

## STATUTORY INSTRUMENTS

# 1996 No. 3160

## The Criminal Justice (Northern Ireland) Order 1996

### <sup>F1</sup>PART II

#### TREATMENT OF OFFENDERS

##### *Release on licence of certain offenders*

##### Release on licence of sexual offenders

##### 26. <sup>F1</sup>.....

**F1** Art. 26 repealed (1.4.2009) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 102(2), **Sch. 6 Pt. 1**; S.R. 2009/120, **art. 2**, Sch. 1 paras. 17, 19(a) (subject to Sch. 2 paras. 1(1)(2)(c)(i), 2(4))

##### <sup>F2</sup>Breach of licence conditions

**27.—**(1) If at any time while an offender is released on licence under Article 26 it appears, on complaint to a lay magistrate, that the offender has failed to comply with any of the conditions specified in the licence, the lay magistrate may—

- (a) issue a summons requiring the offender to appear before the appropriate court at a time specified in the summons; or
- (b) if the complaint is in writing and on oath, issue a warrant for the offender to be arrested and brought before the appropriate court.

(2) If—

- (a) a warrant is issued under sub-paragraph (1) requiring an offender to be brought before the Crown Court, and
- (b) the offender cannot forthwith be brought before the Crown Court because it is not being held,

the warrant shall have effect as if it directed the offender to be brought before a magistrates' court <sup>F3</sup>....

(3) Where an offender is brought before a magistrates' court in pursuance of paragraph (2), that court shall commit the offender in custody or on bail to the Crown Court.

(4) Where the appropriate court before which an offender appears or is brought under this Article is the Crown Court and that Court is satisfied that the offender has failed without reasonable excuse to comply with any of the conditions specified in the licence, the Court may

- (a) impose on him a fine not exceeding £1000;
- (b) revoke the licence; or

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- (c) suspend the licence for a specified period which is shorter than the remaining licence period.
- (5) Where the appropriate court before which an offender appears or is brought under this Article is a court of summary jurisdiction and that court is satisfied that the offender has failed without reasonable excuse to comply with any of the conditions specified in the licence, that court may—
- (a) impose on him a fine not exceeding £1000;
  - (b) if the remaining licence period is less than 6 months, revoke the licence; or
  - (c) suspend the licence for a specified period which—
    - (i) is shorter than the remaining licence period; and
    - (ii) does not exceed 6 months.
- (6) Where a court revokes the licence of an offender under paragraph (4) or (5)—
- (a) the court shall order the offender to be returned to prison or, as the case may be, a young offenders centre; and
  - (b) the offender—
    - (i) shall be liable to be detained there in pursuance of his sentence until the date on which he would (but for his release) have served the whole of his sentence or order for detention; and
    - (ii) if at large shall be treated as being unlawfully at large.
- (7) Where a court suspends the licence of an offender for a specified period under paragraph (4) or (5)—
- (a) the court shall order the offender to be returned to prison or, as the case may be, a young offenders centre; and
  - (b) the offender—
    - (i) shall be liable to be detained there for that period in pursuance of his sentence or order for detention; and
    - (ii) if at large shall be treated as being unlawfully at large.
- (8) In this Article “the remaining licence period”, in relation to an offender released on licence under Article 26, means the period beginning with the date of the making of an order under this Article and ending with the date on which the offender would (but for his release) have served the whole of his sentence or order for detention.
- (9) In this Article “the appropriate court”, in relation to an offender released on licence in pursuance of an order under Article 26(1)(b), means—
- (a) if the Crown Court made the order, the Crown Court; and
  - (b) if a court of summary jurisdiction made the order, a court of summary jurisdiction <sup>F4</sup>...
- and if the order has been made on appeal, it shall be treated for the purposes of this paragraph as if it had been made by the court from which the appeal was brought.

<sup>F5</sup>(10) .....

<sup>F5</sup>(11) .....]

**F2** Art. 27 substituted (16.7.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), [34\(1\)](#); S.R. 2008/293, [art. 2](#), Sch.

**F3** Words in art. 27(2) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 112(4)(a), [Sch. 9 Pt. 1](#) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F4** Words in art. 27(9)(b) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 112(4)(b), [Sch. 9 Pt. 1](#) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

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**F5** Art. 27(10)(11) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 112\(4\)\(c\), Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### Convictions during currency of original sentences

**28.**—(1) Where an offender released on licence under Article 26—

- (a) before the date on which he would (but for his release) have served his sentence or order for detention in full, commits an offence punishable with imprisonment; and
- (b) whether before or after that date, is convicted of that offence ( “the new offence”);

the court by or before which he is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be returned to prison or a young offenders centre for the whole or any part of the period which—

(i) begins with the date of the order; and

(ii) is equal in length to the period between the date on which the new offence was committed and the date mentioned in sub-paragraph (a).

(2) A court of summary jurisdiction—

- (a) shall not have power to order an offender released on licence under Article 26 to be returned to prison or a young offenders centre for a period of more than 6 months; but
- (b) may commit him to custody or release him on bail until he can be brought or appear before the Crown Court.

(3) Where, under paragraph (2)(b), a court deals with an offender released on licence under Article 26, it shall send to the Crown Court such particulars of the case as may be desirable.

(4) Where, by virtue of paragraph (2)(b), an offender released on licence under Article 26 is brought or appears before the Crown Court, the Court may order him to be returned to prison or a young offenders centre for the whole or any part of the period which—

- (a) begins with the date of the order; and
- (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in paragraph (1)(a).

(5) The period for which an offender released on licence under Article 26 is ordered under paragraph (1) or (4) to be returned to prison or a young offenders centre—

- (a) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, the sentence imposed for the new offence; and
- (b) in either case, shall be disregarded in determining the appropriate length of that sentence.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Instrument rev. in pt. by [1998 c. 40 s.9\(1\)\(2\)](#)[Sch.1 Pt.II para.10](#)[Sch.2 Pt.II](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 9(1)(a)(i) words repealed by [2015 c. 9 \(N.I.\) Sch. 1 para. 112\(5\)\(e\)](#)[Sch. 9 Pt. 1](#)
- art. 44A(4) words substituted by [S.I. 2008/1216 \(N.I.\) Sch. 5 para. 7\(9\)](#) (This amendment not applied to [legislation.gov.uk](#). It is thought that the correct affected document should be S.I. 1998/1504 (N.I. 9), art. 44A(4). The correction will be made as soon as we get the approved amended document from the relevant office)
- art. 53(1) art. 53 renumbered as art. 53(1) by [2019 c. 17 s. 44\(6\)](#)
- art. 53(1)(a) substituted by [2019 c. 17 s. 43\(2\)](#)
- art. 53(2)-(9) inserted by [2019 c. 17 s. 44\(7\)](#)
- art. 54A inserted by [2019 c. 17 s. 37\(3\)](#)