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STATUTORY INSTRUMENTS

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**2008 No. 1216**

**The Criminal Justice (Northern Ireland) Order 2008**

PART 2

SENTENCING

CHAPTER 4

RELEASE ON LICENCE

*Recall after release*

**Recall of prisoners while on licence**

**28.**—(1) In this Article “P” means a prisoner who has been released on licence under Article 17, 18 or 20.

(2) The Secretary of State may revoke P’s licence and recall P to prison—

- (a) if recommended to do so by the Parole Commissioners; or
- (b) without such a recommendation if it appears to the Secretary of State that it is expedient in the public interest to recall P before such a recommendation is practicable.

(3) P—

- (a) shall, on returning to prison, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and
- (b) may make representations in writing with respect to the recall.

(4) The Secretary of State shall refer P’s recall under paragraph (2) to the Parole Commissioners.

(5) Where on a reference under paragraph (4) the Parole Commissioners direct P’s immediate release on licence under this Chapter, the Secretary of State shall give effect to the direction.

(6) The Parole Commissioners shall not give a direction under paragraph (5) with respect to P unless they are satisfied that—

- (a) where P is serving an indeterminate custodial sentence or an extended custodial sentence, it is no longer necessary for the protection of the public from serious harm that P should be confined;
- (b) in any other case, it is no longer necessary for the protection of the public that P should be confined.

(7) On the revocation of P’s licence, P shall be—

- (a) liable to be detained in pursuance of P’s sentence; and
- (b) if at large, treated as being unlawfully at large.

**Further release after recall for certain fixed-term prisoners**

- 29.**—(1) This Article applies where—
- (a) a fixed-term prisoner, other than a prisoner serving an extended custodial sentence, (“P”) is released on licence under Article 17 or 20; and
  - (b) on a reference under Article 28(4) the Parole Commissioners do not direct P’s immediate release on licence under this Chapter.
- (2) Subject to paragraphs (3) and (4), the Parole Commissioners shall either—
- (a) recommend a date for P’s release on licence; or
  - (b) fix a date as the date for the next review of P’s case by them.
- (3) Any date recommended under paragraph (2)(a) or fixed under paragraph (2) (b) must not be later than the second anniversary of the date on which the decision is taken.
- (4) The Parole Commissioners need not make a recommendation under paragraph (2)(a) or fix a date under paragraph (2)(b) if P will fall to be released unconditionally at any time within the next 24 months.
- (5) Where the Parole Commissioners have recommended a date for P’s release under paragraph (2)(a), the Secretary of State shall release P on licence on that date unless the Secretary of State has, before that date, referred P’s case to the Parole Commissioners.
- (6) On a review required by paragraph (2)(b) or a reference under paragraph (5), the Parole Commissioners shall—
- (a) direct P’s immediate release on licence;
  - (b) make a recommendation under paragraph (2)(a); or
  - (c) fix a date under paragraph (2)(b).
- (7) The Parole Commissioners shall not give a direction under paragraph (6)(a) with respect to P unless they are satisfied that it is no longer necessary for the protection of the public that P should be confined
- (8) The Secretary of State shall give effect to any direction under paragraph (6)(a).

**Recall of prisoners released early under Article 19**

- 30.**—(1) If it appears to the Secretary of State, as regards a person released on licence under Article 19 (“P”)—
- (a) that P has failed to comply with any condition included in the licence, or
  - (b) that P’s whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in the licence,
- the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall P to prison under this Article.
- (2) P—
- (a) shall, on returning to prison, be informed of the reasons for the revocation and of the right conferred by sub-paragraph (b); and
  - (b) may make representations in writing with respect to the revocation.
- (3) The Secretary of State, after considering any representations under paragraph (2)(b) or any other matters, may cancel the revocation of P’s licence under this Article.
- (4) Where the revocation of P’s licence is cancelled under paragraph (3), P is to be treated for the purposes of Article 19 as not having been recalled to prison under this Article.
- (5) On the revocation of P’s licence, P shall be—

- (a) liable to be detained in pursuance of P's sentence; and
- (b) if at large, treated as being unlawfully at large.

**Conviction while licence remains in force**

- 31.** Where it appears to the court by or before which a person is convicted of an offence—
- (a) that the offence was committed while the person was on licence under this Chapter, and
  - (b) that the person has not been recalled to prison,
- the court shall inform the Secretary of State of the conviction.