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## STATUTORY INSTRUMENTS

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# 2008 No. 1216

## The Criminal Justice (Northern Ireland) Order 2008

### PART 2

#### SENTENCING

##### CHAPTER 4

##### RELEASE ON LICENCE

##### *Recall after release*

#### **Recall of prisoners while on licence**

**28.**—(1) In this Article “P” means a prisoner who has been released on licence under Article 17, 18 <sup>[F1]</sup>, 20 or 20A].

(2) <sup>[F2]</sup>The Department of Justice or the Secretary of State] may revoke P's licence and recall P to prison—

- (a) if recommended to do so by the Parole Commissioners; or
- (b) without such a recommendation if it appears to the <sup>[F3]</sup>Department of Justice or (as the case may be) the] Secretary of State that it is expedient in the public interest to recall P before such a recommendation is practicable.

(3) P—

- (a) shall, on returning to prison, be informed of the reasons for the recall and of the right conferred by sub-paragraph (b); an
- (b) may make representations in writing with respect to the recall.

(4) The <sup>[F4]</sup>Department of Justice or (as the case may be) the] Secretary of State shall refer P's recall under paragraph (2) to the Parole Commissioners.

(5) Where on a reference under paragraph (4) the Parole Commissioners direct P's immediate release on licence under this Chapter, the <sup>[F5]</sup>Department of Justice] shall give effect to the direction.

(6) The Parole Commissioners shall not give a direction under paragraph (5) with respect to P unless they are satisfied that—

- (a) where P is serving an indeterminate custodial sentence or an extended custodial sentence <sup>[F6]</sup>and was not released under Article 20A], it is no longer necessary for the protection of the public from serious harm that P should be confined;
- (b) in any other case, it is no longer necessary for the protection of the public that P should be confined.

(7) On the revocation of P's licence, P shall be—

- (a) liable to be detained in pursuance of P's sentence; and

**Changes to legislation:** *The Criminal Justice (Northern Ireland) Order 2008, Section 28 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(b) if at large, treated as being unlawfully at large.

[<sup>F7</sup>(8) The Secretary of State may revoke P's licence and recall P to prison under paragraph (2) only if his decision to revoke P's licence and recall P to prison is arrived at (wholly or partly) on the basis of protected information.]

#### Textual Amendments

- F1** Words in [art. 28\(1\)](#) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 74\(9\)\(a\)](#)
- F2** Words in [art. 28\(2\)](#) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 23\(a\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)
- F3** Words in [art. 28\(2\)\(b\)](#) inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 23\(b\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)
- F4** Words in [art. 28\(4\)](#) inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 23\(b\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)
- F5** Words in [art. 28\(5\)](#) substituted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 23\(c\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)
- F6** Words in [art. 28\(6\)\(a\)](#) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 74\(9\)\(b\)](#)
- F7** [Art. 28\(8\)](#) inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(2), [Sch. 5 para. 23\(d\)](#) (with arts. 28-31); S.I. 2010/977, [art. 1\(2\)](#)

#### Commencement Information

- I1** [Art. 28](#) partly in operation; [art. 28](#) not in operation at date Order made see [art. 1\(4\)](#); [art. 28](#) in operation for certain purposes at 15.5.2008 by [S.R. 2008/217](#), [art. 2](#), [Sch.](#) (with transitory provision in [art. 4](#)); [art. 28](#) in operation for further certain purposes at 1.4.2009 by [S.R. 2009/120](#), [art. 2](#), [Sch. 1](#)
- I2** [Art. 28](#) in operation at 1.7.2015 in so far as not already in operation by [S.R. 2015/290](#), [art. 2\(e\)](#)

**Changes to legislation:**

The Criminal Justice (Northern Ireland) Order 2008, Section 28 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**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 Pt. 1 para. 31A renumbered as 31(B) by [2022 c. 19 \(N.I.\) Sch. 4 para. 3\(a\)](#)
- art. 19(1A) inserted by [2015 c. 9 \(N.I.\) s. 82](#)
- art. 45(1A) inserted by [2011 c. 24 \(N.I.\) s. 58\(2\)](#)