **20(3)(a)**, 50(2)(l)

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- F19** Words in art. 14(8)(b) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 11(3), 27(3) (with s. 25(5))
- F20** Words in art. 14(8)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 20(3)(b), 50(2)(l)
- F21** Art. 14(8)(c) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 20(3)(c), 50(2)(l)
- F22** Words in art. 14(10) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 66(9)(c)

Modifications etc. (not altering text)

- C2** Art. 14 excluded by S.I. 1986/595 (N.I. 4), art. 44(1A)(c) (as inserted (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. 5(1)); S.R. 2008/217, art. 2, Sch. (with transitory provision in art. 4)

The assessment of dangerousness

15.—(1) This Article applies where—

- (a) a person has been convicted on indictment of a specified offence [^{F23}or serious terrorism offence]; an
 - (b) it falls to a court to assess under Article 13 [^{F24}, 13A] or 14 whether there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further such offences.
- (2) The court in making the assessment referred to in paragraph (1)(b)—
- (a) shall take into account all such information as is available to it about the nature and circumstances of the offence;
 - (b) may take into account any information which is before it about any pattern of behaviour of which the offence forms part; and
 - (c) may take into account any information about the offender which is before it.

Textual Amendments

- F23** Words in art. 15(1)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 66(10)(a)
- F24** Word in art. 15(1)(b) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 66(10)(b)

[^{F25}Terrorism sentence with fixed licence period

15A.—(1) This Article applies where—

- (a) a person is convicted after the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021 of—
 - (i) a serious terrorism offence;
 - (ii) an offence within Part 4 of Schedule 2A (terrorism offences punishable with more than two years' imprisonment); or
 - (iii) any other offence in respect of which a determination of terrorist connection is made;
- (b) the court does not impose, in respect of the offence or any offence associated with it, a life sentence, an indeterminate custodial sentence, a serious terrorism sentence or an extended custodial sentence; and

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- (c) the court decides to impose a custodial sentence.
- (2) But this Article does not apply where—
 - (a) the offender is under the age of 18 when convicted of the offence; and
 - (b) the offence was committed before the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021.
- (3) The court shall impose on the offender a sentence under this Article.
- (4) Where the offender is aged 21 or over, a sentence under this Article is a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (5) Where the offender is under the age of 21, a sentence under this Article is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (6) The term under paragraph (4) or (5) must not exceed the maximum term of imprisonment with which the offence is punishable (apart from Article 13).
- (7) In paragraphs (4)(a) and (5)(a), the “appropriate custodial term” means the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (8) A person detained pursuant to the directions of the Department of Justice under paragraph (5) shall while so detained be in legal custody.
- (9) A court which imposes a sentence under this Article shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (10) Remission shall not be granted under prison rules to the offender in respect of a sentence under this Article.]

Textual Amendments

F25 [Art. 15A](#) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), **ss. 24**, 50(1)(e)

Changes to legislation:

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 Pt. 1 para. 31A renumbered as 31(B) by [2022 c. 19 \(N.I.\) Sch. 4 para. 3\(a\)](#)
- art. 19(1A) inserted by [2015 c. 9 \(N.I.\) s. 82](#)
- art. 45(1A) inserted by [2011 c. 24 \(N.I.\) s. 58\(2\)](#)