



# Treatment of Offenders Act (Northern Ireland) 1968

## 1968 CHAPTER 29

### PART II

#### FURTHER PROVISIONS WITH RESPECT TO TREATMENT OF OFFENDERS

*Ss. 15#17 rep. by 1976 NI 14*

#### SUSPENDED SENTENCES

#### **18 Suspended sentence of imprisonment or order for detention in a young offenders centre.**

[<sup>F1</sup>(1 <sup>F2</sup> A court which—

- (a) passes a sentence of imprisonment for a term of not more than two years for an offence which is not a serious offence within the meaning of subsection (1B); or
- (b) makes an order for detention in a young offenders centre for a term of not more than two years for such an offence,

may order that the sentence or order for detention shall not take effect unless, during the period specified in the order, being not less than one year or more than three years from the date of the order, the offender commits in Northern Ireland another offence punishable with imprisonment in the case of a person aged twenty-one years or over, and thereafter a court having power to do so orders under section 19 that the original sentence or order for detention shall take effect.

(1A <sup>F2</sup> A court which—

- (a) passes a sentence of imprisonment for a term of not more than seven years for a serious offence within the meaning of subsection (1B); or
- (b) makes an order for detention in a young offenders centre for such an offence,

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*Changes to legislation: There are currently no known outstanding effects for the Treatment of Offenders Act (Northern Ireland) 1968, PART II. (See end of Document for details)*

may order that the sentence or order for detention shall not take effect unless, during the period specified in the order, being not less than one year or more than five years from the date of the order, the offender commits in Northern Ireland another offence punishable with imprisonment in the case of a person aged twenty-one years or over, and thereafter a court having power to do so orders under section 19 that the original sentence shall take effect.

(1B) In—

- (a) subsections (1) and (1A) “serious offence” means an offence for which a person aged twenty-one years or over may, on conviction on indictment, be sentenced to imprisonment for a term of five years or more; and
- (b) this section and sections 19 to 21 “operational period” in relation to a suspended sentence or order for detention means the period specified in the order under subsection (1) or, as the case may be, (1A).]

<sup>F2</sup>(2) A court which passes or makes a suspended sentence or order for detention on or in relation to any person for an offence shall not make a probation order in his case in respect of another offence—

- (a) of which he is convicted by or before that court; or
- (b) for which he is dealt with by that court;

at the same time.

(3) On passing or making a suspended sentence or order for detention the court shall explain to the offender in ordinary language his liability under section 19 if during the operational period he commits an offence<sup>F1</sup> punishable with imprisonment in the case of a person aged twenty-one years or over].

*Subs. (4) rep. by 1980 NI 10*

(5) Subject to any provision to the contrary contained in this Act or any enactment passed or instrument made under any enactment after the commencement of this Act—

- (a) a suspended sentence or order for detention which has not taken effect under section 19 shall be treated as a sentence of imprisonment, or as the case may be, an order for detention in a young offenders centre for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office of persons sentenced to imprisonment; and
- (b) where a suspended sentence or order for detention has taken effect under that section the offender shall be treated for the purposes of the said excepted enactments and instruments as having been convicted on the date on which the period allowed for making an appeal against an order under that section would normally expire, or if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

**F1** 1989 NI 15

**F2** prosp. insertion by 1996 NI 24

## **19 Power of court on conviction of further offence to deal with suspended sentence.**

<sup>F3</sup>(1) Where an offender is convicted of a subsequent offence<sup>F4</sup> punishable with imprisonment in the case of a person aged twenty-one years or over], and the offence was committed during the operational period of a suspended sentence or order for

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detention and either he is so convicted by or before a court having power under section 20 to deal with him in respect of the suspended sentence or order for detention or he subsequently appears or is brought before such a court, then, unless the sentence or order has already taken effect, the court shall consider his case and deal with him by one of the following methods—

- (a) the court may order that the suspended sentence or order for detention shall take effect with the original term unaltered;
- (b) it may order that the suspended sentence or order for detention shall take effect with the substitution of a lesser term for the original term;
- [<sup>F4</sup>(c) it may by order vary the original order under section 18—
  - (i) where it was made under subsection (1) of that section, by substituting for the period specified therein a period expiring not later than three years from the date of the variation;
  - (ii) where it was made under subsection (1A) of that section, by substituting for the period specified therein a period expiring not later than five years from the date of the variation;]
- (d) it may make no order with respect to the suspended sentence or order for detention;

and a court shall make an order under paragraph (a) unless the court is of opinion that it would be unjust to do so in view of all the circumstances<sup>F4</sup> . . . , including the facts of the subsequent offence and where it is of that opinion the court shall state its reasons.

- (2) Where a court orders that a suspended sentence or order for detention shall take effect, with or without any variation of the original term, the court may notwithstanding [<sup>F4</sup> section 5(5) and (6) and] [<sup>F5</sup> Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981] order that that sentence or order shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment or as the case may be, detention in a young offenders centre, passed or ordered on the offender by that or another court.
- (3) Where a court orders that an order for detention in a young offenders centre, which has been suspended by an order made under section 18(1) [<sup>F4</sup> or (1A)] shall take effect, with or without variation of the original term, the court shall, if the offender has attained the age of twenty-one years or may, if he will have attained that age at the time when the said order for detention takes effect, order that the order for detention shall be treated as a sentence of imprisonment.
- (4) In proceedings for dealing with an offender in respect of a suspended sentence or order for detention which take place before [<sup>F6</sup> the Crown Court] any question whether the offender has been convicted of an offence [<sup>F4</sup> punishable with imprisonment in the case of a person aged twenty-one years or over], committed during the operational period of the suspended sentence or order for detention shall be determined by [<sup>F6</sup> the judge of the Crown Court].
- (5) Where a court other than the court which passed the suspended sentence or order for detention deals with an offender under this section the appropriate officer of the first-mentioned court shall notify the appropriate officer of the second-mentioned court of the method adopted.
- (6) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence or order for detention, the appropriate officer of the court shall record that fact.

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- (7) An order made by a magistrates' court under subsection (1) shall, for the purposes of [F5 Article 140 of the Magistrates' Courts (Northern Ireland) Order 1981] (right of appeal), be deemed to be a sentence passed on conviction upon a plea of guilty and the period of fourteen days specified in [F5 Article 144(1) of that Order] shall be deemed to commence on the date when the order under subsection (1) was made.

<b>F3</b>	1964 c.21 (NI)
<b>F4</b>	1989 NI 15
<b>F5</b>	1981 NI 26
<b>F6</b>	1978 c.23

## 20 Court which shall deal with a suspended sentence or order for detention.

- (1) An offender may be dealt with in respect of a suspended sentence or order for detention by [F7 the Crown Court or], where the sentence or order for detention was passed or made by a magistrates' court, by any magistrates' court before which he appears or is brought.

*Subs. (2) rep. by 1978 c. 23*

- (3) Where an offender is convicted by a magistrates' court of an offence [F8 punishable with imprisonment in the case of a person aged twenty-one years or over] and the court is satisfied that the offence was committed during the operational period of a suspended sentence or order for detention passed or made by [F7 the Crown Court]—
- (a) the court may commit him in custody or on bail to [F7 the Crown Court] ... F9 to be dealt with ... F9 in respect of that sentence or order; and
  - (b) if it does not, shall furnish written notice of the conviction to the appropriate officer of the court by which the suspended sentence or order for detention was passed or made.

*Subs.(4) rep. by 1978 c.23*

- (5) For the purposes of this section and section 21 a suspended sentence or order for detention passed or made on or in relation to an offender on appeal shall be treated as having been passed or made by the court by which he was originally [F7 tried].

<b>F7</b>	1978 c.23
<b>F8</b>	1989 NI 15
<b>F9</b>	1978 c.23

## 21 Discovery of further offences.

- (1) If an offender is convicted in Northern Ireland of an offence [F10 punishable with imprisonment in the case of a person aged twenty-one years or over], committed during the operational period of a suspended sentence or order for detention and it appears to a justice of the peace F11... that he has not been dealt with in respect of the suspended sentence or order for detention, the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, subject to the following provisions of this section, issue a warrant for his arrest.

- [F12(2) A summons under this section shall not be issued except on complaint; and a warrant under this section shall not be issued except on complaint in writing and on oath.

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- (2A) Subsection (2) does not apply to a summons or warrant issued (by virtue of section 9(12) of the Justice (Northern Ireland) Act 2002) by a judge of the Crown Court acting in consequence of a notice under section 20(3) of this Act.]
- (3) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence or order for detention was passed or made; but if a warrant is so issued requiring him to be brought before [<sup>F13</sup> the Crown Court] and he cannot forthwith be brought before that court because the court is not being held, the warrant shall have effect as if it directed him to be brought before a magistrates' court <sup>F14</sup>... and the latter court shall commit him in custody or on bail to [<sup>F13</sup> the Crown Court] ... <sup>F15</sup>.

**F10** 1989 NI 15

**F11** Words in s. 21(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 61(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F12** 2002 c. 26

**F13** 1978 c.23

**F14** Words in s. 21(3) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 61(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F15** 1978 c.23

## MISCELLANEOUS

### 22 Abolition of sentence of corporal punishment.

No person shall be sentenced by a court to corporal punishment, by whatever name called; and so far as any enactment confers power on a court to pass such a sentence, it shall cease to have effect.

*Ss. 23#25 rep. by 1996 NI 24*

### 26 Duration of sentence.

*Subs. (1) rep. by 1978 c. 23*

- (2) The length of any sentence of imprisonment or term of detention in a young offenders centre [<sup>F16</sup>or sentence of detention under Article [<sup>F17</sup>13A(6),] 14(5) [<sup>F18</sup>or 15A(5)]] of the Criminal Justice (Northern Ireland) Order 2008] imposed on or ordered in relation to an offender by a court shall be treated as reduced by any [<sup>F19</sup> relevant period, but where he] was previously subject to a probation order [<sup>F20</sup>, a community service order], an order for conditional discharge or a suspended sentence or order for detention in respect of that offence, any such period falling before the order was made or the suspended sentence or order for detention was passed or made shall be disregarded for the purposes of this section.

[<sup>F19</sup>(2A) In subsection (2) “relevant period” means—

- (a) any period during which the offender was in police detention in connection with the offence for which the sentence was passed; or
- (b) any period during which he was in custody—

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- (i) by reason only of having been committed to custody by an order of a court made in connection with any proceedings relating to that sentence or the offence for which it was passed or any proceedings from which those proceedings arose; or
- (ii) by reason of his having been so committed and having been concurrently detained otherwise than by order of a court<sup>[F21]</sup>; or
- (c) any period during which he was in custody in a category 1 territory with a view to his being extradited to the United Kingdom to be tried or sentenced for that offence (and not for any other reason).

In paragraph (c) “category 1 territory” means a territory designated under the Extradition Act 2003 for the purposes of Part 1 of that Act.]]

- (3) For the purpose of this section a suspended sentence or order for detention shall be treated as a sentence of imprisonment or, as the case may be, an order for detention in a young offenders centre when it takes effect under section 19 and as being imposed or made by the order under which it takes effect.
- (4) No period of custody shall be taken into account for the purpose of reducing a term of imprisonment under this section unless the whole of that period begins after the commencement of this Act.
- (5) Any reference in this Act or any other enactment (whether passed before or after the commencement of this Act) to the length of any sentence of imprisonment or order for detention in a young offenders centre shall, unless the context otherwise requires, be construed as a reference to the sentence or order pronounced by the court and not the sentence or order as reduced by this section.
- [F19](6) A person is in police detention for the purposes of this section—
  - (a) at any time when he is in police detention for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989; and
  - (b) at any time when he is detained under [F22] section 41 of the Terrorism Act 2000].
- (7) No period of police detention shall be taken into account under this section unless it falls after the coming into operation of Article 49 of the Police and Criminal Evidence (Northern Ireland) Order 1989.]

- F16** Words in s. 26(2) inserted (15.5.2009) by [Criminal Justice \(Northern Ireland\) Order 2008 \(Consequential Provision\) Order 2009 \(S.R. 2009/158\)](#), **art. 2(2)**
- F17** Word in s. 26(2) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2) (v), **Sch. 13 para. 61**
- F18** Words in s. 26(2) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1) (i), **Sch. 13 para. 67**
- F19** 1989 NI 12
- F20** 1980 NI 6
- F21** Words in s. 26(2A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 173(2), 185(1)**; S.I. 2014/1916, art. 2(r)
- F22** 2000 c.11

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## **28 Computation of term of imprisonment**

*Subs. (1) rep. by 1980 NI 10*

- (2) In any enactment which provides for a period during which a person is or is not detained in custody to be counted or not to be counted as part of any term of imprisonment under his sentence any reference to imprisonment shall be construed as including a reference to detention in a young offenders centre.

*S. 29 rep. by 1976 NI 4; 1978 c. 23; 1980 c. 47*

*S. 30 rep. by 1989 NI 15*

*S. 31 repeals s. 13(5) of 1953 c. 18 (NI)*

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