
STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 2

SENTENCING

CHAPTER 2

CUSTODIAL SENTENCES

Restrictions on imposing custodial sentences on persons not legally represented

6.—(1) A magistrates' court on summary conviction or the Crown Court on conviction on indictment shall not pass a custodial sentence on a person if that person is not legally represented in that court.

(2) Paragraph (1) does not apply to a person if

- (a) a custodial sentence has previously been passed on that person or a corresponding sentence has previously been passed on that person by a court in any other part of the United Kingdom;
- (b) that person applied for legal aid and the application was refused on the ground that it did not appear the person's means were such that the person required assistance; or
- (c) having been informed of the right to apply for legal aid and had the opportunity to do so, that person refused or failed to apply.

(3) In paragraph (2) "legal aid" means legal aid for the purposes of proceedings in the court, whether the whole proceedings or the proceedings on or in relation to sentence.

(4) In the case of a person committed to the Crown Court for trial, it is immaterial whether that person applied for legal aid in the Crown Court to, or was informed of the right to apply by, that Court, or the court which committed that person.

(5) For the purposes of this Article—

- (a) a person is to be treated as legally represented in a court if, but only if, that person has the assistance of counsel or a solicitor to represent that person in the proceedings in that court at some time after that person is found guilty and before that person is sentenced;
- (b) a previous sentence of imprisonment or order for detention which has been suspended and which has not taken effect shall be disregarded.

Commencement Information

- II** Art. 6 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)

Status:

Point in time view as at 01/04/2009.

Changes to legislation:

The Criminal Justice (Northern Ireland) Order 2008, Section 6 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.