
Changes to legislation: Northern Ireland (Sentences) Act 1998 is up to date with all changes known to be in force on or before 12 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

Section 1.

COMMISSIONERS

Chairman

- 1 The Secretary of State shall appoint a chairman, or joint chairmen, from among the Commissioners.

Tenure

- 2 A Commissioner—
- (a) shall hold office in accordance with the terms of his appointment, and
 - (b) may resign by notice in writing to the Secretary of State.
- 3 The Secretary of State may dismiss a Commissioner if satisfied—
- (a) that he has without reasonable excuse failed to carry out his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal,
 - (b) that he has been convicted of a criminal offence,
 - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (d) that he is unable or unfit to carry out his functions.

Remuneration and allowances

- 4 (1) The Secretary of State shall pay such remuneration, fees and allowances as he thinks fit to or in respect of a Commissioner.
- (2) If a person ceases to be a Commissioner otherwise than on the expiry of his term of office, the Secretary of State may pay him compensation if in the Secretary of State's opinion special circumstances make it appropriate.

Staff, premises, etc.

- 5 The Secretary of State shall provide for the Commissioners the services of such staff, and the use of such premises and other facilities, as he thinks appropriate.

Annual report

- 6 (1) The chairman (or joint chairmen) shall, as soon as reasonably practicable after the end of each financial year, make a report to the Secretary of State on the performance of the Commissioners' functions during the year.
- (2) The Secretary of State shall lay a copy of the report before each House of Parliament.

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(3) In sub-paragraph (1) “financial year” means—

- (a) the period starting with the date on which the first Commissioner is appointed and ending on 31st March following that date, and
- (b) each successive period of twelve months.

Disqualification of Commissioners

7 In Part III of Schedule 1 to the ^{M1}House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert—

“Sentence Review Commissioner”.

Marginal Citations

M1 1975 c. 24.

8 In Part III of Schedule 1 to the ^{M2}Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert—

“Sentence Review Commissioner”.

Marginal Citations

M2 1975 c. 25.

9 In section 4 of the ^{M3}Northern Ireland (Elections) Act 1998 (disqualification) after subsection (4) insert—

“(4A) A Sentence Review Commissioner is disqualified for membership of the Assembly.”.

Marginal Citations

M3 1998 c. 12.

Disapplication of Acts

10 The following provisions shall not apply in relation to the appointment of Commissioners—

- (a) section 19 of the ^{M4}Northern Ireland Constitution Act 1973 (discrimination by public authorities);
- (b) section 17 of the ^{M5}Fair Employment (Northern Ireland) Act 1976 (discrimination by employers).

Marginal Citations

M4 1973 c. 36.

M5 1976 c. 25.

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SCHEDULE 2

Section 2.

COMMISSIONERS' PROCEDURE

Rules

- 1 The Secretary of State may make rules prescribing the procedure to be followed in relation to proceedings of the Commissioners under this Act; and in particular rules may—
- (a) make provision for the matters set out in this Schedule;
 - (b) confer functions on the chairman (or on joint chairmen, jointly or concurrently).

Allocation of cases

- 2 The rules may provide—
- (a) for the allocation of proceedings to panels of Commissioners;
 - (b) for the taking of specified decisions by a single Commissioner.

Conduct of proceedings

- 3
- (1) The rules may require the Commissioners conducting the proceedings to include a psychiatrist or psychologist in specified circumstances.
 - (2) The rules may prevent a person who is serving a sentence of imprisonment or detention from representing or acting on behalf of a prisoner.
 - (3) The rules may provide for applications to be dealt with in the order decided by the Commissioners.

Applications

- 4 The rules may require an application to be made in a specified form and to be accompanied by specified documents.

Evidence and information

- 5 The rules may make provision about evidence and information, including provision—
- (a) requiring Commissioners to send to the Secretary of State copies of applications and such related documents as the rules may specify;
 - (b) requiring the Secretary of State to provide specified information to the Commissioners;
 - (c) for the giving of evidence by or on behalf of the Secretary of State, the Royal Ulster Constabulary and others;
 - (d) about the way in which information or evidence is to be given;
 - (e) for evidence or information about a prisoner not to be disclosed to anyone other than a Commissioner if the Secretary of State certifies that the evidence or information satisfies conditions specified in the rules;
 - (f) preventing a prisoner from calling any witness without leave of Commissioners.

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Exclusion of persons from proceedings

- 6 The rules may provide for proceedings to be held in private except where Commissioners direct otherwise.
- 7 (1) The rules may permit Commissioners to hold proceedings in specified circumstances in the absence of any person, including the prisoner concerned and any representative appointed by him.
- (2) Where a prisoner and any representative appointed by him are excluded from proceedings by virtue of sub-paragraph (1), the [^{F1}Advocate General for Northern Ireland] may appoint a person to represent the prisoner's interests in those proceedings.

Textual Amendments

- F1** Words in [Sch. 2 para. 7\(2\)](#) substituted (12.4.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 7 para. 20](#); S.R. 2010/113, art. 2, Sch. para. 19(d)

Successive applications

- 8 The rules may prevent successive applications under any provision of this Act being made in specified circumstances.

Legal aid

- 9 (1) The rules may allow Commissioners to award a prisoner money for legal advice or representation.
- (2) The Secretary of State shall pay any sums which the Commissioners award.

SCHEDULE 3

Section 17.

SENTENCES PASSED OUTSIDE NORTHERN IRELAND

Eligibility for release

- 1 (1) This paragraph applies where a prisoner who makes an application to Commissioners under section 3(1) is serving a sentence of imprisonment in Northern Ireland and the sentence was passed in England and Wales or Scotland.
- (2) Where the applicant is serving a sentence of imprisonment for a fixed term, the Commissioners shall grant the application if (and only if)—
- (a) the sentence is for a term of at least five years,
 - (b) the sentence was passed for an offence equivalent to a qualifying offence, and
 - (c) the second and third conditions in section 3 are satisfied.
- (3) Where the applicant is serving a sentence of imprisonment for life, the Commissioners shall grant the application if (and only if)—

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- (a) the sentence was passed for an offence equivalent to a qualifying offence, and
- (b) the second, third and fourth conditions in section 3 are satisfied.

Equivalent offence

- 2 (1) An offence is equivalent to a qualifying offence if it—
- (a) was committed before 10th April 1998,
 - (b) was committed in connection with terrorism and the affairs of Northern Ireland, and
 - (c) is certified by the appropriate Law Officer as an offence which if it had been committed in Northern Ireland would have been a scheduled offence within the meaning of the ^{M6}Northern Ireland (Emergency Provisions) Act 1973, ^{M7}1978, ^{M8}1991 or ^{M9}1996.
- (2) If a person who makes an application under section 3 in relation to a sentence for an offence requests the appropriate Law Officer to provide a certificate under sub-paragraph (1)(c) in relation to that offence, the Law Officer shall as soon as reasonably practicable—
- (a) grant the certificate, or
 - (b) refuse the request and notify the person who made the request of the refusal and the reasons for it.
- (3) In deciding whether an offence would have been a scheduled offence a Law Officer shall ignore the possibility of a certificate by the Attorney General for Northern Ireland that the offence was not to be treated as a scheduled offence.
- (4) For the purposes of this paragraph the appropriate Law Officer is—
- (a) in relation to an offence committed in England and Wales, the Attorney General, and
 - (b) in relation to an offence committed in Scotland, the Lord Advocate.

Marginal Citations

- M6** 1973 c. 53.
M7 1978 c. 5.
M8 1991 c. 24.
M9 1996 c. 22.

Effect of declaration

- 3 Where a declaration is granted under section 3 in accordance with paragraph 1, sections 4 to 14 shall have effect with the following modifications.
- 4 (1) For section 4(1)(b) there shall be substituted—
- “(b) one day for every day of remission which he has lost and not had restored (or additional day which he has been awarded and which has not been remitted) in accordance with prison rules.”.
- (2) The reference in section 4(4) to the time when a prisoner could have been discharged under prison rules shall be treated as a reference to the time when he could have been

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discharged had the relevant sentence been passed in Northern Ireland for a scheduled offence.

- 5 The references in sections 5 and 10 to section 26 of the ^{M10}Treatment of Offenders Act Northern Ireland) 1968 shall be treated as references to any enactment which has the effect of, or an effect similar to, that section and which applies to the prisoner concerned.

Marginal Citations

M10 1968 c. 29 (N.I.).

- 6 The following shall be substituted for section 7—

“7 Life prisoners: specified dates.

In specifying a day for a prisoner under section 6 the Commissioners must have regard to—

- (a) any order or direction made in relation to the prisoner under section 28 of the ^{M11}Crime (Sentences) Act 1997 (duty to release certain life prisoners);
- (b) any order made in relation to the prisoner under section 34 of the ^{M12}Criminal Justice Act 1991 (duty to release discretionary life prisoners) or certificate under paragraph 9 of Schedule 12 to that Act (transitional provisions);
- (c) any certificate issued by the Lord Justice General in relation to the prisoner under section 16(2) of the ^{M13}Crime and Punishment (Scotland) Act 1997 or paragraph 6 of Schedule 6 to the ^{M14}Prisoners and Criminal Proceedings (Scotland) Act 1993 (transitional provisions);
- (d) any order made in relation to the prisoner under section 2 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (duty to release designated life prisoners);
- (e) any other information, whether relating to the prisoner’s case or to other cases, which the Secretary of State submits; and
- (f) previous decisions of Commissioners.”.

Marginal Citations

M11 1997 c. 43.

M12 1991 c. 53.

M13 1997 c. 48.

M14 1993 c. 9.

- 7 For section 15(1)(b) there shall be substituted—

“(b) that the sentence was passed for an offence equivalent to a qualifying offence.”.

- 8 (1) The reference in section 12(4) to detention at the Secretary of State’s pleasure shall be treated as a reference to detention at Her Majesty’s pleasure or detention for life

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or without limit of time under section 205 of the ^{M15}Criminal Procedure (Scotland) Act 1995.

- (2) For section 12(5)(b) there shall be substituted—
“(b) was passed for an offence equivalent to a qualifying offence.”.

Marginal Citations

M15 1995 c. 43.

Restricted transfers

- 9 (1) Nothing in Part II of Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners: restricted transfers) shall prevent the making of an application under section 3 of this Act.
- (2) The following provisions of this paragraph have effect where—
- (a) a prisoner is granted a declaration under section 3 in relation to a sentence in accordance with paragraph 1, and
 - (b) his transfer to Northern Ireland in respect of that sentence was a restricted transfer for the purposes of Part II of Schedule 1 to the 1997 Act.
- (3) A fixed term prisoner’s transfer shall cease to be a restricted transfer when the declaration under section 3 is made.
- (4) A life-sentence prisoner’s transfer shall cease to be a restricted transfer when he is released on licence under section 6.
- (5) Where a transfer under Part I of Schedule 1 to the 1997 Act ceases to be a restricted transfer in accordance with this paragraph, paragraph 15 of that Schedule shall apply as if the transfer were an unrestricted transfer and had been effected at that time.

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Changes and effects yet to be applied to :

- s. 3(7) words substituted by [2023 c. 41 Sch. 12 para. 2\(3\)\(a\)](#)
- s. 3(7)(a) words inserted by [2023 c. 41 Sch. 12 para. 2\(3\)\(b\)](#)
- Sch. 3 para. 2(1)(b) substituted by [2023 c. 41 Sch. 12 para. 3\(3\)\(c\)](#)
- Sch. 3 para. 2(1)(a) words inserted by [2023 c. 41 Sch. 12 para. 3\(3\)\(b\)](#)
- Sch. 3 para. 2(2) words inserted by [2023 c. 41 Sch. 12 para. 3\(5\)](#)
- Sch. 3 para. 2(1) words substituted by [2023 c. 41 Sch. 12 para. 3\(3\)\(a\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(6A)(6B) inserted by [2023 c. 41 Sch. 12 para. 2\(2\)](#)
- s. 3(7A)(7B) inserted by [2023 c. 41 Sch. 12 para. 2\(4\)](#)
- s. 13A inserted by [2023 c. 41 Sch. 12 para. 4](#)
- Sch. 3 para. 2(A1)(A2) inserted by [2023 c. 41 Sch. 12 para. 3\(2\)](#)
- Sch. 3 para. 2(1A) inserted by [2023 c. 41 Sch. 12 para. 3\(4\)](#)