

*These notes refer to the Justice Act (Northern Ireland)  
2016 (c.21) which received Royal Assent on 12 May 2016*

# Justice Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1

#### Fines and Other Penalties: Enforcement

#### *Chapter 2: Other Enforcement Procedures*

#### *Section 29: Supervised activity orders*

This Section substitutes a new Article 45 into the Criminal Justice (Northern Ireland) Order 2008. As well as providing for the imposition of a supervised activity order (“SAO”) when a person is in default of payment, the new Article also now provides for an SAO to be made when the person makes an application for a SAO, default not yet having occurred.

The amount in respect of which an order may be made is increased from £500 to £1000, and this will now include other financial penalties as well as fines (new Article 45(1) of the 2008 Order).

Where the court could have imposed imprisonment but considers that a SAO would be more appropriate in the circumstances, it may make the order instead (new Article 45(2) of the 2008 Order).

A SAO is defined in new Article 45(3) as an order requiring an individual to attend at a place for a period specified in the order to carry out activities as specified by the order.

New Article 45(4) sets out the minimum and maximum hours that must be performed according to the level of the fine. The Department of Justice may amend the maximum amount in respect of which a SAO may be made or the time periods by order (new Article 45(5)).

The Section specifies that the SAO comes into force as soon as it is made (new Article 45(6)) and where part performance of the order has been carried out, the sum outstanding shall be reduced proportionally by the period of part performance (new Article 45(7)).

The Section specifies how an order is to be discharged, namely by payment of the amount, performance of the order or imprisonment (new Article 45(8)).

The Section also points the reader to Schedule 3 to the 2008 Order where more information on supervised activity orders may be found (new Article 45(9)) and to amendments within that Schedule (Section 29(2)-(8)).

The Section ensures that a SAO cannot be considered as an option in default of a confiscation order (given that under Section 3(2), a confiscation order is outwith the proposed new collection and enforcement arrangements (new Article 45(11)).

Finally, in terms of transitional arrangements, the SAO will operate for those who have already been prosecuted and sentenced as well as for those who have yet to be prosecuted and convicted (Section 29(12)).

***Section 30: Restriction on detention of children for default in paying fines etc.***

This Section amends the Criminal Justice (Children) (Northern Ireland) Order 1998 by inserting new Article 46C.

New Article 46C provides that a child shall not be detained in custody for fine default unless that child is already in custody or has been ordered to be detained in custody for a period which has not yet begun (new Article 46C(1)). The child in those circumstances may be ordered to be detained for a period which is concurrent with the first period and which must not last longer than that first period (new Article 46C(2) and (3)).

The Section also insets new Articles 37(1A) and (1B) into the 1998 Order to ensure that an attendance centre order may still be made (in spite of new Article 46C), where the child has defaulted on payment and is not in custody or prison, or been ordered to a period of custody yet to begin (Section 30(2)).

This Section also repeals Article 48 of the 1998 Order, which had allowed for committal of children in default (Section 30(4)).

The Section amends section 35 of the Criminal Justice Act (Northern Ireland) 1945 (Section 30(5)), section 5(3) of the Treatment of Offenders (Northern Ireland) Act 1968 (Section 30(6)) and Articles 56, 91 and 92 of the Magistrates' Courts (Northern Ireland) Order 1981 (Sections 30(7)-(9)) in order to cross refer to new Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998. It amends Article 93 of the 1981 Order in order to dis-apply it to children (Section 30(10)) and repeals Article 94 of that Order (Section 30(11)).

In terms of transitional arrangements, this Section will operate for those who have already been convicted (as well as for those who have yet to be prosecuted and convicted) (Section 30(12)).

***Section 31: Distress in default***

This Section amends section 3 of the Fines Act (Ireland) 1851 to prevent a warrant of distress being executed at the point of sentence in the Crown Court (Section 31(1)). It also amends Article 92 of the Magistrates' Courts (Northern

Ireland) Order 1981 to prevent the same in the magistrates' courts (Section 31(2)).

***Section 32: Limitation on remission***

This Section amends section 13 of the Prison Act (Northern Ireland) 1953 by inserting new section 13(7A) to state that prison rules may not provide for remission to a person imprisoned for defaulting on payment of the sum due or for imprisonment imposed for breaching a supervised activity order (Section 32(1)).

Schedule 3 to the Criminal Justice (Northern Ireland) Order 1998 (which deals with supervised activity orders) is amended at paragraph 5 and 6 to reflect this (Section 32(2) and (3)). In terms of transitional arrangements, this Section does not apply to offences committed before the commencement of this Section (Section 32(4)).