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## STATUTORY INSTRUMENTS

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# 2008 No. 1216

## The Criminal Justice (Northern Ireland) Order 2008

### PART 2

#### SENTENCING

##### CHAPTER 4

##### RELEASE ON LICENCE

###### *Licence conditions*

#### **Power of court to recommend licence conditions for sentences of 12 months or more**

**23.**—(1) A court which sentences an offender to a determinate custodial sentence of 12 months or more in respect of any offence may, when passing sentence, recommend to the [<sup>F1</sup>Department of Justice] particular conditions which in its view should be included in any licence granted to the offender under Article 17 or 19 on release from prison.

(2) In exercising the powers under Article 24 in respect of an offender, the [<sup>F1</sup>Department of Justice] shall have regard to any recommendation under paragraph (1).

(3) A recommendation under paragraph (1) is not to be treated for any purpose as part of the sentence passed on the offender.

#### **Textual Amendments**

- F1** Words in art. 23(1)(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 18** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### **Commencement Information**

- I1** Art. 23 wholly in operation at 1.4.2009, see art. 1(4) and S.R. 2009/120, **art. 2, Sch. 1** (subject to Sch. 2 paras. 1(1)(2)(a), 4)

#### **Licence conditions**

**24.**—(1) In this Article—

- (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this Article as standard conditions; and
- (b) “prescribed” means prescribed by the [<sup>F2</sup>Department of Justice] by rules.

(2) Any licence under Article 17 or 19 in respect of any prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more shall include—

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- (a) such conditions as may be required by the court in passing sentence; and
  - (b) so far as not inconsistent with them, the standard conditions.
- (3) Any other licence under this Chapter
- (a) shall include the standard conditions; and
  - (b) may include such other conditions of a kind prescribed for the purposes of this paragraph as the [F2Department of Justice] may for the time being specify in the licence.
- (4) The [F2Department of Justice] may vary or cancel any conditions specified in a licence under this Chapter and may subsequently include additional conditions.
- (5) Where a prisoner is released on licence under Article 18, the [F2Department of Justice] shall not—
- (a) include a condition under paragraph (3)(b) on release, or
  - (b) subsequently insert, vary or cancel a condition under paragraph (4),
- except after consultation with the Parole Commissioners.
- (6) For the purposes of paragraph (5), the [F2Department of Justice] is to be treated as having consulted the Parole Commissioners about a proposal to include, insert, vary or cancel a condition in any case if they have been consulted [F3by the Department of Justice] about the implementation of proposals of that description generally or in that class of case.
- (7) Paragraphs (2) and (3) have effect subject to—
- (a) Articles 25 and 26;
  - (b) Articles 32(2) and 33(3) and (4).
- (8) In exercising the powers to prescribe standard conditions or other conditions referred to in paragraph (3), the [F2Department of Justice] shall have regard to the following purposes of the supervision of offenders while on licence under this Chapter—
- (a) the protection of the public;
  - (b) the prevention of re-offending;
  - (c) the rehabilitation of the offender.

#### Textual Amendments

- F2** Words in [art. 24](#) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 19\(a\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)
- F3** Words in [art. 24\(6\)](#) inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 19\(b\)](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

#### Commencement Information

- I2** [Art. 24](#) partly in operation; [art. 24](#) not in operation at date Order made see [art. 1\(4\)](#); [art. 24\(1\)\(3\)-\(6\)\(7\)](#) (b)(8) in operation at 15.5.2008 by [S.R. 2008/217](#), [art. 2](#), [Sch.](#) (with transitory provision in [art. 4](#))

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PROSPECTIVE

### **Licence conditions on re-release of prisoners serving sentence of less than 12 months**

**25.—(1)** In relation to any licence under Article 17 or 19 which is granted to a prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more on release in pursuance of a direction or recommendation of the Parole Commissioners under Article 28 or 29, paragraphs (2) and (3) apply instead of Article 24(2).

(2) The licence—

(a) shall include the standard conditions; and

(b) may include such other conditions of a kind prescribed for the purposes of Article 24(3)

(b) as the [<sup>F4</sup>Department of Justice] may for the time being specify in the licence.

(3) In exercising the powers to include other conditions conferred by paragraph (2)(b), the [<sup>F5</sup>Department of Justice] shall have regard to any such conditions as are mentioned in Article 24(2) (a).

(4) In this Article “the standard conditions” and “prescribed” have the same meaning as in Article 24

#### **Textual Amendments**

**F4** Words in art. 25(2)(b) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 20** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 25)

**F5** Words in art. 25(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 20** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 25)

VALID FROM 01/06/2015

### **Curfew condition to be included in licence under Article 19**

**26.—(1)** A licence under Article 19 shall include a curfew condition complying with this Article.

(2) Where—

(a) a licence under Article 19 is granted to a prisoner serving one or more determinate custodial sentences of less than 12 months and no determinate custodial sentence of 12 months or more, and

(b) the court in passing sentence requires the licence to be granted subject to a condition requiring compliance with a curfew requirement,

that condition shall not be included in the licence at any time while a curfew condition required by paragraph (1) is in force.

(3) For the purposes of this Chapter a curfew condition is a condition which requires the released person to remain for specified periods at a specified place; and in this Article “specified” means specified in the condition.

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(4) Specified periods shall not amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).

(5) The curfew condition is to remain in force until the date when the released person would (but for being released) fall to be released on licence under Article 17.

(6) A curfew condition may (but need not) include an electronic monitoring requirement.

(7) The [<sup>F6</sup>Department of Justice] may by order amend paragraph (4) by substituting for a number of hours specified there such other number of hours as may be specified in the order.

#### Textual Amendments

**F6** Words in art. 26(7) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 21** (with arts. 28-31); S.I. 2010/977, **art. 1(2)** (but this amendment cannot take effect until the commencement of S.I. 2008/1216, art. 26)

#### Duty to comply with licence conditions

**27.** A person subject to a licence under this Chapter shall comply with such conditions as may for the time being be included in the licence.

#### [<sup>F7</sup>Licence conditions: national security

**27A.**—(1) The Secretary of State may exercise any power of the Department of Justice to include, insert, vary or cancel conditions in a licence but only if his decision to exercise the power is arrived at (wholly or partly) on the basis of protected information; and, in relation to the exercise of any such power by the Secretary of State, in this Chapter references to the Department of Justice are to be read as references to the Secretary of State.

(2) The Department of Justice must exercise its powers subject to anything done by the Secretary of State by virtue of paragraph (1).]

#### Textual Amendments

**F7** Art. 27A inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 22** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

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