



# Criminal Justice Act (Northern Ireland) 1945

## 1945 CHAPTER 15

### PART II

#### PROVISIONS AS TO OFFENCES, SENTENCES, PENALTIES AND COSTS

##### OFFENCES

*S.24 rep. by 1969 c.15 (NI)*

#### **25 Punishment for child destruction.**

- (1) Subject as hereafter in this [<sup>F1</sup>section] provided, any person who, with intent to destroy the life of a child then capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be guilty of felony, to wit, of child destruction, and shall be liable on conviction thereof on indictment to penal servitude<sup>F2</sup> for life:

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

[<sup>F3</sup>(1A) Subsection (1) does not apply to—

- (a) the pregnant woman herself; or
  - (b) a registered medical professional (within the meaning of the Abortion (Northern Ireland) Regulations 2020) who terminates a pregnancy in accordance with regulations 3 to 8 of those Regulations.]
- (2) For the purposes of this and the next succeeding section, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be prima facie proof that she was at that time pregnant of a child then capable of being born alive.

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[<sup>F4</sup>(3) Proceedings in respect of an offence under subsection (1) may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.]

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| <b>F1</b> | Word in s. 25(1) substituted (31.3.2020) by <a href="#">The Abortion (Northern Ireland) Regulations 2020 (S.I. 2020/345)</a> , regs. 1(b), <b>13(2)</b> (with reg. 15) |
| <b>F2</b> | 1953 c.14 (NI)   |
| <b>F3</b> | S. 25(1A) inserted (31.3.2020) by <a href="#">The Abortion (Northern Ireland) Regulations 2020 (S.I. 2020/345)</a> , regs. 1(b), <b>13(3)</b> (with reg. 15)           |
| <b>F4</b> | S. 25(3) inserted (31.3.2020) by <a href="#">The Abortion (Northern Ireland) Regulations 2020 (S.I. 2020/345)</a> , regs. 1(b), <b>13(4)</b> (with reg. 15)            |

## 26 Provisions as to prosecution of offence of child destruction.

(1) Where upon the trial of any person for the murder or manslaughter of any child, or for infanticide, <sup>F5</sup>..., the jury are of opinion that the person charged is not guilty of murder, manslaughter or infanticide, <sup>F5</sup>..., as the case may be, but that he is shown by the evidence to be guilty of the [<sup>F6</sup> offence] of child destruction, the jury may find him guilty of that [<sup>F6</sup> offence], and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment for child destruction.

<sup>F7</sup>(2) .....  
*Subs.(3) rep. by 1967 c.18 (NI)*  
*Subs.(4) rep. by 1989 NI 12*

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| <b>F5</b> | Words in s. 26(1) omitted (31.3.2020) by virtue of <a href="#">The Abortion (Northern Ireland) Regulations 2020 (S.I. 2020/345)</a> , regs. 1(b), <b>14(2)(a)</b> (with reg. 15) |
| <b>F6</b> | 1967 c.18 (NI)   |
| <b>F7</b> | S. 26(2) omitted (31.3.2020) by virtue of <a href="#">The Abortion (Northern Ireland) Regulations 2020 (S.I. 2020/345)</a> , regs. 1(b), <b>14(2)(b)</b> (with reg. 15)          |

*S. 27 rep. by 1981 c. 45*

*S.28 rep. by SLR (NI) 1952; 1953 c.14 (NI)*

## 29 Prohibition on taking photographs, etc., in court.

(1) No person shall—

- (a) take or attempt to take in any court any photograph, or with a view to publication make or attempt to make in any court any portrait or sketch of any person, being a judge of the court or a juror or a witness in or a party to any proceedings before the court, whether civil or criminal; or
- (b) publish any photograph, portrait or sketch taken or made in contravention of the foregoing provisions of this section or any reproduction of such photograph, portrait or sketch;

and if any person acts in contravention of this section he shall, on summary conviction, be liable in respect of each offence to a fine not exceeding [<sup>F8</sup> level 3 on the standard scale].

(2) For the purposes of this section—

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- [<sup>F9</sup>(a) the expression “court” means any court of justice (including the court of a coroner), apart from the Supreme Court;]
- (b) the expression “judge” includes recorder, registrar, resident magistrate, justice of the peace sitting out of petty sessions and coroner;
- (c) a photograph, portrait or sketch shall be deemed to be a photograph, portrait or sketch taken or made in court if it is taken or made in the court-room or in the building or in the precincts of the building in which the court is held, or if it is a photograph, portrait or sketch taken or made of the person while he is entering or leaving the court-room or any such building or precincts as aforesaid.

**F8** 1984 NI 3

**F9** S. 29(2)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 47(2), 148(1); S.I. 2009/1604, [art. 2\(b\)](#)

*S.30 rep. by 1978 c.23; SLR 1980*

*S.31 rep. by 1950 c.5 (NI)*

*Ss. 32, 33 rep. by 1998 c. 37*

## PENALTIES AND COSTS

*S.34 rep. by 1964 c.21 (NI)*

### **35 Powers of Crown Court or county court in relation to fines and forfeited recognizances.**

- (1) Subject to the provisions of this section, where a fine is imposed by, or a recognizance is forfeited before, [<sup>F10</sup> the Crown Court or a county court], the court may by order—
  - (a) allow time for the payment of the amount of the fine or the amount due under the recognizance;
  - (b) direct such payment to be made by instalments of such amounts and on such dates respectively as may be specified in the order;
  - (c) fix a term of imprisonment which the person liable to make the payment is to undergo if any sum which he is liable to pay is not duly paid or recovered;
  - (d) in the case of a recognizance, discharge the recognizance or reduce the amount due thereunder.
- [<sup>F11</sup>(e) on the application of the person liable to make the payment, allow further time for payment or vary an order for payment by instalments [<sup>F12</sup>, unless there is a collection order in relation to the amount concerned] .]
- [<sup>F13</sup>(2) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention which may be fixed under subsection (1)(c) applicable respectively to the amounts set out opposite thereto—

#### TABLE

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An amount not exceeding £200

7 days

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An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years]

- (3) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to a term of imprisonment, the court may order that any term of imprisonment fixed under paragraph (c) of sub-section (1) of this section shall commence at the expiration of that term of imprisonment.
- (4) The following provisions shall have effect in relation to any order made under this section:—
- (a) where the order allows time for the payment of the amount of the fine or recognizance, or directs payment of the said amount by instalments, the officer responsible for the recovery of the fine or the amount due under the recognizance shall only exercise his powers if and when there is a default in complying with the order;
  - (b) where the order directs payment by instalments of a fine or the amount due under a recognizance, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid;
  - (c) where the order fixes a term of imprisonment in default of payment of a fine or the amount due under a recognizance, then—
    - (i) on payment of the fine or the said amount to the officer responsible for the recovery thereof, or to the governor of the prison, the order shall cease to have effect and, if the person in respect of whom it was made is in prison, he shall forthwith be discharged;
    - (ii) on payment to the said officer or to the governor of the prison of a part of the fine or part of the amount due under the recognizance, the total number of days in the term of imprisonment shall be reduced

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proportionately, that is to say, by a number of days bearing as nearly as possible the same proportion to the total number of days in the term as the sum paid bears to the amount of the fine or the amount due under the recognizance:

Provided that, in reckoning the number of days by which any term of imprisonment would be so reduced, the first day of imprisonment shall not be taken into account, and that, in reckoning the sum which will secure the reduction of the term of imprisonment, fractions of a penny shall be omitted.

[<sup>F13</sup>(4A) Where—

- (a) the Crown Court has imposed a fine on a company; and
- (b) the court has issued a warrant of distress under section 3 of the Fines Act (Ireland) 1851 for the purpose of levying the amount of the fine; and
- (c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the amount of the fine with the costs and charges of levying the same,

the chief clerk may make an application in relation to the company under [<sup>F14</sup>Article 104 of, or paragraph 13 of Schedule B1 to, the Insolvency (Northern Ireland) Order 1989 (winding up or administration)].]

[<sup>F15</sup>(4B) In a case where there is a collection order, the power to make the application referred to in subsection (4A) is instead exercisable by the collection officer responsible for securing compliance with the order.]

- (5) Any sums received by a governor of a prison under paragraph (c) of [<sup>F16</sup>subsection (4)] shall be transmitted by him to the officer responsible for the recovery of sums due in respect of the fine or the recognizance.
- (6) The powers conferred by this section in relation to fines or recognizances shall be in addition to, and not in derogation of, the powers conferred by any other enactment relating to the imposition and recovery of fines or the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.
- (7) This section shall not apply to a fine imposed by a [<sup>F10</sup> county court] on appeal against a decision of a court of summary jurisdiction.

[<sup>F17</sup>(8) Subsection (1)(c) does not apply where the person concerned is a child except where detention would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998; and subsection (3) does not apply to a child.]

[<sup>F18</sup>(8) In this section, “collection order” means an order under section 3 of the Justice Act (Northern Ireland) 2016.]

**F10** 1978 c.23

**F11** 1996 NI 24

**F12** Words in s. 35(1)(e) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 1(1)**; S.R. 2018/99, art. 2(c)

**F13** 1994 NI 15

**F14** Words in s. 35(4A) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 5; S.R. 2006/21, **art. 2** (with transitional provisions and savings in S.R. 2006/22, arts. 2 - 7)

**F15** S. 35(4B) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 1(2)**; S.R. 2018/99, art. 2(c)

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| <p><b>F16</b> Words in s. 35(5) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), <b>Sch. 2 para. 1(3)</b>; S.R. 2018/99, art. 2(c)</p> <p><b>F17</b> S. 35(8) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), <b>ss. 30(5)</b>, 61(2) (with s. 30(12)); S.R. 2018/99, art. 2(a)</p> <p><b>F18</b> S. 35(8) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), <b>Sch. 2 para. 1(4)</b>; S.R. 2018/99, art. 2(c)</p> |
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*S.36 rep. by 1968 c.10 (NI)*

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