



2013 CHAPTER 7

*Release on licence of child convicted of serious offence*

**Release on licence of child convicted of serious offence**

**10.**—(1) In Article 45(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (child convicted of serious offence) for “notwithstanding any other provisions of this Order” substitute “subject to Articles 46 to 46B”.

(2) In Article 45 of that Order after paragraph (2) insert—

“(2A) Where a court passes a sentence under paragraph (2), the court shall specify such part of the sentence as the court considers appropriate as the relevant part of the sentence for the purposes of Article 46 (release on licence).”.

(3) For Article 46 of that Order substitute—

**“Release on licence**

**46.**—(1) In this Article—

- (a) “P” means a person detained under Article 45(2);
- (b) “the Commissioners” means the Parole Commissioners for Northern Ireland;
- (c) “the Department” means the Department of Justice; and
- (d) references to the relevant part of P’s sentence are references to the part of P’s sentence specified as such under Article 45(2A).

(2) As soon as—

- (a) P has served the relevant part of P’s sentence, and
- (b) the Commissioners have directed P’s release under this Article,

the Department shall release P on licence.

(3) The Commissioners shall not give a direction under paragraph (2) with respect to P unless—

- (a) the Department has referred P's case to the Commissioners; and
- (b) the Commissioners are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(4) P may require the Department to refer P's case to the Commissioners at any time—

- (a) after P has served the relevant part of P's sentence; and
- (b) where there has been a previous reference of P's case to the Commissioners under paragraph (3) or Article 46B(4), after the end of the period of 12 months beginning with the disposal of that reference.

(5) In determining for the purposes of this Article whether P has served the relevant part of P's sentence, no account shall be taken of any time during which P was unlawfully at large, unless the Department otherwise directs.

(6) The Department may at any time release P on licence if it is satisfied that exceptional circumstances exist which justify P's release on compassionate grounds.

(7) Before releasing P under paragraph (6), the Department shall consult the Commissioners, unless the circumstances are such as to render such consultation impracticable.

(8) Nothing in this Article requires the Department to release a person in respect of a sentence under Article 45(2) at any time when that person is liable to be detained in respect of any other sentence.

#### **Duration and conditions of licences under Article 46**

**46A.**—(1) Where a person is released on licence under Article 46, the licence shall, unless previously revoked under Article 46B, remain in force until the expiry of the period for which the person was sentenced to be detained.

(2) A person released on licence under Article 46 shall comply with such conditions as may for the time being be specified in the licence (which may include on release conditions as to supervision by a probation officer).

(3) The Department of Justice shall not, except in accordance with recommendations of the Parole Commissioners for Northern Ireland—

- (a) include a condition in a licence on release,
- (b) subsequently insert a condition in a licence, or
- (c) vary or cancel any condition in a licence.

**Recall of licensees**

**46B.**—(1) In this Article —

“P” means a person who has been released on licence under Article 46; “the Commissioners” and “the Department” have the meanings given in Article 46(1).

(2) The Department may revoke P’s licence and recall P to detention—

- (a) if recommended to do so by the Commissioners, or
- (b) without such a recommendation, if it appears to the Department that it is expedient in the public interest to recall P before such a recommendation is practicable.

(3) P—

- (a) shall, on P’s return to detention, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); and
- (b) may make representations in writing to the Department with respect to the recall.

(4) The Department shall refer P’s case to the Commissioners.

(5) Where on a reference under paragraph (4) the Commissioners direct P’s immediate release on licence under Article 46, the Department shall give effect to the direction.

(6) The Commissioners shall not give a direction under paragraph (5) unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that P should be detained.

(7) On the revocation of P’s licence, P shall be liable to be detained in pursuance of P’s sentence and, if at large, shall be treated as being unlawfully at large.”.

(4) In Article 46(3) of the Criminal Justice (Northern Ireland) Order 2008 (functions of Parole Commissioners for Northern Ireland) at the end add “or Articles 46 to 46B of the Criminal Justice (Children) (Northern Ireland) Order 1998.”

(5) Where—

- (a) on commencement a person is detained in pursuance of a sentence under Article 45(2) of the 1998 Order, and
- (b) the Department, after consultation with the Lord Chief Justice and the trial judge if available, certifies its opinion that, if the amendments made by this section had been in operation at the time when that person was sentenced, the court by which that person was sentenced would have specified as the relevant part of the sentence such part as is specified in the certificate,

Article 46 of the 1998 Order (as substituted) shall apply as if the relevant part of that person's sentence for the purposes of that Article were the part specified in the certificate.

(6) But subsection (5) does not apply (and subsection (7) applies instead) where that person is a person whose licence has been revoked under Article 46(2) of the 1998 Order.

(7) Where this subsection applies, paragraphs (3) to (6) of Article 46B of the 1998 Order have effect as if that person had been recalled to prison under paragraph (2) of that Article on commencement.

(8) Articles 46A and 46B of the 1998 Order apply to an existing licensee as they apply to a person who is released on licence under Article 46 of that Order (as substituted).

(9) In this section—

“commencement” means the date on which this section comes into operation;

“existing licensee” means a person who, before commencement, has been discharged on licence under Article 46 of the 1998 Order and whose licence is in force on commencement;

“the 1998 Order” means the Criminal Justice (Children) (Northern Ireland) Order 1998.