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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 120 (C. 6)**

**CRIMINAL LAW**

**Criminal Justice (Northern Ireland) Order 2008  
(Commencement No.5 and Saving Provisions) Order 2009**

*Made - - - - 14th March 2009*

The Secretary of State makes the following Order, in exercise of the powers conferred by Articles 1(4) and 100(4) of the Criminal Justice (Northern Ireland) Order 2008<sup>(1)</sup>.

**Citation and Interpretation**

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2008 (Commencement No.5 and Saving Provisions) Order 2009

(2) In this Order;

- (a) “the 2008 Order” means the Criminal Justice (Northern Ireland) Order 2008;
- (b) “the 1996 Order” means the Criminal Justice (Northern Ireland) Order 1996<sup>(2)</sup>.

**Commencement**

2.—(1) The provisions of the 2008 Order specified in Schedule 1 shall come into operation on 1<sup>st</sup> April 2009, subject to the saving provisions in Schedule 2.

(2) Where any limitation is specified in relation to any provision in Schedule 1 the provision concerned shall come into operation on that date subject to that limitation.

Northern Ireland Office  
14th March 2009

*Paul Goggins*  
Minister of State

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(1) [S.I. 2008/1216 \(N.I. 1\)](#)  
(2) [S.I. 1996/3160 \(N.I. 24\)](#)

SCHEDULE 1

Article 2

Provisions coming into operation on 1<sup>st</sup> April 2009

1. Article 5 (restrictions on imposing certain custodial sentences).
2. Article 6 (restrictions on imposing custodial sentences on persons not legally represented).
3. Article 7 (length of custodial sentences) in so far as it not already in operation.
4. Article 8 (length of custodial period).
5. Article 9 (procedural requirements for custodial sentences).
6. Article 10 (additional requirements in the case of mentally disordered offenders).
7. Article 11 (disclosure of pre-sentence reports).
8. Article 17 (duty to release certain fixed-term prisoners).
9. Article 21 (duration of licences: fixed-term prisoners) in so far as it is not already in operation.
10. Article 23 (power of court to recommend licence conditions for sentences of 12 months or more).
11. Article 28 (recall of prisoners while on licence) in so far as it relates to a person released on licence under Article 17.
12. Article 29 (further release after recall for certain fixed-term prisoners) in so far as it relates to a person released on licence under Article 17.
13. Article 32 (1), (2) and (4) (concurrent terms) in so far as it is not already in operation.
14. Article 33 (1), (2), (3) and (6) (consecutive terms) in so far as it is not already in operation.
15. Chapter 5 (curfews and electronic monitoring).
16. Article 102(1) (amendments) to the extent necessary to bring into operation the amendments specified in paragraph 18.
17. Article 102(2) (repeals) to the extent necessary to bring into operation the repeals specified in paragraph 19.
18. In Schedule 5 (amendments) –
  - (a) Paragraph 4(1) (Repatriation of Prisoners Act 1984 **(3)**) in so far as it relates to release on licence under Article 17 of the 2008 Order;
  - (b) Paragraph 7 (6), (8) and (9) (the 1996 Order).
19. In Schedule 6 (Repeals) Part 1 the entries in respect of —
  - (a) the 1996 Order in so far as it repeals Articles 18 to 22 and 24 to 26;
  - (b) the Crime (Sentences) Act 1997**(4)**;
  - (c) the Criminal Justice (Children) (Northern Ireland) Order 1998**(5)**;
  - (d) the Justice (Northern Ireland) Act 2002**(6)** in so far as it repeals Schedule 11 paragraph 12;
  - (e) the Criminal Justice Act 2003**(7)**;

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(3) 1984 c.47  
(4) 1997 c.43  
(5) S.I. 1998/1504 (N.I. 9)  
(6) 2002 c.26  
(7) 2003 c.44

- (f) the Criminal Justice (Northern Ireland) Order 2003<sup>(8)</sup>;
- (g) the Firearms (Northern Ireland) Order 2004<sup>(9)</sup>;
- (h) the Criminal Justice (Northern Ireland) Order 2005<sup>(10)</sup>.

## SCHEDULE 2

Article 2

### SAVING PROVISIONS

#### **Savings for offences committed before 1 April 2009**

1.—(1) The coming into operation of the provisions of the 2008 Order mentioned in subparagraph (2) is of no effect in relation to an offence committed before 1 April 2009.

(2) The provisions to which this paragraph applies are —

- (a) Articles 5, 6, 7, 9 to 11, and 23;
- (b) In Schedule 5, paragraph 4(1) and paragraphs 7 (8) and (9);
- (c) In Schedule 6 (Repeals) the entries in respect of;
  - (i) Articles 18 to 22 and 24 to 26 of the 1996 Order
  - (ii) the Criminal Justice (Children) (Northern Ireland) Order 1998
  - (iii) the Justice (Northern Ireland) Act 2002 in so far as it repeals Schedule 11, paragraph 12
  - (iv) the Criminal Justice Act 2003
  - (v) the Criminal Justice (Northern Ireland) Order 2003
  - (vi) the Firearms (Northern Ireland) Order 2004
  - (vii) the Criminal Justice (Northern Ireland) Order 2005.

#### **Savings for sentences of less than 12 months**

2.—(1) The coming into operation of Article 8 of the 2008 Order is of no effect in relation to a custodial sentence of less than 12 months (whether or not such a sentence is concurrent with or consecutive to another sentence).

(2) The coming into operation of Article 17 of the 2008 Order is of no effect in relation to a prisoner serving a custodial sentence of less than 12 months (whether or not such a sentence is concurrent with or consecutive to another sentence).

(3) The coming into operation of paragraph 4(1) of Schedule 5 to the 2008 Order is of no effect in relation to a prisoner serving a custodial sentence of less than 12 months (whether or not such a sentence is concurrent with or consecutive to another sentence).

(4) The coming into operation of the repeal of Article 26 of the 1996 Order is of no effect in relation to an offender who receives a custodial sentence of less than 12 months (whether or not such a sentence is concurrent with or consecutive to another sentence).

(5) In this paragraph “custodial sentence” means a sentence of imprisonment or of detention in a young offenders centre.

<sup>(8)</sup> S.I. 2003/1247 (N.I. 13)

<sup>(9)</sup> S.I. 2004/702 (N.I. 3)

<sup>(10)</sup> S.I. 2005/1965 (N.I. 15)

### Concurrent and consecutive terms - savings for Articles 32 and 33

3. The coming into operation of Articles 32(1), (2) and (4) and 33(1), (2), (3) and (6) of the 2008 Order is of no effect—

- (a) in relation to a determinate custodial sentence, other than an extended custodial sentence, passed in respect of an offence committed before 1 April 2009 whether or not that sentence is consecutive to, or concurrent with, a custodial sentence passed after that date; or
- (b) in relation to a determinate custodial sentence of less than 12 months, whether or not that sentence is consecutive to, or concurrent with, a custodial sentence of 12 months or more.

### Interpretation

4. For the purposes of this Schedule, where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken to have been committed on the last of those days.

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### EXPLANATORY NOTE

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

This Order brings into operation the provisions of the Criminal Justice (Northern Ireland) Order 2008 set out in Schedule 1 on 1 April 2009, subject to the saving provisions contained in Schedule 2.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.R No.</i>
Articles 3,4,7 (partially) 12 to 15 and Schedules 1 and 2, 16,18, 21 (partially), 22 (partially), 24(1), (3) to 6, 7(b) and (8), 27, 28 (partially), 31, 32(1), (2)(a) and (c) and (4) (partially), 33(1) to (3) and (6)(a)(i) (partially), 46 and Schedule 4, 102(1) (partially), 102(2) (partially), Schedule 5 (partially) and Schedule 6 (partially)	15th May 2008	S.R. 2008 No. 217 (c. 8)
	16th July 2008	S.R. 2008 No. 293 (c.16)
	6th October 2008	S.R. 2008 No. 383 (c. 20)
	8th December 2008	S.R. 2008 No. 472 (C.28)
	19th December 2008	S.R. 2008 No. 472 (C.28)
	5th January 2009	S.R. 2008 No. 472 (C.28)
	2nd February 2009	S.R. 2008 No. 472 (C.28)
Articles 34, 52, 53, 55, 56, 57, 58, 59, 62, 63, 64, 73, 74, 90, 91, 102(2) (partially) and Schedule 6 (partially).		

Articles 47, 48, 49, 50, 51 and  
Schedule 6 (partially)

Articles 67 and 87

Articles 75 to 78

Articles 65 and 66

Articles 79 to 83 and  
Schedule 6 Part 4

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