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STATUTORY INSTRUMENTS

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**1996 No. 3160**

**The Criminal Justice (Northern Ireland) Order 1996**

**PART II**

**TREATMENT OF OFFENDERS**

*Custodial sentences*

**Restrictions on imposing custodial sentences**

**19.**—(1) This Article applies where a person is convicted of an offence punishable with a custodial sentence other than one fixed by law.

(2) Subject to paragraph (3), the court shall not pass a custodial sentence on the offender unless it is of the opinion—

- (a) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or
- (b) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from him.

(3) Nothing in paragraph (2) shall prevent the court from passing a custodial sentence on the offender if he refuses to give his consent to a community sentence which is proposed by the court and requires that consent.

(4) Where a court passes a custodial sentence, it shall—

- (a) in a case not falling within paragraph (3), state in open court that it is of the opinion that either or both of sub-paragraphs (a) and (b) of paragraph (2) apply and why it is of that opinion; and
- (b) in any case, explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.

(5) A magistrates' court shall cause a reason stated by it under paragraph (4) to be specified in the warrant of commitment and to be entered in the Order Book.