

STATUTORY INSTRUMENTS

1982 No. 713 (N.I. 10)

The Probation Board (Northern Ireland) Order 1982

18th May 1982

Introductory

Title and commencement

1.—(1) This Order may be cited as the Probation Board (Northern Ireland) Order 1982.

(2) This Article and Articles 2, 3 (including Schedule 1 but not including Schedule 2), 7 and 14 to 16 shall come into operation on the expiration of the period of one month from the day on which this Order is made and the remaining provisions shall come into operation on such day or days as the Secretary of State may by order appoint^{F1}.

F1 fully exercised by SR 1982/396.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F2} 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;

“the Board” means the Probation Board for Northern Ireland;

[^{F3}“community service order” means an order under Article 13 of the Criminal Justice (Northern Ireland) Order 1996]

“member of the staff of the Board” includes probation officer;

“prescribed” means prescribed by regulations made by the Secretary of State;

“probation hostel” means premises for the reception and care of persons who may be required to reside there by a probation order;

“probation order” means an order under [^{F3} Article 10 of the Criminal Justice (Northern Ireland) Order 1996]

“statutory provision” has the meaning assigned to it by section 1 (*f*) of the Interpretation Act (Northern Ireland) 1954;

“young offenders centre” has the meaning assigned to it by section 2 (*a*) of the Treatment of Offenders Act (Northern Ireland) 1968^{F4}.

Status: Point in time view as at 01/01/2006.

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F2 1954 c. 33 (N.I.)

F3 1996 NI 24

F4 1968 c. 29 (N.I.)

Probation Board for Northern Ireland

Establishment of the Board

3.—(1) There shall be established a body to be called the Probation Board for Northern Ireland (“the Board”).

(2) The Board shall have such functions as are conferred on it by the succeeding provisions of this Order.

(3) Schedule 1 (which makes provision relating to the constitution of the Board and other matters and Schedule 2 (which makes provision for the transfer and property and staff to the Board) shall have effect.

Functions of the Board

4.—(1) The Board shall—

- (a) secure the maintenance of an adequate and efficient probation service;
- (b) secure that arrangements are made for persons to perform work under community service orders;
- (c) provide such probation officers and other staff as the Secretary of State considers necessary to perform social welfare duties in prisons and young offenders centres; and
- (d) undertake such other duties as may be prescribed.

(2) The Board may, with the approval of the Secretary of State,—

- (a) provide and maintain probation hostels and other establishments for use in connection with the supervision and assistance of offenders;
- (b) provide and maintain bail hostels;
- (c) make and give effect to schemes for the supervision and assistance of offenders and the prevention of crime;
- (d) enter into arrangements with voluntary organisations or any other persons (including government departments and public bodies) whereby those organisations or persons undertake, on such terms (including terms as to payment by the Board to those organisations or persons) as may be specified in the arrangements,—
 - (i) the provision and maintenance of such hostels and other establishments as are mentioned in sub-paragraphs (a) and (b);
 - ^{F5}(ii) to give effect to such schemes for the supervision and assistance of offenders and the prevention of crime, whether made by those organisations or persons or made by the Board under sub#paragraph (c)]

F5 1991 NI 16

Provisions supplementary to article 4

5.—(1) For the purposes of Article 4(1) (a), the Board shall—

- (a) appoint probation officers and assign one or more to each petty sessions district or districts; and
 - (b) make such arrangements as the Board thinks fit for determining the probation officer who is to be responsible for the supervision of any probationer in any petty sessions district;
- but nothing in sub-paragraph (a) shall prejudice Schedule 2 or section 19(1) (a) (vi) of the Interpretation Act (Northern Ireland) 1954 (power to employ staff).
- (2) For the purposes of Article 4(1) (b), the Board may—
- (a) make payments to any society or body in respect of services rendered by it; and
 - (b) defray travelling and other expenses in connection with the performance of work by persons in respect of whom community service orders are in force.
- (3) The Board may—
- (a) give financial and other assistance to, or in respect of, persons under the supervision of a probation officer or in connection with whom probation officers are required by the Board to perform any duties and persons remanded on bail;
 - (b) make such payments, and to such persons, as may be prescribed in respect of persons under the supervision of a probation officer, being persons required by a probation order to reside in any place otherwise than for the purpose of their submitting to treatment for their mental condition as resident patients.

Directions of Secretary of State to the Board

6. The Secretary of State may, after consultation with the Board, give the Board directions of a general character as to the exercise and performance of its functions, and the Board shall give effect to any such directions.

Financial control of the Board

- 7.—(1) The Secretary of State may pay to the Board such sums in respect of its expenses as he may with the approval of the Treasury determine.
- (2) So far as relates to the use and expenditure of sums paid under paragraph (1), the Board shall give effect to any directions which the Secretary of State may give to it.
- (3) Schedule 3 (which relates to the making of reports and the maintenance of records by the Board and to the auditing of its accounts) shall have effect.

Supplementary powers

Power to borrow money

- 8.—(1) The Board may, by means of a bank overdraft or by such other means, within such limits and subject to such conditions as may be approved by the Secretary of State, temporarily borrow such sums as may be necessary for the purpose of defraying any expenses incurred by it under this Order.
- (2) Any sum borrowed under paragraph (1) shall be repaid by the Board before the end of the financial year in which it is borrowed.
- (3) The Board may borrow or raise money, on such terms and subject to such conditions as may be approved by the Secretary of State, upon the security of any property or assets of the Board for the purpose of meeting expenses incurred in connection with any permanent works the cost of which is properly chargeable to capital or for any other purpose for which capital moneys may properly be applied.

Insurance

9. The Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972^{F6} shall not require insurance to be effected by the Board.

F6 1972 NI 6

Protection for acts done in execution of duty

10.—(1) A member of the staff of the Board shall not be personally liable in respect of any act done by him in the execution of any statutory provision relating to a function of the Board and within the scope of his employment if he acted reasonably and in honest belief that his duty under the statutory provision required or empowered him to do it; but nothing in this paragraph shall be construed as relieving the Board of any liability in respect of acts of members of its staff.

(2) Where an action is brought against a member of the staff of the Board in respect of an act done by him in the execution or purported execution of any such statutory provision and the circumstances are such that he is not legally entitled to require the Board to indemnify him, the Board may, with the approval of the Secretary of State, nevertheless indemnify him against the whole or a part of any damages or costs which he may have been ordered to pay or may have incurred, if the Board is satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under the statutory provision required or empowered him to do it.

Provisions relating to training

11.—(1) The Board may, either directly or by entering into arrangements with others,—

- (a) provide training for persons with a view to, or in the course of, their employment by the Board or by a voluntary organisation approved for the purposes of this paragraph by the Secretary of State; and
- (b) provide material and premises necessary for, or in connection with, the provision of any such training.

(2) training provided under paragraph (1) shall be on such terms as are approved by the Secretary of State; and in that paragraph “employment” includes employment on an occasional, voluntary or part-time basis.

(3) The Board may, subject to such conditions as the Secretary of State may determine,—

- (a) make grants towards any fees or expenses incurred by, or
- (b) defray or contribute towards the costs of maintenance of,

persons undergoing training for any of the purposes of this Order.

(4) The Board may, subject to such conditions as the Secretary of State may determine, pay the fees of, or make grants to, any body or persons providing training under arrangements entered into under paragraph (1).

Loans for purchase of motor cars or motor cycles

12. The Board may make loans to such members of its staff and subject to such conditions as the Secretary of State may approve to facilitate them in the purchase of motor cars or motor cycles essential to the efficient carrying out of their official duties.

Power to conduct or assist research

13. The Board may conduct or promote, or assist (by grant or otherwise) any person in conducting, research relevant to the functions of the Board.

Miscellaneous

^{F7F8}Powers of inspection

14.—(1) An inspector may, with the approval of the Secretary of State, at any time carry out an inspection of the exercise by the Board and the members of the staff of the Board of their functions under this Order and any other statutory provision, or such of those functions as the Secretary of State may direct.

(2) Where an inspector is carrying out an inspection under paragraph (1), the Board and the members of the staff of the Board shall—

- (a) furnish the inspector with, and permit him to inspect, such accounts, books, records, documents and papers of the Board as the inspector may reasonably require and give the inspector such explanation of them as he may reasonably require;
- (b) furnish the inspector with such other information with respect to the Board's property and activities as the inspector may reasonably require.

(3) Where an organisation or person has entered into arrangements with the Board under Article 4(2)(d), that organisation or person and the officers and employees of that organisation or person shall—

- (a) furnish an inspector with, and permit him to inspect and make copies of, such accounts, books, records, documents and papers of that organisation or person relating to those arrangements as the inspector may reasonably require for the purposes of an inspection under paragraph (1) and give the inspector such explanation of them as he may reasonably require;
- (b) furnish an inspector with such other information with respect to the carrying out of those arrangements by that organisation or person as he may reasonably require for the purposes of such an inspection.

(4) On the conclusion of an inspection under paragraph (1), an inspector shall make a report to the Secretary of State who may, if he thinks fit, publish that report in such form as he thinks fit.

(5) An inspector may at any reasonable time and whether in the course of an inspection under paragraph (1) or not—

- (a) enter (on production if required of his credentials) and inspect any relevant establishment;
- (b) make such investigation as he thinks fit of the management of that establishment and of the treatment of persons residing, working or otherwise present in that establishment.

(6) Any person who obstructs an inspector in the exercise of his powers under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) The expenses incurred by an inspector under this Article shall be defrayed by the Secretary of State.

(8) In this Article and Article 15(1)—

“inspector” means a person appointed by the Secretary of State for the purposes of this Article;

“relevant establishment” means—

- (a) a probation hostel;
- (b) a bail hostel;

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- (c) any other establishment provided by the Board under Article 4;
- (d) any establishment in respect of which arrangements have been entered into by the Board under Article 4(2)(d);
- (e) any other place where schemes mentioned in Article 4(2)(c) or (d)(ii) are given effect.]

F7 1991 NI 16

F8 prosp. rep. by 2002 c. 26

[^{F9}“Duties of probation officers”

14A. It shall be the duty of probation officers—

- (a) to supervise the persons placed under their supervision and to advise, assist and befriend those persons;
- (b) to enquire in accordance with any direction of the court into the circumstances or home surroundings of any person with a view to assisting the court in determining the most suitable method of dealing with him; and
- (c) to perform such other duties as may be prescribed or imposed by or under any statutory provision or as the Probation Board may direct.]

F9 1996 NI 24

Rules and regulations

15.—[^{F10}(1) The Secretary of State may make rules—

- (a) for the regulation and management of relevant establishments;^{F11} and
- ^{F11}(b) for the regulation of an inspection under Article 14(1) and of the exercise (otherwise than in the course of such an inspection) of the powers of an inspector under Article 14(5)]

(2) Rules and regulations made under this Order by the Secretary of State 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^{F12} shall apply accordingly.

F10 1991 NI 16

F11 prosp. rep. by 2002 c. 26

F12 1946 c. 36.

Power to facilitate the coming into operation of this Order

16. Without prejudice to the provisions of section 16 of the Interpretation Act (Northern Ireland) 1954, the Secretary of State and the Treasury may exercise and the Secretary of State may authorise or require the Board or other persons to exercise during the period before the day on which the whole of this Order has been brought into operation any functions which will, from that day, be exercisable under the provisions of this Order in so far as the exercise of those functions during that period is, in the opinion of the Secretary of State or the Treasury as the case may be, necessary or expedient for securing that the various provisions of this Order may be effective from the days provided for their coming into operation and for preventing difficulties in the operation of this Order after those days.

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Minor and consequential amendments and repeals

Para.(1)—Amendments

Para.(2)—Repeals

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SCHEDULES

SCHEDULE 1

Article 3.

THE PROBATION BOARD FOR NORTHERN IRELAND

Status

1.—(1) The Board shall be a body corporate to which section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply, subject to the provisions of this Order.

Sub#para. (2) rep. by 1998 c. 47 sch. 15

2. The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown, and the Board's property shall not be regarded as property or property held on behalf of the Crown.

Members

3.—(1) The Board shall consist of—

- (a) a chairman, a deputy chairman, and not less than 10 nor more than 18 other members appointed by the Secretary of State; and
- (b) not more than five members co-opted by the Board with the approval of the Secretary of State.

(2) A person shall not be appointed or co-opted as a member of the Board for more than three years at a time.

(3) A person may at any time resign his office as a member or as chairman or deputy chairman by notice in writing to the Secretary of State.

(4) The Secretary of State may at any time remove a person from office as a member if satisfied that he—

- (a) has been absent from meetings of the Board or a committee of the Board for a period longer than three consecutive months without the permission of the Board;
- (b) has been adjudged bankrupt or has made any composition or arrangement with his creditors;
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member.

(5) If a person who is chairman or deputy chairman ceases to be a member of the Board, he shall also cease to be chairman or deputy chairman.

(6) Where the place of a member becomes vacant before the expiration of his term of office whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the Secretary of State and any person so appointed shall hold office for the remainder of the term of office of the former member.

(7) A person whose term of office as a member of the Board expires by effluxion of time or who has resigned that office shall be eligible for re-appointment.

4. The Board shall pay or make provisions for such remuneration and allowances (including allowances for expenses), pensions and gratuities to or in respect of the chairman, deputy chairman and other members of the Board as the Secretary of State, with the approval of the Treasury, may determine.

5. Where a person ceases to be a member of the Board otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may, with the approval of the Treasury, direct the Board to make to that person a payment of such amount as the Secretary of State, with the approval of the Treasury, may determine.

6. In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975^{F13} (bodies of which all members are disqualified) there shall be inserted at the appropriate place in alphabetical order—

“ The Probation Board for Northern Ireland ”.

F13 1975 c. 25.

Proceedings

7.—(1) Subject to the provisions of this Order, the arrangements for the proceedings of the Board (including the quorum for meetings) shall be such as the Board may determine.

(2) The arrangements may provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee of the Board or by one or more of the members of the Board or of its staff.

8. The validity of any proceedings of the Board shall not be affected by any defect in the appointment or co-option of a member or by any vacancy among the members or in the office of chairman or deputy chairman.

Disclosure of pecuniary, etc., interests and related provisions

9.—(1) Section 28 to 33 and 146 of the Local Government Act (Northern Ireland) 1972^{F14} and section 148 of that Act so far as it applies for the interpretation of those sections, shall apply to the Board and to a member thereof as if—

(a) in those sections any reference—

(i) to the Department of the Environment were to the Secretary of State;

(ii) to a council were to the Board;

(iii) to a councillor were to a member of the Board;

(iv) to the clerk of the council were to the person appointed by the Board to act as its secretary; and

(v) to that Act were to this Order;

(b) in section 28(4) of that Act the words “or 46” were omitted and for the words “by any local elector” onwards there were substituted the words “ by any person ”.

(2) In sub-paragraph (1), except in head (a) (iv), references to the Board include references to a committee of the Board.

(3) Notwithstanding anything in sub-paragraph (1), where a member of the staff of the Board is also a member of the Board he may vote upon any matter which touches the interests of the staff, or

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any class of the staff, of the Board (including a class to which he belongs), but shall not vote upon any matter touching only his individual interest.

F14 1972 c. 9 (N.I.)

The seal

10. The seal of the Board shall be authenticated by the signature of at least one member of the Board and of a member of the staff of the Board authorised by it to act in that behalf.

Execution of contracts and instruments not under seal

11. Any contract or instrument which, if entered into or executed by an individual, would not require to be^{F15} executed as a deed] may be entered into or executed on behalf of the Board by any person generally or specifically authorised by the Board to act for that purpose and any document purporting to be such a contract or instrument shall be deemed to be such an instrument until the contrary is proved.

F15 2005 NI 7

Acquisition and disposal of property

12.—(1) The powers of the Board under section 19 of the Interpretation Act (Northern Ireland) 1954 to acquire and dispose of property shall not be exercised without the consent of the Secretary of State which may be given either generally or in particular cases or descriptions of case or subject to specified conditions.

(2) The absence of the consent of the Secretary of State in any particular case shall not invalidate the exercise of the powers referred to in sub-paragraph (1) if that consent is subsequently given.

Staff

13.—(1) The remuneration and other terms and conditions of service of members of the staff of the Board shall be subject to the approval of the Secretary of State given with the consent of the Treasury.

(2) The qualifications, manner of appointment and duties of members of the staff of the Board shall be such as may be prescribed.

(3) In the case of such classes or descriptions of members of the staff of the Board as may be prescribed, the Board's power to appoint them shall be subject to the approval of the Secretary of State.

(4) The Board may, in the case of such classes or descriptions of members of the staff of the Board as may be determined by the Secretary of State with the consent of the Treasury,—

- (a) pay such pensions, allowances or gratuities to or in respect of them, or
- (b) make such payments towards the provision of such pensions, allowances or gratuities (including refunds of contributions to any pension fund with or without interest or other additions), or
- (c) make or maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,
- (d) make such redundancy payments, being not less than the Board would but for this head be required to make,

as may be determined by the Secretary of State with the consent of the Treasury.

14. The Board may make arrangements with the Secretary of State for the provision of administrative, secretarial or other assistance for the Board.

SCHEDULE 2

Article 3.

TRANSFER OF PROPERTY AND STAFF

Property

1.—(1) There shall, on the day on which this paragraph comes into operation, be transferred to and vest in the Board by virtue of this Order—

- (a) all the estates held immediately before that day by the Secretary of State in land used wholly or mainly for probation purposes;
- (b) all equipment, furniture or other moveable property then owned by the Secretary of State and used on or in connection with such land for those purposes; and
- (c) all rights and liabilities to which the Secretary of State was entitled or subject immediately before that day, being rights and liabilities acquired or incurred solely in connection with any such land, equipment, furniture or other moveable property.

(2) The Secretary of State may by regulations make such provision supplementary to or consequential on the provisions of sub-paragraph (1) as appears to him to be necessary or expedient, and in particular, but without prejudice to the foregoing, may provide by such regulations—

- (a) for the determination by arbitration, in default of agreement, of any question arising as to whether any property, right or liability will be or has been transferred under that sub-paragraph;
- (b) where any property, right or liability transferred under this paragraph or the title to any such property or right is entered on any register kept in pursuance of any enactment, for the amendment of the entry by the person keeping the register;
- (c) for enabling pending proceedings relating to any property, rights or liabilities transferred under this paragraph to be continued; and
- (d) for substituting, as from the beginning of the day on which this paragraph comes into operation, for any reference, in any enactment, judgment, decree, order, award, deed, contract, regulation, rule, bye-law, certificate or other document affecting any property, right or liability transferred under this paragraph and passed or made before that day, to the Secretary of State, or for any reference which is to be construed as a reference to the Secretary of State, a reference to the Board.

Staff

2.—(1) Notwithstanding anything in Schedule 1, the Board shall make to each person who immediately before the commencement of this paragraph was employed in the Northern Ireland Civil Service as a probation officer or as a probation assistant an offer of employment by the Board on terms which, taken as a whole, are not less favourable to that person than the terms on which he is employed on the date when the offer is made; and an offer made in pursuance of this paragraph shall not be revocable during the period of three months beginning with the date on which the offer is made.

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(2) Any person to whom an offer is made under this paragraph shall not, if retired from the Northern Ireland Civil Service on redundancy in consequence of this Order, be eligible for any compensation benefit in respect of that redundancy payable under any scheme made under Article 3 of the Superannuation (Northern Ireland) Order 1972^{F16}, but this sub-paragraph is without prejudice to any other provision of such a scheme.

F16 1972 NI 10

[^{F17}3.—(1) Any probation officer appointed by the Ministry of Home Affairs before 14th February 1950 shall be deemed to have been appointed under the Probation Act (Northern Ireland) 1950 and any full-time service rendered by him as a probation officer before that date shall, for the purposes of the Superannuation (Northern Ireland) Order 1972 be deemed to have been service in an unestablished capacity.

(2) Sub-paragraph (1) is without prejudice to the Northern Ireland (Modification of Enactments # No.1) Order 1973 (which amongst other things transferred the functions of the Ministry of Home Affairs under the Probation Act (Northern Ireland) 1950 to the Secretary of State).]

F17 1996 NI 24

SCHEDULE 3

Article 7.

REPORTS AND ACCOUNTS, ETC

1.—(1) The Board shall furnish the Secretary of State with such reports, returns, records, accounts and other information with respect to the Board's property and activities or proposed activities as he may require.

(2) The Board shall afford to the Secretary of State facilities for the verification of information so furnished and for that purpose permit any person authorised in that behalf by the Secretary of State to inspect and make copies of the Board's accounts, books, documents or papers and give that person such explanation of them as that person may reasonably require.

(3) The Board shall comply with any directions given by the Secretary of State relating to the preservation of reports, returns, records, accounts and other information relating to the activities of the Board.

2.—(1) The Board shall—

- (a) maintain proper accounts and other records relating to accounts in accordance with directions of the Secretary of State; and
- (b) prepare in respect of each accounting period a statement of accounts in such form as the Secretary of State with the approval of the Treasury may direct and submit it to the Secretary of State at such time as he may direct.

(2) The Secretary of State shall, on or before 30th November in any year, send to the Comptroller and Auditor General the statement of accounts prepared by the Board under this paragraph for the accounting period last ended.

(3) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts sent to him under this paragraph and shall lay copies of the statement of accounts and of his report thereon before each House of Parliament.

(4) In this paragraph “accounting period” means the period of 12 months ending on 31st March in any year except that the first accounting period shall, if the Secretary of State with the approval of the Treasury so directs, be such period shorter or longer than 12 months (but not longer than two years) as is specified in the direction; and “Comptroller and Auditor General” has the meaning assigned to it by Schedule 1 to the Interpretation Act 1978^{F18}.

F18 1978 c. 30.

Schedule 4—Amendments

Schedule 5—Repeals

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