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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 428**

**CRIMINAL PROCEDURE**

**The Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2011**

*Made - - - - 13 December 2011*

*Coming into operation 1 February 2012*

The Department of Justice makes the following Order, in exercise of the powers conferred by section 35(4) of the Criminal Justice Act 1988<sup>(1)</sup> and now vested in it <sup>(2)</sup>:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 2011 and shall come into operation on 1 February 2012.

(2) “The 1988 Act” means the Criminal Justice Act 1988.

**Part 4 of the 1988 Act**

2. Part 4 of the 1988 Act (reviews of sentencing) shall apply to any case of a description specified in the Schedule.

**Revocations**

3. The following articles of the Criminal Justice Act 1988 (Reviews of Sentencing) Order (Northern Ireland) 1996<sup>(3)</sup> are revoked:

- (a) Article 2(a)(i) (offences under section 16 of the Offences against the Person Act 1861 (threats to kill));
- (b) Article 2(a)(ii) (offences under section 52 of the Offences against the Person Act 1861 (indecent assault upon a female)); and

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(1) [1988 c.33](#); section 35 was amended by the Criminal Justice and Public Order Act [1994 \(c.33\)](#), section 168(1) and Schedule 9, paragraph 34 and, in its application to Northern Ireland, section 35 was amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 ([S.I. 2010/976](#)), article 12 and Schedule 14, paragraphs 29 and 30.

(2) Article 12 of and paragraphs 29 and 30 of Schedule 14 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 ([S.I. 2010/976](#)) transferred the functions of the Secretary of State under section 35(4) of the 1988 Act (in its application to Northern Ireland) to the Department of Justice in Northern Ireland.

(3) [S.R. 1996 No. 40](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (c) Article 2(a)(iv) (offences under section 20 of the Children and Young Persons Act (Northern Ireland) 1968 (cruelty to persons under sixteen)).

Sealed with the Official Seal of the Department of Justice on 13 December 2011.



*David Ford*  
Minister of Justice

## SCHEDULE

Article 2

### Descriptions of cases to which Part 4 of the 1988 Act is to apply

1. To the extent that Part 4 of the 1988 Act does not apply by virtue of section 35(3)(b)(i) any case in which sentence is passed on a person for an offence under one of the following articles of the Sexual Offences (Northern Ireland) Order 2008(4):

- (a) Article 7 (sexual assault);
- (b) Article 8 (causing a person to engage in sexual activity without consent);
- (c) Article 14 (sexual assault of a child under 13);
- (d) Article 15 (causing or inciting a child under 13 to engage in sexual activity);
- (e) Article 16 (sexual activity with a child);
- (f) Article 17 (causing or inciting a child to engage in sexual activity);
- (g) Article 18 (engaging in a sexual activity in the presence of a child);
- (h) Article 19 (causing a child to watch a sexual act);
- (i) Article 21 (arranging or facilitating commission of a child sex offence);
- (j) Article 22 (meeting a child following sexual grooming etc.);
- (k) Article 32 (sexual activity with a child family member);
- (l) Article 37 (paying for sexual services of a child);
- (m) Article 38 (causing or inciting child prostitution or pornography);
- (n) Article 39 (controlling a child prostitute or a child involved in pornography);
- (o) Article 40 (arranging or facilitating child prostitution or pornography);
- (p) Article 62 (causing or inciting prostitution for gain);
- (q) Article 65 (administering a substance with intent).

2. An offence described in paragraph 1 includes:

- (a) an offence of attempting to commit any of the offences described in paragraph 1; or
- (b) an offence under Part 2 of the Serious Crime Act 2007(5) (encouraging or assisting crime) in relation to which an offence in paragraph 1 is the offence (or one of the offences) which the person intended or believed would be committed.

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## EXPLANATORY NOTE

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

Part 4 of the Criminal Justice Act 1988, as amended by the Justice (Northern Ireland) Act 2002, empowers the Director of Public Prosecutions for Northern Ireland (“the DPP”), with the leave of the Court of Appeal, to refer certain cases to that Court where the DPP considers that the sentences imposed were unduly lenient.

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(4) S.I. 2008/1769 (N.I. 2).

(5) 2007 c.27.

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This Order extends the range of offences in respect of which that power may be exercised to include the cases specified in the Schedule which are cases in which sentence has been passed on a person for: (i) the offences listed in paragraph 1 of the Schedule (all of which are offences under the Sexual Offences (Northern Ireland) Order 2008); (ii) attempts to commit any of the offences listed in paragraph 1 of the Schedule; and (iii) offences under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which an offence in paragraph 1 of the Schedule is the offence (or one of the offences) which the person intended or believed would be committed.

This Order also revokes certain provisions of the Criminal Justice Act 1998 (Reviews of Sentencing) Order (Northern Ireland) 1996 (“the 1996 Order”), which were re-enacted as part of a consolidation exercise in the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 but remained listed in the 1996 Order.