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STATUTORY INSTRUMENTS

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**1996 No. 3160**

**The Criminal Justice (Northern Ireland) Order 1996**

**PART II**

**TREATMENT OF OFFENDERS**

*Probation*

**Probation orders**

**10.**—(1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of the opinion that the supervision of the offender by a probation officer is desirable in the interests of—

- (a) securing the rehabilitation of the offender; or
- (b) protecting the public from harm from him or preventing the commission by him of further offences,

the court may make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer for a period specified in the order of not less than 6 months nor more than 3 years.

(2) A probation order shall specify the petty sessions district in which the offender resides or will reside; and the offender shall, subject to paragraph 12 of Schedule 2, be required to be under the supervision of a probation officer appointed for or assigned to that district.

(3) Before making a probation order, the court shall—

- (a) state in open court that it is of the opinion that Article 8(1) applies and why it is of that opinion; and
- (b) explain to the offender in ordinary language—
  - (i) why it is making a probation order;
  - (ii) the effect of the order (including any additional requirements proposed to be included in the order in accordance with Article 11);
  - (iii) the consequences which may follow under Schedule 2 if he fails to comply with any of the requirements of the order; and
  - (iv) that the court has under Schedule 2 power to review the order on the application either of the offender or of the supervising officer,

and if the offender has attained the age of 14 years the court shall not make the order unless he expresses his willingness to comply with its requirements.

(4) The court by which a probation order is made shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy—

- (a) to the offender;
- (b) to the probation officer responsible for the offender's supervision; and

- (c) to the person in charge of any institution in which the offender is required by the order to reside, present himself or attend.
- (5) The court by which such an order is made shall also, except where it itself acts for the petty sessions district specified in the order, send to the clerk of petty sessions for that district—
  - (a) a copy of the order; and
  - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that district in the exercise of its functions in relation to the order.
- (6) An offender in respect of whom a probation order is made shall keep in touch with the probation officer responsible for his supervision in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.
- (7) A magistrates' court shall cause a reason stated by it under paragraph (3) to be entered in the Order Book.
- (8) The Secretary of State may by order direct that paragraph (1) shall be amended by substituting, for the minimum or maximum period specified in that paragraph, such period as may be specified in the order.
- (9) An order under paragraph (8) may make in paragraph 13(2)(a) of Schedule 2 any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.
- (10) Nothing in paragraph (1) shall be construed as preventing a court which makes a probation order in respect of any offence from making an order for costs against, or imposing any disqualification on, the offender or from making in respect of the offence an order under Article 11 or 14 of the Criminal Justice (Northern Ireland) Order 1994 (power to deprive offenders of property used or intended for use, for purposes of crime and compensation orders) or under Article 8 of the Criminal Justice (Northern Ireland) Order 1980 (driving disqualification where vehicle used for purposes of crime) or under section 27 of the Theft Act (Northern Ireland) 1969 (restitution orders).

#### **Additional requirements which may be included in such orders**

**11.**—(1) Subject to paragraph (2), a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers desirable in the interests of—

- (a) securing the rehabilitation of the offender; or
- (b) protecting the public from harm from him or preventing the commission by him of further offences.

(2) Without prejudice to the power of the court under Article 11 or 14 of the Criminal Justice (Northern Ireland) Order 1994 to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the additional requirements of a probation order.

(3) Without prejudice to the generality of paragraph (1), the additional requirements which may be included in a probation order shall include the requirements which are authorised by Schedule 1.

#### **Substitution of conditional discharge for probation**

**12.**—(1) Where on an application made by an offender placed on probation or a probation officer it appears to the court having power to discharge a probation order that the order is no longer appropriate in the case of the offender, the court may make, in substitution for the probation order, an order discharging him in respect of the original offence subject to the condition that he commits no offence between the making of the order under this Article and the expiration of the probation period.

(2) No application may be made under paragraph (1) while an appeal against the probation order is pending.

(3) A person in respect of whom an order is made under this Article shall so long as the said condition continues in force be treated in all respects and in particular for the purposes of paragraph 7 of Schedule 2 as if the original probation order made in his case had been an order for conditional discharge made by the court which made that original order and as if the period of conditional discharge were the same as the probation period.

(4) On the making of an order under this Article the appropriate officer of the court shall forthwith give copies of the order to the probation officer, who shall give a copy to the person in respect of whom the order is made and a copy to the person in charge of any institution in which that person was required by the probation order to reside.