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STATUTORY INSTRUMENTS

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**2001 No. 2564**

**The Life Sentences (Northern Ireland) Order 2001**

**PART III**

**LIFE SENTENCES**

*Determination of tariffs*

**Determination of tariffs**

5.—(1) Where a court passes a life sentence, the court shall, unless it makes an order under paragraph (3), order that the release provisions shall apply to the offender in relation to whom the sentence has been passed as soon as he has served the part of his sentence which is specified in the order.

(2) The part of a sentence specified in an order under paragraph (1) shall be such part as the court considers appropriate to satisfy the requirements of retribution and deterrence having regard to the seriousness of the offence, or of the combination of the offence and one or more offences associated with it.

(3) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under paragraph (1), the court shall order that, subject to paragraphs (4) and (5), the release provisions shall not apply to the offender.

(4) If, in a case where an order under paragraph (3) is in force, the offender was aged over 18 when he committed the offence, the [<sup>F1</sup>Department of Justice] may at the appropriate stage direct that the release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(5) If, in a case where an order under paragraph (3) is in force, the offender was aged under 18 when he committed the offence, the [<sup>F1</sup>Department of Justice] shall at the appropriate stage direct that the release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(6) The appropriate stage, for the purposes of paragraphs (4) and (5), is when the [<sup>F2</sup>Department of Justice] has formed the opinion, having regard to any factors determined [<sup>F3</sup>by the Department of Justice] to be relevant for the purpose, that it is appropriate [<sup>F4</sup>for the Department of Justice] to give the direction.

(7) An offence is associated with another for the purposes of this Article if—

- (a) the offender is convicted of it in the proceedings in which he is convicted of the other offence, or (although convicted of it in earlier proceedings) is sentenced for it at the same time as he is sentenced for that offence; or
- (b) the offender admits the commission of it in the proceedings in which he is sentenced for the other offence and requests the court to take it into consideration in sentencing him for that offence.

(8) This Article has effect in relation to life sentences passed after the appointed day.

**Annotations:**

- F1** Words in art. 5(4)(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 3(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F2** Words in art. 5(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 3(b)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F3** Words in art. 5(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 3(b)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F4** Words in art. 5(6) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 3(b)(iii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

*Release on licence*

**Duty to release certain life prisoners**

6.—(1) In this Order—

- (a) references to a life prisoner to whom this Article applies are references to a life prisoner in respect of whom—
- (i) an order has been made under paragraph (1) of Article 5; or
- (ii) a direction under paragraph (4) or (5) of that Article has been given; and
- (b) references to the relevant part of his sentence are references to the part of his sentence specified in the order or direction,

and in this Article “appropriate stage”, in relation to such a direction, has the same meaning as in Article 5(6).

(2) But if a life prisoner is serving two or more life sentences—

- (a) he is not to be treated for the purposes of this Order as a life prisoner to whom this Article applies unless such an order or direction has been made or given in respect of each of those sentences or such a direction will be required to be given at the appropriate stage; and
- (b) the release provisions do not apply in relation to him until he has served the relevant part of each of them.

(3) As soon as—

- (a) a life prisoner to whom this Article applies has served the relevant part of his sentence; and
- (b) the Commissioners have directed his release under this Article,

it shall be the duty of the [<sup>F5</sup>Department of Justice] to release him on licence.

(4) The Commissioners shall not give a direction under paragraph (3) with respect to a life prisoner to whom this Article applies unless—

- (a) the [<sup>F5</sup>Department of Justice] has referred the prisoner's case to the Commissioners; and
- (b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.

(5) A life prisoner to whom this Article applies may require the [<sup>F5</sup>Department of Justice] to refer his case to the Commissioners at any time—

- (a) after he has served the relevant part of his sentence; and
- (b) where there has been a previous reference of his case to the Commissioners, after the end of the period of two years beginning with the disposal of that reference; and
- (c) where he is also serving a sentence of imprisonment or detention for a term, after the time when, but for his life sentence, he would be entitled to be released,

and in this paragraph “previous reference” means a reference under paragraph (4) or Article 9(4).

(6) In determining for the purpose of this Article whether a life prisoner to whom this Article applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large, unless the [F5Department of Justice] otherwise directs.

(7) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment or detention, nothing in this Order shall require the [F5Department of Justice] to release the person in respect of any of the life sentences unless and until the [F5Department of Justice] is required to release him in respect of each of the terms.

**Annotations:**

**F5** Words in art. 6 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 4** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Power to release life prisoners on compassionate grounds**

7.—(1) The [F6Department of Justice] may at any time release a life prisoner on licence if [F7the Department of Justice] is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.

(2) Before releasing a life prisoner under paragraph (1), the [F8Department of Justice] shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

[F9(3) The Secretary of State may notify the Department of Justice that a life prisoner is not to be released under this Article without the Secretary of State's agreement; and, if the Secretary of State gives such a notification in relation to a prisoner, the Department of Justice may not release the prisoner under this Article without the Secretary of State's agreement.

(4) But the Secretary of State may—

- (a) give a notification, or
- (b) refuse his agreement to a release,

only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.]

**Annotations:**

**F6** Words in art. 7(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 5(a)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F7** Words in art. 7(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 5(a)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F8** Words in art. 7(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 5(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F9** Art. 7(3)(4) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 5(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

### *Licences and recall*

#### **Duration and conditions of licences**

**8.**—(1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under Article 9(1) or (2), remain in force until his death.

(2) A life prisoner subject to a licence shall comply with such conditions (which may include on his release conditions as to his supervision by a probation officer) as may for the time being be specified in the licence; and the [<sup>F10</sup>Department of Justice] may make rules for regulating the supervision of any descriptions of such persons.

(3) The [<sup>F10</sup>Department of Justice] shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, except in accordance with recommendations of the Commissioners.

[<sup>F11</sup>(4) Rules made under paragraph (2) shall be subject to negative resolution.]

[<sup>F12</sup>(5) The Secretary of State may exercise any power of the Department of Justice to include, insert, vary or cancel conditions in a licence but only if his decision to exercise the power is arrived at (wholly or partly) on the basis of protected information; and, in relation to the exercise of such a power by the Secretary of State, in paragraph (3) the reference to the Department of Justice is to be read as a reference to the Secretary of State.

(6) The Department of Justice must exercise its powers subject to anything done by the Secretary of State by virtue of paragraph (5).]

#### **Annotations:**

**F10** Words in art. 8(2)(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 6(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F11** Art. 8(4) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 6(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F12** Art. 8(5)(6) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 6(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

#### **Recall of life prisoners while on licence**

**9.**—(1) If recommended to do so by the Commissioners, in the case of a life prisoner who has been released on licence, the [<sup>F13</sup>Department of Justice or the] Secretary of State may revoke his licence and recall him to prison.

(2) The [<sup>F14</sup>Department of Justice or the] Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Commissioners, where it appears to [<sup>F15</sup>it or] him that it is expedient in the public interest to recall that person before such a recommendation is practicable.

(3) A life prisoner recalled to prison under this Article—

- (a) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations; and
- (b) may make representations in writing to the [<sup>F16</sup>Department of Justice or (as the case may be) the] Secretary of State with respect to his recall.
- (4) The [<sup>F16</sup>Department of Justice or (as the case may be) the] Secretary of State shall refer the case of a life prisoner recalled under this Article to the Commissioners.
- (5) Where on a reference under paragraph (4) the Commissioners direct the immediate release of a life prisoner on licence under this Article, the [<sup>F17</sup>Department of Justice] shall give effect to the direction.
- [<sup>F18</sup>(5A) The Commissioners shall not give a direction under paragraph (5) unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.]
- (6) On the revocation of the licence of any life prisoner under this Article, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.
- [<sup>F19</sup>(7) The Secretary of State may revoke the licence of a life prisoner and recall him to prison under this Article only if his decision to revoke the licence and make the recall is arrived at (wholly or partly) on the basis of protected information.]

**Annotations:**

- F13** Words in art. 9(1) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F14** Words in art. 9(2) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(b)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F15** Words in art. 9(2) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(b)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F16** Words in art. 9(3)(4) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F17** Words in art. 9(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F18** 2005 NI 15
- F19** Art. 9(7) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 7(e)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

*Miscellaneous and supplemental*

**Life prisoners transferred to Northern Ireland**

**10.**—(1) This Article applies where, in the case of a transferred life prisoner, the [<sup>F20</sup>Department of Justice], after consultation with the Lord Chief Justice, certifies [<sup>F21</sup>its opinion] that, if—

- (a) the prisoner's offence had been committed after the appointed day; and
- (b) he had been sentenced for it in Northern Ireland,

the court by which he was so sentenced would have ordered that the release provisions should apply to him as soon as he had served a part of his sentence specified in the certificate.

(2) This Article also applies where, in the case of a transferred life prisoner, [<sup>F22</sup>the Department of Justice certifies its opinion] that, if—

- (a) the prisoner's offence had been committed after the appointed day; and
- (b) he had been sentenced for it in Northern Ireland,

[<sup>F23</sup>a direction would have been given] that the release provisions should apply to him as soon as he had served a part of his sentence specified in the certificate.

(3) In a case to which this Article applies, this Order shall apply as if—

- (a) the transferred life prisoner were a life prisoner to whom Article 6 applies; and
- (b) the relevant part of his sentence within the meaning of Article 6 were the part specified in the certificate.

(4) In this Article “transferred life prisoner” means a person—

- (a) on whom a court in a country or territory outside Northern Ireland has imposed one or more sentences of imprisonment or detention for an indeterminate period; and
- (b) who has been transferred to Northern Ireland, in pursuance of—
  - (i) an order made by the Secretary of State under section 2 of the Colonial Prisoners Removal Act 1884<sup>F24</sup>; or
  - (ii) a warrant issued <sup>F25</sup>. . . under the Repatriation of Prisoners Act 1984<sup>F26</sup>, or
  - (iii) an order made . . . under paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997<sup>F27</sup> where the transfer is an unrestricted transfer for the purposes of Part II of that Schedule,

there to serve his sentence or sentences or the remainder of his sentence or sentences.

(5) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a life prisoner to whom Article 6 applies unless the requirements of paragraph (1) or (2) are satisfied as respects each of those sentences; and the release provisions shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

[<sup>F28</sup>(6) The reference in paragraph (4)(b) to a person transferred to Northern Ireland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a person who is detained in Northern Ireland in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).]

#### Annotations:

**F20** Words in art. 10(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 8(a)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F21** Words in art. 10(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 8(a)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F22** Words in art. 10(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 8(b)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F23** Words in art. 10(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 8(b)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F24** 1884 c. 31

- F25** Words in art. 10(4)(b)(ii)(iii) omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 8(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F26** 1984 c. 47
- F27** 1997 c. 43
- F28** Art. 10(6) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 51**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 paras. 46, 48(p) (subject to Sch. 2)

## Existing life prisoners

11.—(1) This Article applies where, in the case of an existing life prisoner, the [<sup>F29</sup>Department of Justice], after consultation with the Lord Chief Justice and the trial judge if available, certifies [<sup>F30</sup>its opinion] that, if this Order had been in operation at the time when he was sentenced, the court by which he was sentenced would have ordered that the release provisions should apply to him as soon as he had served a part of his sentence specified in the certificate.

(2) This Article also applies where, in the case of an existing life prisoner, [<sup>F31</sup>the Department of Justice certifies its opinion] that, if this Order had been in operation at the time when he was sentenced, [<sup>F32</sup>a direction would have been given] that the release provisions should apply to him as soon as he had served a part of his sentence specified in the certificate.

(3) In a case to which this Article applies, this Order shall apply as if—

- (a) the existing life prisoner were a life prisoner to whom Article 6 applies; and
- (b) the relevant part of his sentence within the meaning of Article 6 were the part specified in the certificate.

(4) In this Article “existing life prisoner” means a life prisoner serving one or more life sentences passed before the appointed day but does not include a life prisoner—

- (a) who had been recalled to prison under section 23 of the Prison (Northern Ireland) Act 1953<sup>F33</sup> and who is not an existing licensee; or
- (b) whose licence has been revoked under Article 46(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998<sup>F34</sup> and who is not an existing licensee.

(5) Paragraphs (3) to (5) of Article 9 shall have effect as if any life prisoner—

- (a) who has been recalled to prison under section 23 of the Prison Act (Northern Ireland) 1953<sup>F35</sup> and is not an existing licensee; or
- (b) whose licence has been revoked under Article 46(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998<sup>F36</sup> and who is not an existing licensee,

had been recalled to prison under Article 9 on the appointed day.

(6) An existing life prisoner who is serving two or more life sentences passed before the appointed day shall not be treated as a life prisoner to whom Article 6 applies unless the requirements of paragraph (1) or (2) are satisfied as respects each of those sentences: and the release provisions shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

(7) In this Article “existing licensee” has the same meaning as in Article 12(1).

### Annotations:

- F29** Words in art. 11(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 9(a)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

- F30** Words in art. 11(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 9(a)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F31** Words in art. 11(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 9(b)(i)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F32** Words in art. 11(2) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 9(b)(ii)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F33** 1953 c. 18 (NI)
- F34** 1998 NI 9
- F35** 1953 c. 18 (NI)
- F36** 1998 NI 9

### Existing licensees

**12.—**(1) This Order shall apply to an existing licensee as it applies to a person who is released on licence under this Order.

(2) In paragraph (1), “existing licensee” means any life prisoner who, before the appointed day, has been released under section 23 of the Prison Act (Northern Ireland) 1953 or discharged on licence under Article 46 of the Criminal Justice (Children) (Northern Ireland) Order 1998 and whose licence is in force on the appointed day.

### Amendment and repeals

**13.—**(1) In Article 46(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (discharge on licence) for the words “Article 45” there shall be substituted the words “Article 45(2)”.

(2) The statutory provisions set out in Schedule 3 are repealed to the extent specified in the third column of that Schedule.

**Changes to legislation:**

There are currently no known outstanding effects for the The Life Sentences (Northern Ireland) Order 2001, PART III.