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STATUTORY INSTRUMENTS

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**2005 No. 1965 (N.I. 15)**

**NORTHERN IRELAND**

**The Criminal Justice (Northern Ireland) Order 2005**

*Made - - - - 19th July 2005  
Coming into operation in accordance with Article 1(2)  
to (4)*

At the Court at Buckingham Palace, the 19th day of July 2005

Present,

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) 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:—

*Introductory*

**Title, commencement and interpretation**

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2005.

(2) The following provisions come into operation on such day or days as the Secretary of State may by order appoint—

- (a) Articles 2 to 8;
- (b) Article 13;
- (c) Articles 20 to 22;
- (d) Article 24;
- (e) Article 27 and Schedule 2 so far as relating to the Extradition Act 2003 (c. 41) and the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#).

(3) Article 16 comes into operation on the day appointed for the coming into force of section 63 of the Justice (Northern Ireland) Act 2002 (c. 26).

(4) The remaining provisions of this Order (except Article 26) come into operation one month after the day on which this Order is made.

(5) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

*Anti-social behaviour orders*

**“Relevant authorities”, “relevant persons”, etc.**

2.—(1) Article 2 of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (interpretation) is amended as follows.

(2) After paragraph (4) insert—

“(4A) The Secretary of State may by order amend paragraph (3) by adding any person or body specified in the order to the list of relevant authorities in that paragraph.

(4B) An order under paragraph (4A) may—

- (a) amend paragraph (4) so as to specify the persons who are to be “relevant persons” in relation to any person or body added to the list of relevant authorities;
- (b) amend Article 5 so as to require consultation by or with any person or body so added before the making of an application for an order under Article 3; and
- (c) amend Article 7 so as to enable proceedings for an offence under paragraph (1) of that Article to be brought by any person or body so added.

(4C) An order under paragraph (4A) 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 (c. 36) shall apply accordingly.”

(3) In paragraph (5) after “anti-social behaviour order” insert “under Article 3 or 4”.

**Anti-social behaviour orders on conviction of criminal offence**

3.—(1) Article 6 of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (anti-social behaviour orders on conviction of criminal offence) is amended as follows.

(2) After paragraph (6) insert—

“(6A) The court may adjourn any proceedings in relation to an order under this Article even after sentencing the offender.

(6B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.

(6C) But the court may not issue a warrant for the offender’s arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.”

(3) In paragraph (8) at the beginning insert “Subject to Article 6B,”

(4) Omit paragraphs (9) to (11) and (12)(a).

**Interim anti-social behaviour order on conviction in criminal proceedings**

4.—(1) After Article 6 of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) insert

**“Interim anti-social behaviour order on conviction in criminal proceedings**

6A.—(1) This Article applies where—

- (a) a request is made by the prosecution for an order under Article 6; or
- (b) the court is minded to make an order under that Article of its own motion.

(2) If, before determining the request or deciding whether to make the order of its own motion, the court considers that it is just to make an order under this Article pending the determination of the request or before making that decision, it may make such an order.

(3) An order under this Article is an order which prohibits the offender from doing anything described in the order.

(4) Subject to Article 6B, an order under this Article—

- (a) shall be for a fixed period;
- (b) may be varied, renewed or discharged;
- (c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the request or on the court's making a decision as to whether to make an order under Article 6 of its own motion.

(5) The prohibitions that may be imposed by an order under this Article are those necessary for the purpose of protecting persons in Northern Ireland from further anti-social acts by the offender.

(6) An appeal shall lie to the county court against the making by a magistrates' court of an order under this Article.

(7) On such an appeal the county court—

- (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
- (b) may also make such incidental or consequential orders as appear to it to be just.”.

(2) In Article 2(2) of that Order in the definition of “anti-social behaviour order” for “or 6” substitute “6 or 6A”.

#### **Variation or discharge of orders under Article 6 or 6A**

5. After Article 6A of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (inserted by Article 4) insert—

#### **“Variation or discharge of orders under Article 6 or 6A**

**6B.**—(1) An order under Article 6 or 6A may specify one or more relevant authorities (other than the Chief Constable) for the purposes of exercising the functions conferred by this Article or Article 7 on a specified authority; and, in relation to any such order, any relevant authority so specified is referred to in this Article and Article 7 as a “specified authority”.

(2) Where—

- (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3) (a) of that Article; or
- (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(a) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be requested by the prosecution.

(3) Where—

- (a) an order under Article 6 is made in the circumstances mentioned in paragraph (3) (b) of that Article; or
- (b) an order under Article 6A is made in the circumstances mentioned in paragraph (1)(b) of that Article,

the relevant authority or authorities to be specified in the order shall be such as may be determined by the court.

(4) Where an order is made under Article 6 or 6A, the prosecution must send a copy of the order to—

- (a) the Director of Public Prosecutions (if the Director is not conducting the prosecution);
- (a) the Chief Constable; and
- (b) any specified authority.

(5) A person subject to an order under Article 6 or 6A may apply to the court which made it for it to be varied or discharged.

(6) If he does so, he must send written notice of his application to—

- (a) the Chief Constable; and
- (b) any specified authority.

(7) If an application under paragraph (5) is successful, the court must serve notice of the variation or discharge on any specified authority.

(8) The Chief Constable may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged.

(9) If the Chief Constable does so, he must send written notice of his application to—

- (a) the person subject to the order; and
- (b) any specified authority.

(10) If an application under paragraph (8) is successful, the Chief Constable must serve notice of the variation or discharge on any specified authority.

(11) A specified authority may apply to the court which made an order under Article 6 or 6A for it to be varied or discharged if it appears to the authority that—

- (a) in the case of variation, the protection of relevant persons from anti-social acts by the person subject to the order would be more appropriately effected by a variation of the order;
- (b) in the case of discharge, that it is no longer necessary to protect relevant persons from anti-social acts by him by means of such an order.

(12) If a specified authority does so, it must send written notice of its application to—

- (a) the person subject to the order;
- (b) the Chief Constable; and
- (c) any other specified authority.

(13) If an application under paragraph (11) is successful, the specified authority which made the application must serve notice of the variation or discharge on—

- (a) the Chief Constable; and
- (b) any other specified authority.

(14) The references in paragraphs (5), (8) and (11) to the court by which an order was made—

- (a) include, in the case of an order made by a magistrates' court, a reference to any magistrates' court acting for the same county court division as that court; and
- (b) shall be treated, in the case of an order made on appeal, as a reference to the court from which the appeal was brought (and not the appellate court).

(15) No order under Article 6 or 6A shall be discharged on an application under this Article before the end of the period of two years beginning with the day on which the order takes effect, unless—

- (a) in the case of an application under paragraph (5), the Chief Constable and any specified authority each consent,
- (b) in the case of an application under paragraph (8), any specified authority and the person subject to the order each consent, and
- (c) in the case of an application under paragraph (11), the Chief Constable, any other specified authority and the person subject to the order each consent.”.

### **Special measures for witnesses in proceedings for anti-social behaviour orders**

6. After Article 6B of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (inserted by Article 5) insert—

#### *“Special measures for witnesses*

#### **Special measures for witnesses**

6C.—(1) This Article applies—

- (a) to proceedings on an application for, or relating to the issue whether to make, vary or discharge an anti-social behaviour order; and
- (b) to proceedings on an appeal against the making of an anti-social behaviour order.

(2) Part II of the [Criminal Evidence \(Northern Ireland\) Order 1999 \(NI 8\)](#) (special measures directions in the case of vulnerable and intimidated witnesses) shall apply in relation to any such proceedings as it applies in relation to criminal proceedings, but with—

- (a) the omission of the provisions of that Part mentioned in paragraph (3) (which make provision appropriate only in the context of criminal proceedings), and
- (b) any other necessary modifications.

(3) The provisions are—

- (a) Article 5(4),
- (b) Article 9(1)(b) and (5) to (7),
- (c) Article 10(1)(b) and (2)(b) and (c),
- (d) Article 15(10), and
- (e) Article 20.

(4) Any rules of court made under or for the purposes of Part II of that Order shall apply in relation to proceedings to which this Article applies—

- (a) to such extent as may be provided by rules of court, and
- (b) subject to such modifications as may be so provided.

(5) Section 47 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—

- (a) a direction under Article 7 of the Criminal Evidence (Northern Ireland) Order 1999, as applied by this Article, or
- (b) an order discharging or varying such a direction,

and sections 49 and 51 of that Act (offences) apply accordingly.”.

**Breach of anti-social behaviour order**

7.—(1) Article 7 of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (breach of anti-social behaviour order) is amended as follows.

(2) In paragraph (2) for the words from “if” to the end substitute

“if—

- (a) in the case of an order under Article 3 or 4, the order was made on the application of the council; or
- (b) in the case of an order under Article 6 or 6A, the council is a specified authority in relation to the order.”.

(3) In paragraph (3) for the words from “if” to the end substitute

“if—

- (a) in the case of an order under Article 3 or 4, the order was made on the application of the Executive; or
- (b) in the case of an order under Article 6 or 6A, the Executive is a specified authority in relation to the order.”.

(4) After paragraph (3) insert—

“(3A) In proceedings for an offence under paragraph (1), a copy of the original anti-social behaviour order, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.”.

**Civil legal services: anti-social behaviour orders**

8. In Schedule 2 to the [Access to Justice \(Northern Ireland\) Order 2003 \(NI 10\)](#) (civil legal services: excluded services) in paragraph 2 after sub-paragraph (j) insert—

“(k) proceedings under Article 3 or 4 of the [Anti-social Behaviour \(Northern Ireland\) Order 2004](#).”.

*Prisons, etc*

**Recall of life prisoner on licence**

9. In Article 9 of the [Life Sentences \(Northern Ireland\) Order 2001 \(NI 2\)](#) (recall of life prisoner on licence) after paragraph (5) insert—

“(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.”.

**Independent monitoring boards**

10.—(1) The bodies appointed—

- (a) under section 10 of the [Prison Act \(Northern Ireland\) 1953 \(c. 18\)](#) (boards of visitors for prisons); and
- (b) under section 3 of the [Treatment of Offenders Act \(Northern Ireland\) 1968 \(c. 29\)](#) (visiting committees for young offenders centres and remand centres)

are renamed as independent monitoring boards.

(2) Schedule 1 contains amendments consequential on paragraph (1).

### **Repeal of section 13(6) of Prison Act**

11. Section 13(6) of the Prison Act (Northern Ireland) 1953 (c. 18) (prison rules to prohibit application of painful tests on prisoners except with permission of board of visitors) is repealed.

### **Transfer between young offender centre and prison**

12. In section 7(1)(b) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (power of Secretary of State to transfer offender following report by visiting committee) for the words “that person is reported by a visiting committee to the Minister to be incorrigible, or to be” substitute “it appears to the Secretary of State that that person is incorrigible or is”.

### **Right to representation: loss of remission hearings**

13. In Article 25 (2) of the [Access to Justice \(Northern Ireland\) Order 2003 \(NI 10\)](#) (right to representation) after sub-paragraph (g) insert—

“(h) proceedings under Part XIII A of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 (No. 8).”.

### *Proceeds of crime*

### **Proceeds of crime: customer information orders in relation to safe deposit boxes**

14.—(1) Section 364 of the Proceeds of Crime Act 2002 (c. 29) (meaning of customer information) is amended as follows.

(2) In subsection (1) after “an account or accounts” insert “or any safe deposit box”.

(3) In subsection (2)—

(a) in paragraph (a) at the end add “or the number of any safe deposit box”;

(b) in paragraph (e) at the beginning insert “in the case of an account or accounts,” and after that paragraph insert —

“(ee) in the case of any safe deposit box, the date on which the box was made available to him and if the box has ceased to be available to him the date on which it so ceased;”.

(4) In subsection (3)—

(a) in paragraph (a) at the end add “or the number of any safe deposit box”;

(b) in paragraph (h) at the beginning insert “in the case of an account or accounts,” and after that paragraph insert —

“(hh) in the case of any safe deposit box, the date on which the box was made available to it and if the box has ceased to be available to it the date on which it so ceased;”.

(5) At the end add—

“(6) A “safe deposit box” includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person.”.

### **Proceeds of crime: powers in relation to civil recovery investigation**

15.—(1) The [Proceeds of Crime \(Northern Ireland\) Order 1996 \(NI 9\)](#) is amended as follows.

(2) In Article 49 (additional investigation powers) after paragraph (1A) insert—

“(1B) If, on an application made by the Director of the Assets Recovery Agency, a judge of the High Court is satisfied —

- (a) that a civil recovery investigation is taking place; and
- (b) that the investigation could be more effectively carried out if the Director were authorised to exercise for the purposes of the investigation the powers conferred by paragraph 3A of Schedule 2,

the judge may authorise the Director to exercise those powers for that purpose.”.

(3) In paragraph (2) of that Article for “paragraph (1) or (1A)” substitute “this Article”.

(4) In paragraph (3) of that Article at the end add “and rules of court may make provision as to the procedure for applications under paragraph (1B)”.

(5) In paragraph (5) of that Article after the definition of “confiscation investigation” insert—  
 ““civil recovery investigation” has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(2) and (3);”.

(6) In Schedule 2 in paragraph 3A at the end add—

“(4) In its application by virtue of Article 49(1B), this paragraph shall have effect as if—

- (a) for references to a financial investigator there were substituted references to the Director of the Assets Recovery Agency;
- (b) in sub-paragraphs (1) and (1A) for “benefited from his criminal conduct” there were substituted “obtained property through unlawful conduct”; and
- (c) in paragraph (1A) for “Part 4” there were substituted “Part 5”.

(5) Where this paragraph applies by virtue of Article 49 (1B), then—

- (a) paragraphs 4(2), 5 and 6 apply for the purposes of this paragraph with the modification mentioned in sub-paragraph (4)(a); and
- (b) paragraphs 7 and 8 do not apply for those purposes.”.

### *Youth justice*

#### **Youth justice system**

**16.**—(1) In Article 13 of the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#) for paragraph (1) substitute—

“(1) Where the court decides not to release a child as mentioned in Article 12(1), it shall give reasons for doing so in open court and—

- (a) if the child has not attained the age of 17, shall (subject to paragraph (1A)) make an order committing him to a juvenile justice centre; and
- (b) if the child has attained the age of 17, shall (subject to paragraph (1B)) make an order committing him to a young offenders centre.”.

(2) In each of the following provisions for “17” substitute “18”—

- (a) Article 21A(3) of the [Criminal Justice \(Northern Ireland\) Order 1996 \(NI 24\)](#) (pre-sentence report for offender under 17 to be given to parent or guardian);
- (b) Article 8(6) of the [Anti-social Behaviour \(Northern Ireland\) Order 2004 \(NI 12\)](#) (reporting restrictions in cases involving persons under 17).



### **Giving of copies of orders under Criminal Justice (Children) (Northern Ireland) Order 1998**

17. In each of the following provisions of the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#)—

- (a) Article 36D(4) (giving of copy of reparation order);
- (b) Article 36I(3) (giving of copy of community responsibility order);
- (c) Article 36K(6) (giving of copy of youth conference order),

for “immediately” substitute “as soon as is practicable”.

### *Road traffic*

### **Extension of role of health care professionals**

18.—(1) In paragraph (5) of Article 18 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) (constable to decide if specimen is of blood or urine) for the words from “shall be decided” onwards substitute “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to paragraph (5A)) by the constable making the requirement”.

(2) After that paragraph insert—

“(5A) Where a constable decides for the purposes of paragraph (5) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;

and, where by virtue of this paragraph there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”.

(3) In paragraph (2) of Article 13 of that Order (interpretation of Articles 14 to 21), after the definition of “the prescribed limit” insert—

““registered health care professional” means a person (other than a medical practitioner) who is one of the following—

- (a) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001 by virtue of qualifications in nursing; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.”.

(4) After that paragraph there shall be inserted—

“(2A) In paragraph (2) “health care profession” means any profession mentioned in section 60(2) of the Health Act 1999 other than the profession of practising medicine and the profession of nursing.

(2B) An order under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”.

(5) For paragraph (4) of that Article substitute—

“(4) A person provides a specimen of blood if and only if—

- (a) he consents to the taking of such a specimen from him intravenously; and

- (b) the specimen is so taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”.

### **Specimens taken from persons incapable of consenting**

**19.**—(1) After Article 18 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) insert—

#### **“Specimens of blood taken from persons incapable of consenting**

**18A.**—(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under Article 20) be entitled under Article 18 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.

(2) A request under this Article—

- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
- (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
  - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
  - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this Article, if he thinks fit—

- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
- (b) to provide the sample to a constable.

(4) If a specimen is taken in pursuance of a request under this Article, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—

- (a) has been informed that it was taken; and
- (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
- (c) has given his permission.

(5) A constable must, on requiring a person to give his permission for the purposes of this Article for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this Article is guilty of an offence.

(7) In this Article “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the police.”.

(2) In Article 20 of that Order (protection of hospital patients), for paragraph (2) substitute—

“(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under Article 18A and he shall not be required to give his permission for a laboratory test of a specimen taken under that Article unless the medical practitioner in immediate charge of his case—

(a) has been notified of the proposal to take the specimen or to make the requirement; and

(b) has not objected on the ground specified in paragraph (2).

(2) The ground on which the medical practitioner may object is—

(a) in a case falling within paragraph (1), that the requirement or the provision of the specimen or (if one is required) the warning

required by Article 18(8) would be prejudicial to the proper care and treatment of the patient; and

(b) in a case falling within paragraph (1A), that the taking of the specimen, the requirement or the warning required by Article 18A(5) would be so prejudicial.”.

(3) In Article 35(3) of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (disqualification for certain offences where offender has previous conviction) after sub-paragraph (d) insert—

“(e) Article 18A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;”.

(4) In Part I of Schedule 1 to the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (prosecution and punishment of offences under the Road Traffic Orders), after the entry relating to Article 18 of the 1995 Order insert—

Article	Failing	Summarily.	Where	(a) Obligatory	(a) Obligatory	(a) 11, (a)
18A(6)	to allow specimen to be subjected to laboratory test.		the test would be for ascertaining ability to drive or proportion of alcohol at the	(a) in the case mentioned in column 4(a).	(b) Discretionary in any other case	3-11, (a) in the case mentioned in column 4(a).

time  
offender  
was  
driving  
or  
attempting  
to  
drive,  
6  
months  
or  
level  
5  
on  
the  
standard  
scale  
or  
both.

(b) In  
any  
other  
case,  
3  
months  
or  
level  
4  
on  
the  
standard  
scale  
or  
both.

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(5) In paragraph (2) of Article 18 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (evidence of blood alcohol level)—

(a) after “provided by” insert “or taken from”; and

(b) after the word “provided”, in the second place where it occurs, insert “or taken”.

(6) In paragraph (3)(a) of that Article (rebutting the assumption in paragraph (2)), after “provided the specimen” there shall be inserted “or had it taken from him”.

(7) In paragraph (4) of that Article (circumstances in which a specimen of blood is to be disregarded), for the words from “unless” to the end there shall be substituted

“unless—

(a) it was taken from the accused with his consent and either—

(i) in a police station by a medical practitioner or a registered health care professional;  
or

(ii) elsewhere by a medical practitioner; or

- (b) it was taken from the accused by a medical practitioner under Article 18A of the Order of 1995 and the accused subsequently gave his permission for a laboratory test of the specimen.”.
- (8) After paragraph (5) of that Article, add—
- “(6) Where a specimen of blood was taken from the accused under Article 18A of the Order of 1995, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”.
- (9) In paragraph (1) of Article 19 of the [Road Traffic Offenders \(Northern Ireland\) Order 1996 \(NI 10\)](#) (documentary evidence as to specimens), after “18(5)” insert “and (5A)”.
- (10) In paragraph (2) of that Article (documentary evidence as to consent), after the words “medical practitioner”, in both places where they occur, insert “or a registered health care professional”.

#### **Funding for speed cameras, etc.**

- 20.**—(1) The Secretary of State may make payments in respect of the whole or any part of the expenditure of a public authority in relation to—
- (a) the prevention or detection of offences to which paragraph (2) applies; or
- (b) any enforcement action or proceedings in respect of such offences or any alleged such offences.
- (2) This paragraph applies to offences under—
- (a) Article 20 of the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#) (contravention of restrictions on use of special roads);
- (b) Article 7 of the [Road Traffic Regulation \(Northern Ireland\) Order 1997 \(NI 2\)](#) (contravention of temporary prohibition or restriction on traffic);
- (c) Article 43 of that Order (contravention of a speed limit); and
- (d) Article 49 of the [Road Traffic \(Northern Ireland\) Order 1995 \(NI 18\)](#) (contravention of traffic directions or traffic signs).
- (3) Payments under this Article shall be made at such times, in such manner and subject to such conditions as the Secretary of State may determine.
- (4) In this Article “public authority” means—
- (a) the Policing Board of Northern Ireland;
- (b) a Northern Ireland department;
- (c) any other body which exercises functions of a public nature.

#### *Miscellaneous*

#### **Continuous bail**

- 21.**—(1) In Article 48 of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) for “the recognizance may be conditioned” substitute “any recognizance or condition of bail may provide”.

(2) In Article 48 of the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) after paragraph (1) insert—

“(1A) A person released on bail and subject to a duty to appear before a magistrates' court in accordance with paragraph (1)(a) shall be deemed for the purpose of Articles 48 and 49 of the Magistrates' Courts (Northern Ireland) Order 1981 to have been remanded on bail.”.

### **Right to representation: extradition proceedings**

**22.** In Article 25 (2) of the [Access to Justice \(Northern Ireland\) Order 2003 \(NI 10\)](#) (right to representation) for sub-paragraph (c) substitute—

“(c) proceedings for dealing with an individual under Part I or II of the Extradition Act 2003 (c. 41);”.

### **Certain sexual offences to be arrestable offences**

**23.** In Article 26(2) of the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) (list of offences to which powers of summary arrest apply) at the end add—

“(p) an offence under any of the following provisions of the Sexual Offences Act 2003 —

- (i) section 66 (exposure);
- (ii) section 67 (voyeurism);
- (iii) section 69 (intercourse with an animal);
- (iv) section 70 (sexual penetration of a corpse);
- (v) section 71 (sexual activity in public lavatory).”.

### **Evidence through live links**

**24.—**(1) In Article 80A of the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#) (evidence through live links)—

- (a) in paragraph (3) after “a witness” insert “(other than the accused)”;
- (b) after paragraph (8) add—

“(9) In this Article, “judge” includes, in relation to a magistrates' court, resident magistrate.”.

(2) In section 29 of the Crime (International Co-operation) Act 2003 (c. 32) (power to amend legislation relating to evidence through live links) for “Article 81(1A)” substitute “Article 80A(4)”.

### **Information for victims of crime**

**25.—**(1) The Secretary of State shall make a scheme requiring the Probation Board for Northern Ireland (“the Board”) to make available information about persons subject to supervision following conviction for offences to victims of the offences who wish to receive it.

(2) For the purposes of this Article a person is subject to supervision if (and only if) he is subject to supervision by a probation officer by virtue of—

- (a) a supervision and treatment order under Schedule 2A to the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);
- (b) a probation order under Article 10 of the [Criminal Justice \(Northern Ireland\) Order 1996 \(NI 24\)](#);
- (c) a community service order under Article 13 of that Order;

- (d) a combination order under Article 15 of that Order;
- (e) a custody probation order under Article 24 of that Order;
- (f) a licence under Article 26 of that Order;
- (g) a juvenile justice centre order under Article 39 of the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#);

and, in relation to a person subject to supervision, references in this Article to the relevant order or relevant licence are to the order or licence by virtue of which the person is subject to supervision.

(3) The scheme—

- (a) must require that information is to be made available under the scheme about—
  - (i) the requirements or conditions of the relevant order or licence;
  - (ii) the length of the period of supervision;
  - (iii) the discharge, revocation or amendment of the relevant order or the variation or cancellation of the relevant licence;
  - (iv) any order made by a court in proceedings in which the court finds that there has been a failure by the person subject to supervision to comply with any requirement or condition of the relevant order or licence;
- (b) may require that other information relating to persons subject to supervision is to be made available under the scheme, in cases of a description specified by the scheme or in which the Board considers it appropriate.

(4) A scheme may provide that in circumstances of a description specified in the scheme, or in particular circumstances in which the Board considers it appropriate—

- (a) a person who is not the actual victim of the offence but was directly affected by it is to be regarded for the purposes of the scheme as a victim of the offence (as well as any actual victim);
- (b) a person other than the actual victim of an offence is to be regarded for the purposes of the scheme as a victim of the offence (instead of an actual victim).

(5) A scheme must specify how victims are to indicate that they wish to receive information under the scheme.

(6) The Board is not required to make information available under a scheme—

- (a) if it believes that to do so would adversely affect the well-being of the actual victim of an offence or a person who is regarded for the purposes of the scheme as being a victim of an offence by virtue of paragraph (4)(a),
- (b) if it believes that to do so would threaten the safety of any person, or
- (c) in other circumstances specified by the scheme.

(7) A scheme shall, unless a draft has been approved by a resolution of each House of Parliament, be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) applies accordingly.

### **Consents to prosecution**

**26.** The [Prosecution of Offences \(Northern Ireland\) Order 1972 \(NI 1\)](#) shall have effect (and be deemed on and from 13th June 2005 to have had effect) as if paragraph 14 of Schedule 1 to the Justice (Northern Ireland) Act 2002 (Commencement No. 9 and Transitional Provisions) Order 2005 (SI 2005/281) had not included—

- (a) in sub-paragraph (a), reference to Article 1 of that Order; and

- (b) sub-paragraph (c) (which relates to amendments made to that Order by the [Criminal Justice \(Northern Ireland\) Order 1980 \(NI 6\)](#)).

**Repeals**

- 27.** Schedule 2 (repeals) has effect.

*A.K. Galloway*  
Clerk of the Privy Council



## SCHEDULES

### SCHEDULE 1

Article 10

#### INDEPENDENT MONITORING BOARDS: CONSEQUENTIAL AMENDMENTS

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

1. For section 10 substitute—

##### **“Independent monitoring boards**

**10.**—(1) The Secretary of State shall appoint a group of independent monitors (to be known as “the independent monitoring board”) for each prison, young offenders centre and remand centre.

(2) In the case of a prison used as a women’s prison, at least two of the monitors appointed shall be women.”.

2. In section 13(1) for paragraphs (f) and (g) (rules as to functions of boards of visitors and visiting committee) substitute—

“(f) the functions of independent monitoring boards;”.

3. In section 19(3) (entry in visitor’s book to be brought to attention of board of visitors) for “boards of visitors” substitute “independent monitoring board”.

4. In section 39(1) (notification of inquiry into death of prisoner) for “board of visitors or the visiting committee, as the case may be” substitute “independent monitoring board”.

5. In section 47(1A) (provisions of Prison Act to apply to young offenders centres and remand centres) omit “except sections 10, 23 and 46”.

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

6. In section 2 (young offenders centres and remand centres) omit the words from “so, however, that” to the end.

7. Omit section 3 (visiting committee).

##### *The Juries (Northern Ireland) Order 1996 (NI 6)*

8. In Schedule 2 (persons ineligible for jury service) in the entry beginning “Governors, chaplains and other officers of” for “boards of visitors or visiting committees” substitute “independent monitoring boards”.

##### *The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

9. In Article 78 (right to time off for public duties)—
  - (a) in paragraph (2) for sub-paragraph (c) substitute—

- “(c) an independent monitoring board appointed under section 10 of the Prison Act (Northern Ireland) 1953.”;
- (b) omit paragraph (5).

*The Freedom of Information Act 2000 (c. 36)*

- 10.** In Part VII of Schedule 1 (public bodies and offices: Northern Ireland)—
- (a) omit the entry “Boards of Visitors and Visiting Committees”; and
- (b) at the appropriate place insert the following entry—
- “An independent monitoring board appointed under section 10 of the Prison Act (Northern Ireland) 1953.”.

*The Justice (Northern Ireland) Act 2002 (c. 26)*

- 11.** In paragraph 1 of Schedule 4 (retained functions of justices of the peace) in sub-paragraph (2) (f) omit “section 10(4) (board of visitors) and”.

*The Prison (Amendment) (Northern Ireland) Order 2004 (NI 5)*

- 12.** Omit Article 3 (membership of board of visitors).

SCHEDULE 2

Article 10

REPEALS

Short Title	Extent of repeal
The Prison Act (Northern Ireland) 1953 (c. 18)	Section 13(6).
	In section 47(1A), the words “except sections 10, 23 and 46”.
The Treatment of Offenders Act (Northern Ireland) 1968 (c. 29)	In section 2 the words from “so, however, that” to the end.
	Section 3.
<a href="#">The Employment Rights (Northern Ireland) Order 1996 NI 6</a>	Article 78(5).
<a href="#">The Freedom of Information Act 2000 (c. 36)</a>	In Part VII of Schedule 1, the entry “Boards of of Visitors and Visiting Committees”.
The Justice (Northern Ireland) Act 2002	In Schedule 4, in paragraph 1(2)(f) the words “section 10(4) (board of visitors) and”.
The Extradition Act 2003 (c. 41)	Sections 184 and 185.
	Section 226(4).
<a href="#">The Prison (Amendment) (Northern Ireland) Order 2004 (NI 5)</a> .	Article 3.

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Short Title	Extent of repeal
<a href="#">The Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12).</a>	Article 6(9) to (11) and (12)(a).

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes miscellaneous amendments to criminal justice legislation, including amendments relating to anti-social behaviour orders, the administration of prisons and young offenders centres, the proceeds of crime and road traffic offences.