

**EXPLANATORY MEMORANDUM TO
THE CRIMINAL JUSTICE (SENTENCING) (LICENCE CONDITIONS)
(NORTHERN IRELAND) RULES 2009**

SR. 2009 No. 81

1. This Explanatory Memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 These Rules provide the licence conditions that can be applied to prisoners and young offenders released on licence under the Criminal Justice (Northern Ireland) Order 2008 (“the 2008 Order”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

4. **Legislative Context**

- 4.1 The 2008 Order established new sentencing and release arrangements for Northern Ireland courts creating, amongst other powers, new licensing powers for the supervision of released prisoners. The main purpose of the parent Order is to increase public protection by ensuring that dangerous offenders are subject to risk assessment; are only released when it is safe to do so; and that they are supervised in the community on licence.

- 4.2 This is the first time that Article 24(1) and (3) of the Criminal Justice (Northern Ireland) Order 2008 (“the Order”) which confers the power on the Secretary of State to make Rules on licence conditions has been used.

5. **Territorial Extent and Application**

- 5.1 This instrument applies to Northern Ireland.

6. **European Convention on Human Rights**

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy Background

7.1 The licence conditions determine statutory supervision requirements placed on released prisoners to ensure public protection; to prevent re-offending; and to improve offender rehabilitation. The Licence Conditions Rules contain two sets of licensing requirements: standard conditions that must apply in all licence cases; and other conditions which can be required on the basis of individual cases.

7.2 The standard conditions are:

- keeping in touch with the probation officer and receiving visits from him/her;
- living at an address approved by a probation officer and obtaining prior permission to change that address;
- work and voluntary work approval by a probation officer and prior permission for any change;
- not travelling outside the UK without prior permission from the probation officer;

7.3 The prisoner must not behave in a way which undermines the purposes of release on licence (which is the protection of the public, prevention of re-offending and rehabilitation; nor must he/she commit any offence.

7.4 Other conditions can include requirements on:

- Location of residence;
- Making or avoiding contact with particular people or groups;
- Restricting certain activities;
- Participation in programmes, activities, or testing (such as alcohol or drug testing);
- Curfew or electronic monitoring requirements or restriction on movement;
- Any other requirement relating to supervision in the community by a probation officer.

7.5 On release, licensed prisoners are placed under the supervision of probation officers and can be recalled to prison for breach of conditions. Recalled cases are referred to and reviewed by the Parole Commissioners for Northern Ireland.

8. Consultation Outcome

8.1 The parent Order was subject to full and public consultation with the majority of respondents fully supportive of the sentencing and release on licence proposals. An Ad-Hoc Committee of the Northern Ireland Assembly was established to consider the draft Order and produced a formal Report which was ratified by the Assembly supporting the sentencing and release proposals. A summary of the responses is available on www.nio.gov.uk.

8.2 These licence conditions Rules have been developed by the Northern Ireland Office in full consultation with each of the key bodies involved in the process: the Parole Commissioners; the Northern Ireland Prison Service; and the Probation Board for Northern Ireland. They have been endorsed by other key criminal justice agencies in Northern Ireland including the Northern Ireland Court Service; the Public Prosecution Service for Northern Ireland; the Youth Justice Agency; and the Police Service of Northern Ireland.

9. Guidance

9.1 A set of Explanatory Notes on the Criminal Justice (Northern Ireland) Order 2008 describing the new disposals and their licensing requirements has been published and made available by the Northern Ireland Office. Guidance on the licensing requirements will be provided to offenders by the Prison Service on release and by probation officers in the community.

10. Impact

10.1 A Regulatory Impact Assessment was completed on the sentencing and licensing provisions of the Order as a whole. The Order will not create additional burdens for business charities or voluntary bodies.

10.2 Impact on the public sector will fall primarily the Probation Board for Northern Ireland who will supervise offenders on release. Resources have been made available to ensure effective implementation of the provisions

11. Regulating small business

11.1 The legislation does not apply to small business

12. Monitoring and review

12.1 The operation of the licence conditions Rules will be monitored and reviewed on a regular basis by Criminal Justice Policy Division of the Northern Ireland Office in conjunction with the Probation Board for Northern Ireland. The Parole Commissioners for Northern Ireland and the Northern Ireland Prison Service will also have an important part to play.

13. Contact

13.1 Tom Haire at the Northern Ireland Office Tel: 028 9052 9122 or email: tom.haire@nio.x.gsi.gov.uk can answer any queries regarding this instrument.