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## STATUTORY INSTRUMENTS

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# 2008 No. 1216

## The Criminal Justice (Northern Ireland) Order 2008

### PART 2

#### SENTENCING

##### CHAPTER 5

##### CURFEWS AND ELECTRONIC MONITORING

###### *Powers to impose curfew or electronic monitoring requirements*

#### **Powers to impose curfew or electronic monitoring requirements**

**35.**—(1) Subject to the following provisions of this Chapter, a curfew requirement or an electronic monitoring requirement may be made—

- (a) a condition of bail granted by a court;
- (b) a condition of a licence under—
  - (i) this Part;
  - (ii) the Life Sentences (Northern Ireland) Order 2001 (NI 2);
  - (iii) Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) (discharge on licence of person sentenced to be detained under Article 45(2) of that Order);
  - (iv) [<sup>F1</sup>Article 26 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24);]
- (c) a requirement of—
  - (i) a probation order;
  - (ii) the youth conference plan to which a youth conference order relates.

(2) Article 15(5) of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (combination order treated as probation order) applies for the purposes of this Article as it applies for the purposes of Part 2 of that Order.

(3) [<sup>F2</sup>Article 25(2)(b) of that Order (custody probation order treated as probation order) applies for the purposes of this Article as it applies for the purposes of Part 2 of that Order.]

#### **Textual Amendments**

- F1** Art. 35(1)(b)(iv) repealed (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 102(2), [Sch. 6 Pt. 1](#)
- F2** Art. 35(3) repealed (prosp.) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 102(2), [Sch. 6 Pt. 1](#)

*Status: Point in time view as at 31/10/2016.*

*Changes to legislation: The Criminal Justice (Northern Ireland) Order 2008, CHAPTER 5 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. (See end of Document for details)*

### **Power of court to impose curfew or electronic monitoring requirement on making juvenile justice centre order**

36.—(1) The Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9) is amended as follows.

(2) In Article 39 (juvenile justice centre orders) at the end add—

“(8) Where a court makes a juvenile justice centre order in respect of a child, it may, subject to Chapter 5 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008, impose a curfew requirement or an electronic monitoring requirement (within the meaning of that Chapter) during all or part of the period of supervision to which the child is subject under the order.”

(3) In Article 40 (supervision under a juvenile justice order) in paragraph (2) for sub-paragraph (b) substitute—

“(b) the person under whose supervision he will be shall give him a notice specifying—

(i) any requirements imposed by the court under Article 39(8); and

(ii) any other requirements with which he must comply.”

(4) In Article 40(3) for “or (b)” substitute “ or (b)(ii) ”.

(5) In Article 40(4) at the end add “ , but such rules may not regulate any matter which may be regulated by rules under Article 44 of the Criminal Justice (Northern Ireland) Order 2008 ”.

(6) In Article 41(1) and (2) (breach of supervision requirements) after “requirements under” insert “ Article 39(8) or ”.

### *Curfews*

#### **Curfew requirement**

37.—(1) In this Part “curfew requirement” means a requirement that a person remain, for specified periods at a specified place; and in this Article “specified” means specified in the requirement.

(2) Specified periods shall not amount to—

(a) less than 2 hours, or

(b) more than 12 hours,

in any one day.

(3) A curfew requirement shall not be imposed without obtaining and considering information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the person subject to the requirement).

(4) The Secretary of State may by order amend paragraph (2) by substituting for a number of hours specified there such other number of hours as may be specified in the order.

#### **Requirement to avoid conflict with religious beliefs, etc.**

38.—(1) A curfew requirement shall, as far as practicable, be such as to avoid—

(a) any conflict with a person's religious beliefs or with any other condition or requirement to which that person may be subject; and

(b) any interference with the times, if any, at which the person normally works (or carries out voluntary work) or attends a school or other educational establishment.

(2) The Secretary of State may by order provide that paragraph (1) is to have effect with such additional restrictions as may be specified in the order

### *Electronic monitoring*

#### **Arrangements for establishing systems of electronic monitoring**

**39.** The Secretary of State may make arrangements for establishing systems of electronic monitoring of persons subject to—

- (a) curfew requirements; or
- (b) other requirements relating to a person's whereabouts.

#### **Electronic monitoring requirement**

**40.—**(1) In this Part “electronic monitoring requirement” means a requirement for securing the electronic monitoring of a person's compliance with other conditions or requirements during a period of 14 days or more specified in the requirement or determined in accordance with the requirement by the person responsible for the monitoring.

(2) Where—

- (a) it is proposed to impose an electronic monitoring requirement, but
- (b) there is a person (other than the person who is to be subject to the requirement) without whose co-operation it will not be practicable to secure the monitoring,

the requirement shall not be imposed without that person's consent.

(3) An electronic monitoring requirement shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(4) Where an electronic monitoring requirement is required to take effect during a period determined by the person responsible for the monitoring, that person shall, before the beginning of the period, notify—

- (a) the person subject to the requirement, and
- (b) any person falling within paragraph (2)(b),

of the time when the period is to begin.

#### **Modifications etc. (not altering text)**

- C1** Art. 40 modified (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **97(3)**
- C2** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

#### **Availability of electronic monitoring arrangements**

**41.** A court shall not impose an electronic monitoring requirement unless the court—

- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the area in which the place proposed to be specified in the requirement is situated; and
- (b) is satisfied that the necessary provision can be made under those arrangements.

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**Modifications etc. (not altering text)**

- C2** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

**Provision of copies of electronic monitoring requirement**

**42.** Where a court or the Secretary of State imposes an electronic monitoring requirement, the court or (as the case may be) the Secretary of State shall forthwith provide copies of the requirement—

- (a) to the person who by virtue of Article 40(3) will be responsible for the electronic monitoring; and
- (b) to any person to whom Article 40(2)(b) applies.

**Modifications etc. (not altering text)**

- C2** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

*Release of children on bail*

**Release of child on bail: curfew and electronic monitoring requirements**

**43.—**(1) This Article applies where a court proposes to release a child on bail under Article 12 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9).

(2) The court shall not impose—

- (a) a curfew requirement, or
- (b) an electronic monitoring requirement,

as a condition of bail unless the court considers that, if it did not do so, it would be necessary to remand the child in custody to protect the public.

**Modifications etc. (not altering text)**

- C2** Arts. 40-43 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **107(4)(b)**

*Rules*

**Rules**

**44.** The Secretary of State may make rules for regulating—

- (a) electronic monitoring in pursuance of an electronic monitoring requirement;
- (b) without prejudice to paragraph (a), the functions of persons made responsible for securing electronic monitoring in pursuance of such a requirement; and
- (c) the supervision of persons who are subject to curfew requirements.

**Status:**

Point in time view as at 31/10/2016.

**Changes to legislation:**

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