



2016 CHAPTER 21

PART 1

FINES AND OTHER PENALTIES: ENFORCEMENT

CHAPTER 2

Other enforcement procedures

**Restriction on detention of children for default in paying fines, etc.**

**30.—**(1) Before Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (but after the preceding cross-heading) insert—

**“46C Restriction on detention for default of payment of fine, etc.**

(1) A child shall not be ordered to be detained in custody in default of the payment of any sum adjudged to be paid by or imposed on conviction of an offence unless, at the time when the sum becomes due or at any subsequent time at which it remains due, the child—

- (a) is already being detained in custody, or
- (b) has been ordered to be detained in custody but the period of detention has yet to begin.

(2) The child may be ordered to be detained in custody for a period concurrent with that other period of detention; and the service of a period of detention ordered in reliance on this Article discharges the child’s liability for the sum concerned.

(3) A period of detention ordered in reliance on this Article must end on or before the date on which the child is to be discharged from the other period of

detention; and where the applicable maximum period would otherwise extend beyond that date, it is to be reduced accordingly.

(4) In this Article—

- (a) the reference to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed, and
- (b) the reference to the applicable maximum period is a reference to the applicable maximum period under section 35 of the Criminal Justice Act (Northern Ireland) 1945 or Schedule 3 to the Magistrates' Courts (Northern Ireland) Order 1981.”.

(2) In Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (attendance centre orders), after paragraph (1) insert—

“(1A) An attendance centre order may (in spite of paragraph (1) and Article 46C) be made in default of the payment of a sum adjudged to be paid by or imposed on the conviction of an offence in a case where, at the time of the default, the child in question—

- (a) is not detained in custody or imprisoned, and
- (b) has not been ordered to be detained in custody or imprisoned with the period of detention or imprisonment yet to begin.

(1B) The reference in paragraph (1A) to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed.”.

(3) In Article 47 of that Order (the title to which becomes “Limitation on punishment for contempt of court”), in paragraph (1), omit sub-paragraph (b) and the preceding “or”.

(4) Article 48 of that Order (which provides for committal to custody in a young offenders centre where a child is in default) is repealed.

(5) In section 35 of the Criminal Justice Act (Northern Ireland) 1945 (powers of court in relation to fines etc.), after subsection (7) insert—

“(8) Subsection (1)(c) does not apply where the person concerned is a child except where detention would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998; and subsection (3) does not apply to a child.”.

(6) In section 5(3) of the Treatment of Offenders (Northern Ireland) Act 1968 (power of court to detain young person in youth offenders centre for default), for “Article 47” substitute “Article 46C”.

(7) In Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981 (consecutive terms of imprisonment), after paragraph (3) (which allows a term of imprisonment for default to run consecutively to another term) insert—

“(4) Paragraph (3) does not apply to a child (see Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998).”.

(8) In Article 91 of that Order (payment of sums adjudged to be paid by a conviction), after paragraph (8) (which provides for immediate committal where the person concerned indicates a preference for that) insert—

“(9) Paragraph (8) does not apply in the case of a child except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(9) In Article 92 of that Order (enforcement), after paragraph (5) insert—

“(6) This Article does not apply to a child, except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.

(10) In Article 93 of that Order (restrictions on power to order immediate committal), the text of which becomes paragraph (1), at the end insert—

“(2) This Article does not apply where the person is a child.”.

(11) Article 94 of that Order (supervision of person under 21 until payment of sum) is repealed.

(12) This section applies in relation to convictions occurring before the commencement of this section (as well as those occurring afterwards).