
STATUTORY INSTRUMENTS

1976 No. 226 (N.I. 4)

NORTHERN IRELAND

**The Treatment of Offenders
(Northern Ireland) Order 1976**

Laid before Parliament in draft

Made 18th February 1976

Coming into operation in accordance with Article 1 (2)

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At the Court at Buckingham Palace, the 18th day of February 1976

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Treatment of Offenders (Northern Ireland) Order 1976.

(2) Part II shall come into operation on 1st March 1976 and the remaining provisions shall come into operation on such day or days as the Secretary of State may by order appoint.

(a) 1974 c. 28.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“bail hostel” means premises for the accommodation of persons remanded on bail;

“community service order” has the meaning assigned to it by Article 7 (1);

“court” does not include a court-martial;

“enactment” includes any statutory provision within the meaning of section 1 (f) of the Interpretation Act (Northern Ireland) 1954;

“prison rules” means rules made under section 13 of the Prison Act (Northern Ireland) 1953 (b);

“sentence of imprisonment”, does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

“young offenders centre” has the meaning assigned to it by section 2 (a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c).

(3) For the purposes of this Order a community service order made on appeal from a decision of a magistrates’ court or a court of assize or county court shall be treated as if it had been made by a magistrates’ court or a court of assize or county court, as the case may be.

(4) For the purposes of any reference (however expressed) in this Order to a term of imprisonment or to a term of detention in a young offenders centre, consecutive terms shall be treated as a single term.

(5) For the purposes of any reference in this Order to a sentence of imprisonment or detention in a young offenders centre, that reference includes—

(a) a sentence or term passed by a court in the United Kingdom, the Channel Islands or the Isle of Man;

(b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence (within the meaning of the Army Act 1955 (d), the Air Force Act 1955 (e) or the Naval Discipline Act 1957 (f)).

PART II

DISCHARGE FROM PRISON, ETC.

Conviction within certain period after discharge from prison, etc.

3.—(1) Subject to paragraph (2), where—

(a) after a person is discharged from prison or a young offenders centre after the commencement of this Part in pursuance of prison rules, but before any sentence of imprisonment or term of detention to which he was

(a) 1954 c. 33 (N.I.). (b) 1953 c. 18 (N.I.). (c) 1968 c. 29 (N.I.).
(d) 1955 c. 18. (e) 1955 c. 19. (f) 1957 c. 53.

subject immediately before his discharge would (but for that discharge) have expired, he commits, and is convicted of, an offence in Northern Ireland; and

- (b) the court has power or would, but for section 1 of the Treatment of Offenders Act (Northern Ireland) 1968 (a), have power to sentence him to imprisonment for that offence,

the court may, without prejudice to its powers to deal with him in respect of the offence, order that he be returned to prison or, where appropriate, to a young offenders centre for such period, not exceeding that referred to in paragraph (3), as it thinks fit and, where it is a magistrates' court, exercise the powers conferred by paragraph (4).

(2) Paragraph (1) shall not apply to any person unless, immediately before his discharge from prison or a young offenders centre, the sentence of imprisonment or term of detention which he was serving (as pronounced by the court) exceeded one year or such other period as the Secretary of State may prescribe by order.

(3) The period referred to in paragraph (1) is—

(a) where the court is a magistrates' court, the lesser of—

(i) twelve months; or

(ii) the period between the date of the order referred to in paragraph (1) and the date on which any sentence of imprisonment or term of detention so referred to would have expired in his case but for his discharge in pursuance of prison rules;

(b) where the court is not a magistrates' court, the period referred to in sub-paragraph (a) (ii).

(4) Where, at the date on which a magistrates' court convicts an offender, the period referred to in paragraph (3) (a) (ii) exceeds twelve months, the court may, without prejudice to its powers to deal with him in respect of the offence, commit him in custody or on bail to a court of assize or a county court.

(5) Where a person is committed to a court under paragraph (4), that court may, without prejudice to any sentence passed or order made by the magistrates' court in respect of the offence, order that he be returned to prison or, where appropriate, to a young offenders centre for such period, not exceeding that referred to in paragraph (3) (a) (ii), as it thinks fit.

(6) The court to which a magistrates' court commits any person under paragraph (4) shall be a court of assize or county court having jurisdiction in the place where the magistrates' court is situated, except that it may commit him to some other court of assize or county court, if, having regard to the time when and the place where he is likely to be dealt with, it would be more convenient that he should be dealt with by that other court.

(7) Where, on consideration of the case of an offender under this Article, a court makes no order with respect to his return to prison or a young offenders centre, the appropriate officer of the court shall record that fact.

(a) 1968 c. 29 (N.I.).

(8) Where, under paragraph (1) or (5), a person is ordered to be returned to prison or a young offenders centre, the period for which he is ordered to be returned to prison or a young offenders centre under that paragraph shall, notwithstanding anything in any other enactment, take effect on the date of the order.

(9) A magistrates' court shall not exercise the powers conferred by paragraph (1) unless the offender is before the court.

(10) For the purposes of the Prison Act (Northern Ireland) 1953 and of the Treatment of Offenders Act (Northern Ireland) 1968, the period for which a person is ordered under this Article to be returned to prison or a young offenders centre shall be taken to be a sentence of imprisonment or term of detention.

Appeals

4. Where under Article 3 (1) or (5) a court orders that a person be returned to prison or to a young offenders centre, that person shall have the like right of appeal against that order as if—

- (a) the court had immediately before making it convicted him; and
- (b) the order were a sentence passed upon that conviction.

Ascertainment of person's liability to be dealt with under Article 3

5.—(1) Where—

- (a) after the discharge of any such person as is mentioned in Article 3 (1) (a), he has been convicted as mentioned in that Article and the court had power to deal with him under Article 3 (1) (b); and
- (b) it appears on complaint to a justice of the peace having jurisdiction in the county or county borough in which the offender was committed for trial or, where the offence was not tried on indictment, in which the offender was convicted, that he has not been ordered under Article 3 to be returned to prison or a young offenders centre and that there is no such record as is mentioned in Article 3 (7),

the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the complaint is in writing and substantiated on oath, issue a warrant for his arrest.

(2) A summons or warrant issued under this Article shall, subject to paragraph (3), direct the offender to appear or to be brought before a court corresponding to that by which the offender was convicted as mentioned in paragraph (1).

(3) If—

- (a) a warrant is issued under paragraph (1) requiring an offender to be brought before a court of assize or county court; and
- (b) the offender cannot forthwith be brought before the court referred to in sub-paragraph (a) because it is not being held,

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court having jurisdiction in the place where he is arrested.

(4) Where an offender is brought before a magistrates' court in pursuance of paragraph (3), that court shall commit him in custody or on bail to such court of assize or county court as it considers convenient.

Evidence

6. For the purposes of Article 3, a certificate purporting to be signed by the governor or deputy governor of a prison or young offenders centre which specifies—

- (a) the date on which a person was discharged from prison or a young offenders centre;
- (b) the sentence or term which the person was serving at the time of his discharge, the offence in respect of which the sentence or term was imposed and the date on which he was convicted of that offence;
- (c) the date on which the person would, but for his discharge in pursuance of prison rules, have been discharged from prison or a young offenders centre,

shall be evidence of the matters so specified.

PART III

POWERS OF COURTS WITH RESPECT TO TREATMENT OF OFFENDERS

Community service orders

Community service orders in respect of convicted persons

7.—(1) Subject to paragraphs (3) and (4), where a person of or over seventeen years of age is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may, instead of dealing with him in any other way make an order (in this Order referred to as “a community service order”) requiring him to perform unpaid work in accordance with the subsequent provisions of this Order for such number of hours (being in the aggregate not less than forty nor more than two hundred and forty) as may be specified in the order.

(2) The reference in paragraph (1) to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of persons under twenty-one years of age.

(3) A court shall not make a community service order in respect of any person convicted of an offence the sentence for which is fixed by law.

(4) A court shall not make a community service order in respect of any offender unless the offender consents and the court—

(a) has been notified by the Secretary of State that arrangements exist for persons who reside in the petty sessions district in which the offender resides or will reside to perform work under such orders; and

(b) is satisfied—

(i) after considering a report by a probation officer about the offender and his circumstances and, if the court thinks it necessary, hearing a probation officer, that the offender is a suitable person to perform work under such an order; and

(ii) that provision can be made under the arrangements for him to do so.

(5) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent shall not exceed the maximum in paragraph (1).

(6) A community service order shall specify the petty sessions district in which the offender resides or will reside; and the functions conferred by the subsequent provisions of this Order on the relevant officer shall be discharged by a probation officer selected under arrangements made by the Secretary of State, or by a person appointed by the Secretary of State under paragraph (11).

(7) Before making a community service order the court shall explain to the offender in ordinary language—

- (a) the purpose and effect of the order (and in particular the requirements of the order as specified in Article 8);
- (b) the consequences which may follow under Article 9 if he fails to comply with any of those requirements; and
- (c) that the court has under Article 10 the power to review the order on the application either of the offender or of the relevant officer.

(8) The court by which a community service order is made shall forthwith give copies of the order to a probation officer assigned to the court and he shall give a copy to the offender and to the relevant officer; and the court shall, except where it is itself a magistrates' court acting for the petty sessions district specified in the order, send to the clerk of petty sessions for the petty sessions district specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that district in exercising its functions in relation to the order.

(9) The Secretary of State may by order direct that paragraph (1) shall be amended by substituting for the maximum number of hours specified in that paragraph such number of hours as may be specified in the order.

(10) Nothing in paragraph (1) shall be construed as preventing a court which makes a community service order in respect of any offence from making an order for costs against, or imposing any disqualification on, the offender or from making in respect of the offence an order under section 4 of the Forfeiture Act 1870 (a), section 7 (2) of the Probation Act (Northern Ireland) 1950 (b), section 63 of the Magistrates' Courts Act (Northern Ireland) 1964 or section 27 of the Theft Act (Northern Ireland) 1969 (c).

(11) The Secretary of State, with the approval of the Minister for the Civil Service as to numbers and salaries, may appoint suitable persons to discharge the functions conferred by this Order on the relevant officer.

Obligations of person subject to community service order

8.—(1) An offender in respect of whom a community service order is in force shall—

- (a) report to the relevant officer and subsequently from time to time notify him of any change of address; and
- (b) perform for the number of hours specified in the order such work at such times as he may be instructed by the relevant officer.

(a) 1870 c. 23.

(b) 1950 c. 7 (N.I.).

(c) 1969 c. 16 (N.I.).

(2) Subject to Article 10 (1), the work required to be performed under a community service order shall be performed during the period of twelve months beginning with the date of the order.

(3) The instructions given by the relevant officer under this Article shall, so far as practicable, be such as to avoid any conflict with the offender's religious beliefs and any interference with the times, if any, at which he normally works or attends a school or other educational establishment.

Breach of requirements of community service order

9.—(1) If at any time while a community service order is in force in respect of an offender it appears upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order that the offender has failed to comply with any of the requirements of Article 8 (including any failure satisfactorily to perform the work which he has been instructed to do), the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the complaint is in writing and substantiated on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this Article shall direct the offender to appear or be brought before a court of summary jurisdiction acting for the petty sessions district for the time being specified in the community service order.

(3) If it is proved to the satisfaction of the court of summary jurisdiction before which an offender appears or is brought under this Article that he has failed without reasonable excuse to comply with any of the requirements of Article 8 the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding £50 or may—

(a) if the community service order was made by a magistrates' court, revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;

(b) if the order was made by a court of assize or county court, commit him to custody or release him on bail until he can be brought or appear before the court of assize or county court, as the case may be.

(4) A court of summary jurisdiction which deals with an offender's case under paragraph (3) (b) shall send to the court of assize or county court, as the case may be, a certificate signed by a resident magistrate certifying that the offender has failed to comply with the requirements of Article 8 in the respect specified in the certificate, together with such other particulars of the case as may be prescribed by magistrates' courts rules; and a certificate purporting to be so signed shall be admissible as evidence of the failure before that court of assize or county court.

(5) Where by virtue of paragraph (3) (b) the offender is brought or appears before a court of assize or county court and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of Article 8, that court may either—

(a) without prejudice to the continuance of the order, impose on him a fine not exceeding £50; or

(b) revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(6) A person sentenced under paragraph (3) (a) or (5) (b) for an offence or upon whom a fine has been imposed under paragraph (3) or (5) (a) for breach of any of the requirements of Article 8 shall have the like right of appeal against that sentence or fine as if—

(a) the court had immediately before passing that sentence or imposing that fine convicted him; and

(b) the sentence or fine were a sentence passed upon that conviction.

(7) In proceedings before a court of assize or county court under this Article any question whether the offender has failed to comply with the requirements of Article 8 shall be determined by the court and not by the verdict of a jury.

(8) A fine imposed under this Article shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.

Amendment and revocation of community service orders, and substitution of other sentences

10.—(1) Where a community service order is in force in respect of any offender and, on the application of the offender or the relevant officer, it appears to a court of summary jurisdiction acting for the petty sessions district for the time being specified in the order that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may extend, in relation to the order, the period of twelve months specified in Article 8 (2).

(2) Where such an order is in force and on any such application it appears to a court of summary jurisdiction acting for the petty sessions district so specified that, having regard to such circumstances, it would be in the interests of justice that the order should be revoked or that the offender should be dealt with in some other manner for the offence in respect of which the order was made, the court may—

(a) if the order was made by a magistrates' court, revoke the order or revoke it and deal with the offender for that offence in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;

(b) if the order was made by a court of assize or county court, commit him to custody or release him on bail until he can be brought or appear before the court of assize or county court, as the case may be;

and where the court deals with his case under sub-paragraph (b) it shall send to the court of assize or county court, as the case may be, such particulars of the case as may be prescribed by magistrates' courts rules.

(3) Where by virtue of paragraph (2) (b) the offender is brought or appears before a court of assize or county court and it appears to the court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the court of assize or county court, as the case may be, may revoke the order or revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(4) A person sentenced under paragraph (2) (a) or (3) for an offence shall have the like right of appeal against that sentence as if—

(a) the court had immediately before passing it convicted him; and

(b) the sentence were a sentence passed upon that conviction.

(5) If a court of summary jurisdiction acting for the petty sessions district for the time being specified in a community service order is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions district to another petty sessions district and—

(a) the court has been notified that arrangements exist for persons who reside in that other district to perform work under community service orders; and

(b) it appears to the court that provision can be made under the arrangements for him to perform work under the order;

the court may, and on the application of the relevant officer shall, amend the order by substituting the other petty sessions district for the district specified in the order.

(6) Where a community service order is amended by a court under paragraph (5) the court shall send to the clerk of petty sessions for the new district specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that district in exercising its functions in relation to the order.

(7) Where a court of summary jurisdiction proposes to exercise its powers under paragraph (1) or (2) otherwise than on the application of the offender it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

Amendments to section 4 of the Probation Act (Northern Ireland) 1950

11.—(1) Section 4 of the Probation Act (Northern Ireland) 1950 (consequences of breach of requirement of probation order) shall have effect subject to the amendments specified in the following provisions of this Article.

(2) In subsection (3) after paragraph (b) there shall be inserted the following paragraph:—

“(c) subject to subsection (7) of this section, make a community service order within the meaning of Article 7 (1) of the Treatment of Offenders (Northern Ireland) Order 1976 in respect of him.”.

(3) In subsection (4) (b) after the words “of that offence” there shall be inserted the words:—

“or, subject to subsection (7) of this section, that court may make a community service order within the meaning of Article 7 (1) of the Treatment of Offenders (Northern Ireland) Order 1976 in respect of him.”.

(4) At the end of the section there shall be added the following subsections:—

“(7) Article 7 (4) of the Treatment of Offenders (Northern Ireland) Order 1976 and, so far as applicable, the other provisions of that Order relating to community service orders shall have effect in relation to a com-

community service order under this section as they have effect in relation to a community service order in respect of an offender, but as if the power conferred by Articles 9 and 10 of that Order to deal with the offender for the offence in respect of which the community service order was made were a power to deal with the probationer for the failure to comply with the requirements of the probation order in respect of which the community service order was made.

(8) Any exercise by a court of its powers under subsection (3) (c) or (4) (b) of this section to make a community service order within the meaning of Article 7 (1) of the Treatment of Offenders (Northern Ireland) Order 1976 in respect of a probationer shall be without prejudice to the continuance of the probation order.”.

Power of Secretary of State to regulate community service work

12.—(1) The Secretary of State may make rules for regulating the performance of work under community service orders and the arrangements made under Article 13 for persons to perform such work.

- (2) Without prejudice to the generality of paragraph (1), rules may—
- (a) limit the number of hours' work to be done by a person under such an order on any one day;
 - (b) make provision as to the reckoning of time worked under such orders;
 - (c) make provision for the payment, with the approval of the Treasury, of travelling and other expenses in connection with the performance of work under such orders;
 - (d) provide for records to be kept of the work done by any person under such an order.

Functions of Secretary of State in relation to community service orders

13.—(1) The Secretary of State may secure that arrangements are made for persons to perform work under community service orders.

(2) Where in pursuance of this Article the Secretary of State secures the making of such arrangements, he shall appoint a committee (to be known as the “community service committee”) to superintend the working of the arrangements.

(3) For the purposes of any such arrangements as are mentioned in paragraph (1), the Secretary of State shall have power—

- (a) with the approval of the Treasury,—
- (i) to provide accommodation, equipment, materials and transport;
 - (ii) to make payments to any society or body in respect of services rendered by them;
 - (iii) to defray travelling and other expenses in connection with the performance of work by persons in respect of whom community service orders are in force;
- (b) with the approval of the Minister for the Civil Service, to appoint such staff as are required.

(4) The Secretary of State may make rules—

- (a) regulating the constitution, procedure, powers and duties of the community service committee;

- (b) regulating, with the approval of the Treasury, the expenses which may be incurred by the community service committee and the manner in which those expenses are to be defrayed;
- (c) regulating, with the approval of the Minister for the Civil Service, the qualifications, manner of appointment, conditions of service and duties of staff appointed under paragraph (3) (b).

Deferment of sentence

Deferment of sentence

14.—(1) Subject to the provisions of this Article, a court of assize, a county court or a magistrates' court may defer passing sentence on an offender for the purpose of enabling the court to have regard, in determining his sentence, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.

(2) Any deferment under this Article shall be until such date as may be specified by the court, not being more than six months after the date of the conviction; and where the passing of sentence has been deferred under this Article it shall not be further deferred thereunder.

(3) The power conferred by this Article shall be exercisable only if the offender consents and the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

(4) A court which under this Article has deferred passing sentence on an offender may pass sentence on him before the expiration of the period of deferment if during that period he is convicted in Northern Ireland of any offence.

(5) Where a court which under this Article has deferred passing sentence on an offender proposes to sentence him, whether on the date originally specified by the court or by virtue of paragraph (4) before that date, it may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest.

(6) Nothing in this Article shall affect the power of a court of assize or county court to bind over an offender to come up for judgment when called upon or the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this Article.

Restriction on imposing sentences of imprisonment, etc., on persons not legally represented

Restriction on imposing sentences of imprisonment, Borstal training or detention on persons not legally represented

15.—(1) A magistrates' court on summary conviction or a court of assize or county court on conviction on indictment shall not pass a sentence of imprisonment, Borstal training or detention in a young offenders centre on a person who is not legally represented in that court and has not been previously sentenced to that punishment by a court in any part of the United Kingdom, unless either—

- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance;
- or

(b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.

(2) In paragraph (1) (a) and (b) "legal aid" means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence.

(3) In the case of a person committed to a court of assize or county court for trial, it is immaterial whether he applied for legal aid in the court of assize or county court to, or was informed of his right to apply by, the court of assize or county court, as the case may be, or the court which committed him.

(4) For the purposes of this Article—

(a) a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced;

(b) a previous sentence of imprisonment which has been suspended and which has not taken effect under section 40 of the Criminal Justice Act 1967 (a), section 19 of the Treatment of Offenders Act (Northern Ireland) 1968 or section 23 of the Powers of Criminal Courts Act 1973 (b) shall be disregarded;

(c) "sentence of imprisonment" does not include a committal or attachment for contempt of court; and

(d) "young offenders centre" means in relation to Great Britain a detention centre.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Provision of establishments for use in connection with the rehabilitation of offenders, etc.

16.—(1) Without prejudice to section 11 of the Probation Act (Northern Ireland) 1950 or to section 41 of the Prison Act (Northern Ireland) 1953, the Secretary of State may, with the approval of the Treasury,—

(a) provide and maintain bail hostels and other establishments for use in connection with the rehabilitation of offenders; or

(b) enter into arrangements with voluntary societies or other persons whereby such societies or persons undertake, on such terms (including terms as to payment by the Secretary of State to those societies or persons of such sums as may be agreed upon) as may be specified in the arrangements, to provide and maintain such establishments as are mentioned in sub-paragraph (a).

(2) The Secretary of State may, with the approval of the Treasury, give financial and other assistance to persons remanded on bail.

(3) The Secretary of State may make rules for the regulation, management and inspection of bail hostels and other establishments provided by the Secretary of State under this Article or in respect of which arrangements have been entered into by the Secretary of State under this Article.

(a) 1967 c. 80. (b) 1973 c. 62.

(4) An inspector appointed by the Secretary of State to inspect any such establishment as is mentioned in paragraph (1) shall, on production if required of his credentials, have power at any reasonable time to enter the establishment and to make such investigation of the treatment of any persons residing there as he thinks fit.

(5) Any person who obstructs any inspector in the exercise of the powers conferred by paragraph (4) shall be liable on summary conviction to a fine not exceeding £10.

Abolition of corporal punishment in prisons

17. Section 14 of the Prison Act (Northern Ireland) 1953 (corporal punishment in prisons) shall cease to have effect.

Rules and orders

18. Rules and orders made under this Order by the Secretary of State (other than orders made under Article 1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (a) shall apply accordingly.

Transitional provisions, amendments and repeals

19.—(1) The transitional provisions set out in Schedule 1 shall have effect.

(2) The enactments set out in Schedule 2 shall have effect subject to the amendments specified in that Schedule.

(3) The enactments set out in Schedule 3 are hereby repealed to the extent specified in column 3 of that Schedule.

N. E. Leigh

SCHEDULES

Article 19 (1).

SCHEDULE 1

TRANSITIONAL PROVISIONS

Persons serving sentences of imprisonment

1. Where before 1st March 1976 a person is serving a sentence of imprisonment, Article 3 shall not apply to him in relation to any sentence of imprisonment to which he is subject immediately before his discharge from prison unless he is discharged from prison at a date earlier than his existing discharge date.

2. Where—

(a) before 1st March 1976 a person is serving a sentence of imprisonment; and

(b) that person is discharged from prison at a date later than his earliest discharge date,

Article 3 shall have effect in relation to him subject to the modifications set out in paragraphs 3 and 4.

3. The said modification is that for the reference in Article 3 (1) and (3) to the date on which any sentence of imprisonment to which a person was subject immediately before his discharge in pursuance of prison rules would (but for his discharge) have expired there shall be substituted a reference to the date on which the following period expires, that is to say, three times the difference between—

(a) two-thirds of the sentence of imprisonment (as pronounced by the court) which the person was serving, at the date of his discharge, and

(a) 1946 c. 36.

- (b) the amount of the said sentence of imprisonment actually served at that date, added to any period taken into account under section 26 (2) of the Treatment of Offenders Act (Northern Ireland) 1968 in computing the length of that sentence.

4. Where, in relation to any person, any period calculated in accordance with paragraph 3 is six months or less, Article 3 shall not apply to him in relation to any sentence of imprisonment to which he is subject immediately before his discharge from prison.

Persons under supervision after release from Borstal

5. Where a person has been released from Borstal before 1st March 1976 but is under supervision by virtue of paragraph 2 of Schedule 2 to the Prison Act (Northern Ireland) 1953—

- (a) he shall cease to be so subject if six months have expired after the date of his release but before 1st March 1976;
- (b) he shall cease to be so subject at the expiration of six months from the date of his release.

Interpretation

6. In this Schedule—

“earliest discharge date” means the date on which the person in question could be, or could have been, discharged from prison under prison rules for the time being in force (disregarding any transitional provisions in those rules) if they had always been in force;

“existing discharge date” means the date on which the person in question could have been discharged from prison under prison rules in force immediately before 1st March 1976.

SCHEDULE 2

Article 19 (2).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Prison Act (Northern Ireland) 1953 (c. 18)

1. In Schedule 2 to the Prison Act (Northern Ireland) 1953 for “twelve” (wherever it occurs) substitute “six”.

The Mental Health Act (Northern Ireland) 1961 (c. 15)

2. In section 59 (2) (b) of the Mental Health Act (Northern Ireland) 1961 after “1950” insert “, section 20 of the Treatment of Offenders Act (Northern Ireland) 1968 or Article 3, 9 or 10 of the Treatment of Offenders (Northern Ireland) Order 1976”.

The Treatment of Offenders Act (Northern Ireland) 1968 (c. 29)

3. In section 8 (2) (b) of the Treatment of Offenders Act (Northern Ireland) 1968, for “6 or 13” substitute “13 or Article 3 of the Treatment of Offenders (Northern Ireland) Order 1976”.

4. In section 11 (2) of that Act, for “twelve” substitute “six”.

5. In section 25 (4) of that Act, for “twenty” (twice) substitute “fifty”.

6. In section 29 (2), omit from “other” to “trial.”

The Juries (Northern Ireland) Order 1974 (N.I. 6)

7. In Schedule 2 to the Juries (Northern Ireland) Order 1974 (a), after the entry beginning “Governors, chaplains” insert—

“The warden or a member of the staff of a bail hostel as defined in Article 2 (2) of the Treatment of Offenders (Northern Ireland) Order 1976.”

8. In the said Schedule 2, after the entry relating to probation officers insert—

“A person appointed by the Secretary of State under Article 7 (11) of the Treatment of Offenders (Northern Ireland) Order 1976.”

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
1953 c. 18.	The Prison Act (Northern Ireland) 1953.	In section 5 (2) (<i>d</i>), the words from "with particulars" onwards. In section 13 (7), the words "industry and". Section 14.
1961 c. 39.	The Criminal Justice Act 1961.	Section 32 (2) (<i>h</i>).
1968 c. 29.	The Treatment of Offenders Act (Northern Ireland) 1968.	In section 1 (3), the words from "and for" onwards. Section 5 (5). Section 6. In section 8 (2) (<i>a</i>), the words "a young offenders centre or". Sections 15 to 17. In section 26 (2), the words "immediately prior". In section 29 (2), the words from "other" to "trial". In section 33 (2) the words "the Prison Act and" except in relation to a sentence of imprisonment imposed before 1st March 1976. Schedules 1 and 2. In Schedule 3, paragraph (<i>h</i>) of section 32 (2) of the Criminal Justice Act 1961. In Schedule 4, paragraphs 8 to 10.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enables courts to order offenders to be returned to prison (as well as dealing with them for the offence) if, following their release under prison rules, they commit an offence punishable with imprisonment within a specified period. It also allows courts to make community service orders and to defer sentence and contains restrictions on the imprisonment of persons who are not legally represented. In addition, the Order authorises the Secretary of State to provide bail hostels or to help others to do so.

STATUTORY INSTRUMENTS

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NORTHERN IRELAND

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