
STATUTORY INSTRUMENTS

1996 No. 3160

The Criminal Justice (Northern Ireland) Order 1996

PART II

TREATMENT OF OFFENDERS

Discharge

Commission of further offence by person conditionally discharged

5.—(1) If it appears to the Crown Court, where that Court has jurisdiction in accordance with paragraph (2), or to a justice of the peace having jurisdiction in accordance with that paragraph, that a person in whose case an order for conditional discharge has been made—

- (a) has been convicted by a court in any part of Northern Ireland of an offence committed during the period of conditional discharge; and
- (b) has been dealt with in respect of that offence,

the Court or justice may, subject to paragraph (3), issue a summons requiring that person to appear at the place and time specified therein or a warrant for his arrest.

(2) Jurisdiction for the purposes of paragraph (1) may be exercised—

- (a) if the order for conditional discharge was made by the Crown Court, by that Court;
- (b) if the order was made by a magistrates' court, by a justice of the peace.

(3) A justice of the peace shall not issue a summons under this Article except on complaint and shall not issue a warrant under this Article except on complaint in writing and on oath.

(4) A summons or warrant issued under this Article shall direct the person to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.

(5) If a person in whose case an order for conditional discharge has been made by the Crown Court is convicted by a magistrates' court of an offence committed during the period of conditional discharge, the magistrates' court—

- (a) may commit him to custody or release him on bail until he can be brought or appear before the Crown Court; and
- (b) if it does so, shall send to the Crown Court a copy of the entry of the conviction made in the Order Book, signed by the clerk of petty sessions by whom the Order Book is kept.

(6) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with him, for the offence for which the order was made, in any manner in which it could deal with him if he had just been convicted by or before that court of that offence.

(7) If a person in whose case an order for conditional discharge has been made by a magistrates' court is convicted before the Crown Court of an offence committed during the period of conditional discharge, the Crown Court may deal with him, for the offence for which the order was made, in

any manner in which the magistrates' court could deal with him if it had just convicted him of that offence.

(8) If a person in whose case an order for conditional discharge has been made by a magistrates' court is convicted by another magistrates' court of any offence committed during the period of conditional discharge, that other court may deal with him, for the offence for which the order was made, in any manner in which the court could deal with him if it had just convicted him of that offence.

(9) Where an order for conditional discharge has been made by a court of summary jurisdiction in the case of an offender under the age of 17 in respect of an offence not being a summary offence or an offence which, in the case of an adult, could have been tried summarily with his consent under Article 45 of the Magistrates' Courts (Northern Ireland) Order 1981, any powers exercisable under paragraph (6), (7) or (8) by that or any other court in respect of the offender after he has attained the age of 17 shall be those which would be exercisable if that offence were an offence which could have been tried summarily under the said Article 45 with the offender's consent, and had been so tried.

(10) For the purposes of this Article the age of an offender at a particular time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.