



# Justice (Northern Ireland) Act 2002

## 2002 CHAPTER 26

### PART 5

#### MISCELLANEOUS

##### *Royal Arms and flags*

#### **66 Display of Royal Arms at courts**

- (1) The Royal Arms must not be displayed in any courtroom.
- (2) But subsection (1) does not prevent the display of the Royal Arms anywhere in—
  - (a) the courtrooms in the Royal Courts of Justice in Belfast,
  - (b) the courtrooms in the Courthouse in Armagh,
  - (c) the courtroom in the Courthouse in Banbridge,
  - (d) Court No. 1 in the Courthouse in Downpatrick,
  - (e) the courtrooms in the Courthouse in Magherafelt, or
  - (f) the courtrooms in the Courthouse in Omagh,where they were displayed immediately before the coming into force of this section.
- (3) The Royal Arms must not be displayed—
  - (a) on the exterior of an existing court-house, or
  - (b) in any other place outside an existing court-house which is used for the purposes of the court-house,unless they were displayed there immediately before the coming into force of this section.
- (4) “Existing court-house” means a court-house which is in use before the coming into force of this section.
- (5) Any authorisation which would be required for the purpose of complying with this section is to be regarded as having been obtained.

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- (6) “Authorisation” includes any approval, consent, licence or permission (whether required by any enactment or instrument or otherwise).

VALID FROM 12/04/2010

#### **67 Flying of flags at court-houses**

- (1) In Article 3(1) of the Flags (Northern Ireland) Order 2000 (S.I. 2000/1347 (N.I. 3)) (power to make regulations about the flying of flags at government buildings), insert at the end “and court-houses”.
- (2) The Flags Regulations (Northern Ireland) 2000 (S.R. 2000 No. 347) (which were made in the exercise of that power) apply in relation to court-houses as they apply in relation to the government buildings specified in Part 1 of the Schedule to the Regulations (but subject to any amendment which may be made to the Regulations in the further exercise of that power).

#### *Victims of crime*

#### **68 Information about discharge and temporary release of prisoners**

- (1) The Secretary of State must make a victim information scheme and may from time to time make a new scheme or alterations to a scheme.
- (2) A victim information scheme is a scheme requiring the Secretary of State to make available information about the discharge or temporary release of persons serving sentences of imprisonment in Northern Ireland imposed in respect of the commission of offences (“imprisoned offenders”) to victims of the offences who wish to receive it.
- (3) A scheme—
  - (a) must require that information as to the month in which it is anticipated that an imprisoned offender will be discharged is to be made available under the scheme, and
  - (b) must require that, unless it is not reasonably practicable to do so, the fact that the temporary release of an imprisoned offender is being considered is to be made available under the scheme.
- (4) A scheme may require that other information relating to the discharge and temporary release of imprisoned offenders is to be made available under the scheme including, in cases of a description specified by the scheme or in which the Secretary of State considers it appropriate, the date on which it is anticipated that an imprisoned offender will be discharged or temporarily released.
- (5) A scheme may provide that in circumstances of a description specified in the scheme, or in particular circumstances in which the Secretary of State considers it appropriate, a person who is not the actual victim of the offence but was directly affected by it is to be regarded for the purposes of the scheme as a victim of the offence (as well as any actual victim).
- (6) A scheme may provide that in circumstances of a description specified in the scheme, or in particular circumstances in which the Secretary of State considers it appropriate,

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- a person other than the actual victim of an offence is to be regarded for the purposes of the scheme as a victim of the offence (instead of an actual victim).
- (7) A scheme must specify how victims are to indicate that they wish to receive information under the scheme.
- (8) The Secretary of State is not required to make information available under a scheme—
- (a) if he believes that to do so would adversely affect the well-being of the actual victim of an offence or a person who is regarded for the purposes of the scheme as being a victim of an offence by virtue of subsection (5),
  - (b) if he believes that to do so would threaten the safety of any person, or
  - (c) in other circumstances specified by the scheme.
- (9) A scheme may make different provision in relation to—
- (a) different descriptions of imprisoned offenders, or
  - (b) imprisoned offenders convicted or sentenced at different times.
- (10) “Discharge” includes release—
- (a) on licence, or
  - (b) in pursuance of a grant of remission,
- (whether or not subject to conditions); and “discharged” is to be construed accordingly.

## 69 Views on temporary release

- (1) If a person who is the victim of an offence for the purposes of a scheme under section 68 makes to the Secretary of State representations falling within subsection (2) the Secretary of State has the obligations specified in subsection (3).
- (2) Representations fall within this subsection if they are to the effect that the temporary release of a person serving a sentence of imprisonment in Northern Ireland imposed in respect of the commission of the offence would threaten the safety, or otherwise adversely affect the well-being, of—
- (a) the actual victim of the offence, or
  - (b) a person who is regarded for the purposes of the scheme as a victim of the offence by virtue of section 68(5).
- (3) The Secretary of State must—
- (a) have regard to the representations in deciding whether the person should be temporarily released and, if so, any conditions to which he is to be subject, and
  - (b) inform the victim of any such decision.

VALID FROM 14/12/2008

### **[<sup>F1</sup>69A Information about discharge and leave of absence of mentally disordered persons**

- (1) The Secretary of State must make a scheme requiring the Secretary of State to make available to persons falling within subsection (2) information about—
- (a) the discharge from hospital of, or
  - (b) the grant of leave of absence from hospital to,
- persons in respect of whom relevant determinations have been made.

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- (2) The persons referred to in subsection (1) are victims of the offences in respect of which the determinations were made who wish to receive the information.
- (3) A relevant determination is made in respect of a person if—
  - (a) a hospital order with a restriction order is made in respect of him by a court dealing with him for an offence, or
  - (b) a transfer direction and a restriction direction are given in respect of him while he is serving a sentence of imprisonment in respect of an offence.
- (4) The Secretary of State may from time to time make a new scheme or alterations to a scheme.
- (5) The information to be made available under a scheme must include information as to any relevant conditions to which a person in respect of whom a relevant determination has been made is to be subject in the event of—
  - (a) his discharge from hospital, or
  - (b) the grant of leave of absence from hospital to him.
- (6) A condition is relevant for the purposes of subsection (5) if it appears to the Secretary of State that it might affect a victim of an offence in respect of which the determination was made.
- (7) A scheme may require the Secretary of State to take all reasonable steps to ascertain whether a person who appears to him to be the victim of an offence in respect of which a relevant determination has been made wishes to make representations about the matters specified in subsection (8).
- (8) The matters are—
  - (a) whether the person in respect of whom the determination has been made should be subject to any conditions in the event of his discharge from hospital or the grant of leave of absence from hospital to him;
  - (b) if so, what conditions.
- (9) A scheme that includes provision such as is mentioned in subsection (7) must specify how the representations are to be made.
- (10) A scheme may require other information in relation to the discharge of, or the grant of leave of absence to, persons in respect of whom relevant determinations are made to be made available under the scheme.
- (11) The other information may include, in cases of a description specified by the scheme or in which the Secretary of State considers it appropriate, the date on which it is anticipated that a person in respect of whom a relevant determination has been made will be discharged or granted leave of absence from hospital.
- (12) Subsections (5) to (8) of section 68 apply in relation to a scheme made under this section as they apply in relation to a scheme made under that section.
- (13) A scheme may make different provision in relation to different descriptions of persons in respect of whom a relevant determination is made.

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### Textual Amendments

- F1** Ss. 69A, 69B inserted (14.12.2008) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 46(2), 60; S.I. 2008/3065, art. 2

VALID FROM 14/12/2008

### 69B Views on leave of absence

- (1) If a person who is the victim of an offence in respect of which a relevant determination has been made makes to the Secretary of State representations falling within subsection (2) the Secretary of State has the obligations specified in subsection (3).
- (2) Representations fall within this subsection if they are to the effect that the grant of leave of absence to the person in respect of whom the determination has been made would threaten the safety, or otherwise adversely affect the well-being, of—
  - (a) the actual victim of the offence in respect of which the determination was made, or
  - (b) a person who is regarded for the purposes of a scheme under section 69A as a victim of that offence by virtue of section 68(5) (as applied by section 69A(12)).
- (3) The Secretary of State must—
  - (a) have regard to the representations in deciding whether he should give his consent to leave of absence being granted, and
  - (b) inform the victim of any such decision.
- (4) Section 69A(3) (relevant determination) applies for the purposes of this section.]

### Textual Amendments

- F1** Ss. 69A, 69B inserted (14.12.2008) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 46(2), 60; S.I. 2008/3065, art. 2

### 70 Supplementary

- (1) In sections 68 and 69 references to a person serving a sentence of imprisonment include a person aged 18 or over who is—
  - (a) detained pursuant to directions of the Secretary of State under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)), or
  - (b) detained in a young offenders centre as the result of an order of the Crown Court.
- (2) In sections 68 and 69 references to a person serving a sentence of imprisonment in Northern Ireland—

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- (a) include a person who, in consequence of a restricted transfer from Northern Ireland, is serving part of a sentence of imprisonment in another part of the United Kingdom, but
  - (b) do not include a person who, in consequence of a restricted transfer from another part of the United Kingdom, is serving part of a sentence of imprisonment in Northern Ireland.
- (3) “Restricted transfer” has the same meaning as in Part 2 of Schedule 1 to the Crime (Sentences) Act 1997 (c. 43).

VALID FROM 12/04/2010

*Community safety*

VALID FROM 18/12/2003

**71 Community safety strategy**

- (1) The Secretary of State must devise a strategy for enhancing community safety in Northern Ireland.
- (2) References in this section and section 72 to enhancing community safety in any place are to making the place one in which it is, and is perceived to be, safer to live and work, in particular by the reduction of actual and perceived levels of crime and other anti-social behaviour.
- (3) The Secretary of State may from time to time devise a new strategy or make alterations to a strategy.
- (4) Before devising or making alterations to a strategy the Secretary of State must consult—
  - (a) the First Minister and deputy First Minister,
  - (b) the Chief Constable of the Police Service of Northern Ireland, and
  - (c) the Northern Ireland Policing Board.
- (5) The Secretary of State must publish each strategy devised by him and any alterations which he makes to a strategy (or the strategy as altered).

PROSPECTIVE

<sup>F2</sup>**72 Local community safety partnerships**

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### Textual Amendments

- F2** S. 72 repealed (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), Sch. 8 Pt. 2; S.R. 2012/142, art. 2(e)

VALID FROM 19/04/2004

## Civil procedure

PROSPECTIVE

### 73 Constitution of Rules Committees

- (1) In section 54(1) of the Judicature (Northern Ireland) Act 1978 (c. 23) (membership of [<sup>F3</sup>Court of Judicature] Rules Committee), for paragraphs (b) to (f) substitute—
- “(b) three judges of the Supreme Court nominated by the Lord Chief Justice;
  - (c) one Master of the Supreme Court nominated by the Society of Masters;
  - (d) two barristers nominated by the General Council of the Bar of Northern Ireland and one barrister nominated by the [<sup>F4</sup>Department of Justice];
  - (e) two solicitors nominated by the Law Society of Northern Ireland and one solicitor nominated by the [<sup>F4</sup>Department of Justice]; <sup>F5</sup>...
  - (f) two persons nominated by the [<sup>F4</sup>Department of Justice] who do not hold (and have never held) judicial office and are not (and have never been) barristers or solicitors.
- [<sup>F6</sup>(g) the Attorney General for Northern Ireland or a barrister or solicitor nominated by the Attorney General for Northern Ireland.”]
- (2) In Article 46(1) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/ 397 (N.I. 3)) (membership of County Court Rules Committee), for the words from “be appointed” to the end substitute “consist of—
- (a) a county court judge nominated by the Lord Chancellor who shall be chairman;
  - (b) two county court judges nominated by Her Majesty’s Council of County Court Judges;
  - (c) one district judge nominated by the Association of District Judges;
  - (d) two barristers nominated by the General Council of the Bar of Northern Ireland and one barrister nominated by the [<sup>F7</sup>Department of Justice];
  - (e) two solicitors nominated by the Law Society of Northern Ireland and one solicitor nominated by the [<sup>F7</sup>Department of Justice];
  - (f) one [<sup>F8</sup>civil servant in the Department of Justice] nominated by [<sup>F9</sup>that Department]; and

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- (g) two persons nominated by the [<sup>F7</sup>Department of Justice] who do not hold (and have never held) judicial office and are not (and have never been) barristers or solicitors.”

#### Textual Amendments

- F3** Words in s. 73 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 6; S.I. 2009/1604, art. 2](#)
- F4** Words in s. 73(1) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 18 para. 66\(a\)](#) (with arts. 28-31)
- F5** Word in s. 73(1) omitted (5.7.2011) by virtue of [Justice Act \(Northern Ireland\) 2011 \(c. 24\), ss. 97\(2\), 111\(3\); S.R. 2011/224, art. 2](#)
- F6** Words in S. 73(1) inserted (5.7.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\), ss. 97\(2\), 111\(3\); S.R. 2011/224, art. 2](#)
- F7** Words in s. 73(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 18 para. 66\(b\)\(i\)](#) (with arts. 28-31)
- F8** Words in s. 73(2) substituted (12.4.2010) by [The Northern Ireland Court Service \(Abolition and Transfer of Functions\) Order \(Northern Ireland\) 2010 \(S.R. 2010/133\), art. 1, Sch. para. 9\(3\)](#) (with arts. 5-7)
- F9** Words in s. 73(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 18 para. 66\(b\)\(ii\)](#) (with arts. 28-31)

#### 74 Appeals in small claims cases

- (1) Article 30 of the County Courts (Northern Ireland) Order 1980 (jurisdiction exercisable by district judges) is amended as follows.
- (2) In paragraph (4) (cases dealt with by arbitration)—
- (a) after sub-paragraph (a) insert—
- “(ab) any party may appeal on a question of law to a judge (not being a deputy judge) against any order, decision or determination;”
- (b) in sub-paragraph (b), for the words from “by the High Court,” onwards substitute “by the Court of Appeal, state for the determination of the Court of Appeal any question of law arising out of an award made by the district judge in dealing with the claim unless an appeal on the question has been brought under sub-paragraph (ab);”, and
- (c) in sub-paragraph (c), for “sub-paragraph (b)” substitute “sub-paragraphs (ab) and (b)”.
- (3) After paragraph (4) insert—
- “(4A) An appeal under paragraph (4)(ab) shall be brought within the period of twenty-one days commencing with the date on which the order, decision or determination was made; and on such an appeal the judge—
- (a) has the same powers as the district judge; but
- (b) is not required to hold a hearing;
- and his decision shall be final.”



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## **75 Time limit for cases stated by county court**

In Article 61(2) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (cases stated by county court judge) for “fourteen days” substitute “twenty-one days”.

VALID FROM 01/11/2003

### *Legal aid*

## **76 Exceptional legal aid**

After Article 10 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) insert—

### **“10A Exceptional legal aid**

- (1) The Lord Chancellor may by direction require that legal aid is to be available in connection with excluded proceedings—
  - (a) in circumstances specified in the direction; or
  - (b) if the Legal Aid Committee requests him to do so, in an individual case so specified.
- (2) For the purposes of paragraph (1) “excluded proceedings” means proceedings before a court or tribunal which are not—
  - (a) proceedings of a description mentioned in Part 1 of Schedule 1;
  - (b) proceedings for the purposes of which free legal aid may be given under Part 3; or
  - (c) proceedings in relation to which assistance by way of representation may be approved under Article 5.
- (3) Legal aid under a direction under paragraph (1) shall consist of such representation, on the terms provided for by the direction, by a solicitor or by counsel (or by both) as is specified in the direction.
- (4) In paragraph (3) “representation” includes all such assistance as is usually given by a solicitor or counsel in—
  - (a) the steps preliminary or incidental to proceedings; or
  - (b) arriving at or giving effect to a compromise to avoid or bring an end to proceedings.
- (5) A direction under paragraph (1) may make provision about financial matters relating to legal aid under the direction (including, in particular, provision about eligibility, contributions, charges, remuneration and costs).
- (6) Articles 10(3) to (5A), 11, 12, 13, 16 and 17 and Schedule 2 do not apply to legal aid under a direction under paragraph (1), unless they are applied (with or without modifications) by the provisions of the direction.
- (7) A direction under paragraph (1) may be varied or revoked.
- (8) The Lord Chancellor must either—

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(a) publish; or  
 (b) require the Legal Aid Committee to publish,  
 directions under paragraph (1)(a) and directions varying or revoking such directions.

(9) The Lord Chancellor or the Legal Aid Committee may publish a direction under paragraph (1)(b), or a direction varying or revoking such a direction, if he or it considers it appropriate to do so.”

#### **77 Proceedings before coroner**

In Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) (which specifies the proceedings for which legal aid may be given under Article 9 of that Order), omit paragraph 5 (which specifies proceedings before a coroner but which has not been brought into force).

VALID FROM 01/03/2010

### *Court Service*

#### **78 Power to abolish Court Service**

- (1) The Lord Chancellor may by order make provision for the transfer of the functions of the Court Service and the abolition of the Court Service.
- (2) The order may make provision—
  - (a) for the payment by the Lord Chancellor of compensation to or in respect of persons who suffer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the transfer of functions, or the abolition, of the Court Service, and
  - (b) for any other incidental, consequential, transitional or supplementary matter which appears to the Lord Chancellor to be appropriate.
- (3) The provision made by the order under subsection (2) may include amendments in any enactment or instrument (whenever passed or made), including this Act.

### *Court security*

#### **79 Duty of Court Service to ensure court security**

- (1) The Court Service must take all reasonable steps to ensure the security of every relevant court-house (including every courtroom contained in it) and the safety of everyone who is there.
- (2) To comply with that duty the Court Service must secure that there are provided at every relevant court-house an appropriate number of court security officers.
- (3) For the purposes of this section and sections 80 and 81 the following are court security officers—

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- (a) members of staff of the Court Service designated as court security officers, and
  - (b) persons employed as court security officers in pursuance of arrangements made with their employers by the Court Service under section 69 of the Judicature (Northern Ireland) Act 1978 (c. 23).
- (4) A court-house is a relevant court-house for the purposes of this section and section 80 if—
- (a) the Court of Appeal,
  - (b) the High Court,
  - (c) the Crown Court,
  - (d) a county court,
  - (e) a coroner’s court, or
  - (f) a magistrates’ court,
- sits there.

## **80 Powers and duties of court security officers**

- (1) A court security officer acting in the execution of his duty has power to —
- (a) search any person who is in, or is seeking to enter, a relevant court-house and any article in the possession of any such person,
  - (b) exclude or remove from a relevant court-house any person who refuses to permit such a search, or refuses to surrender any article in his possession which the officer reasonably believes may jeopardise the maintenance of order in the court-house, or
  - (c) exclude or remove any person from, or restrain any person in, a relevant court-house where it is reasonably necessary to do so in order to maintain order in the court-house, to enable court business to be carried on without interference or delay or to secure his or any other person’s safety.
- (2) The power conferred by subsection (1)(a) to search a person does not authorise a court security officer to require a person to remove any of his clothing other than an outer coat, jacket, gloves or hat.
- (3) The powers conferred by subsection (1)(b) and (c) include power to use reasonable force, where necessary.
- (4) In the execution of his duty in any court-house, a court security officer must act in accordance with any general or specific instructions which have been given to him (whether orally or in writing) by a person in authority.
- (5) “Person in authority” means—
- (a) a judge, coroner or magistrate who is exercising any functions in the court-house, or
  - (b) any officer or other member of staff of the Court Service authorised to give him instructions.
- (6) A court security officer is not to be regarded as acting in the execution of his duty at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).
- (7) Every court security officer is to be regarded as an officer of the court for the purposes of—

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- (a) Article 55 of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)),
- (b) section 34 of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)), and
- (c) Article 160 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)),

(which provide for the detention by court officers, and punishment, of persons misbehaving in court).

## **81 Protection of court security officers**

- (1) A person who assaults a court security officer acting in the execution of his duty commits an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to—
  - (a) a fine not exceeding level 5 on the standard scale, or
  - (b) imprisonment for a term not exceeding six months,or to both.
- (3) A person who resists or intentionally obstructs a court security officer acting in the execution of his duty commits an offence.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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