



Northern Ireland (Sentences) Act 1998

1998 CHAPTER 35

Eligibility for release

3 Applications.

- (1) A prisoner may apply to Commissioners for a declaration that he is eligible for release in accordance with the provisions of this Act.
- (2) The Commissioners shall grant the application if (and only if)—
 - (a) the prisoner is serving a sentence of imprisonment for a fixed term in Northern Ireland and the first three of the following four conditions are satisfied, or
 - (b) the prisoner is serving a sentence of imprisonment for life in Northern Ireland and the following four conditions are satisfied.
- (3) The first condition is that the sentence—
 - (a) was passed in Northern Ireland for a qualifying offence, and
 - (b) is one of imprisonment for life or for a term of at least five years.
- (4) The second condition is that the prisoner is not a supporter of a specified organisation.
- (5) The third condition is that, if the prisoner were released immediately, he would not be likely—
 - (a) to become a supporter of a specified organisation, or
 - (b) to become concerned in the commission, preparation or instigation of acts of terrorism connected with the affairs of Northern Ireland.
- (6) The fourth condition is that, if the prisoner were released immediately, he would not be a danger to the public.
- (7) A qualifying offence is an offence which—
 - (a) was committed before 10th April 1998,
 - (b) was when committed a scheduled offence within the meaning of the ^{M1}Northern Ireland (Emergency Provisions) Act 1973, ^{M2}1978, ^{M3}1991 or ^{M4}1996, and

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- (c) was not the subject of a certificate of the Attorney General for Northern Ireland that it was not to be treated as a scheduled offence in the case concerned.
- (8) A specified organisation is an organisation specified by order of the Secretary of State; and he shall specify any organisation which he believes—
 - (a) is concerned in terrorism connected with the affairs of Northern Ireland, or in promoting or encouraging it, and
 - (b) has not established or is not maintaining a complete and unequivocal ceasefire.
- (9) In applying subsection (8)(b) the Secretary of State shall in particular take into account whether an organisation—
 - (a) is committed to the use now and in the future of only democratic and peaceful means to achieve its objectives;
 - (b) has ceased to be involved in any acts of violence or of preparation for violence;
 - (c) is directing or promoting acts of violence by other organisations;
 - (d) is co-operating fully with any Commission of the kind referred to in section 7 of the ^{M5}Northern Ireland Arms Decommissioning Act 1997 in implementing the Decommissioning section of the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883.
- (10) The Secretary of State shall from time to time review the list of organisations specified under subsection (8); and if he believes—
 - (a) that paragraph (a) or (b) of that subsection does not apply to a specified organisation, or
 - (b) that paragraphs (a) and (b) apply to an organisation which is not specified, he shall make a new order under subsection (8).

Marginal Citations

- M1** 1973 c. 53.
- M2** 1978 c. 5.
- M3** 1991 c. 24.
- M4** 1996 c. 22.
- M5** 1997 c. 7.

4 Fixed term prisoners.

- (1) If a fixed term prisoner is granted a declaration in relation to a sentence he has a right to be released on licence (so far as that sentence is concerned) on the day on which he has served—
 - (a) one third of his sentence, plus
 - (b) one day for every day of remission which he has lost, and not had restored, in accordance with prison rules.
- (2) If the day arrived at under subsection (1) falls on or before the day of the declaration, the prisoner's right to be released under that subsection is a right to be released by the end of the day after the day of the declaration.
- (3) If a prisoner would have a right to be released on or by the end of a listed day he has a right to be released on or by the end of the next non-listed day; and the listed days are—

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- (a) Saturday,
 - (b) Sunday,
 - (c) Christmas Day,
 - (d) Good Friday, and
 - (e) a public holiday in Northern Ireland.
- (4) If a prisoner is released on licence under this section his sentence shall expire (and the licence shall lapse) at the time when he could have been discharged on the ground of good conduct under prison rules.

5 Fixed term prisoners: special cases.

- (1) If the length of a sentence is treated as reduced by a period of custody in accordance with section 26 of the ^{M6}Treatment of Offenders Act Northern Ireland) 1968 (duration of sentence) for the purposes of section 4(1) above the period of custody must be treated as having been served as part of the sentence.
- (2) If a sentence of at least five years is supplemented by a period of imprisonment in accordance with [^{F1}section 80(2) of the Terrorism Act 2000] (conviction of scheduled offence during period of remission) for the purposes of section 4(1) above the supplementary period must be treated as part of the sentence.
- (3) If—
- (a) a sentence of less than five years is supplemented by a period of imprisonment in accordance with [^{F2}section 80(2) of the 2000 Act], and
 - (b) the supplementary period relates to an earlier sentence of at least five years for a qualifying offence (within the meaning of section 3 above),
- the prisoner may make an application under section 3 in respect of the supplementary period and the application shall be granted if (and only if) the second and third conditions are satisfied.
- (4) References in this section to [^{F3}section 80(2) of the 2000 Act] include references to—
- (a) section 23(2) of the ^{M7}Prevention of Terrorism (Temporary Provisions) Act 1989, and
 - (b) section 15(2) of the ^{M8}Northern Ireland (Emergency Provisions) Act 1991 [^{F4}, and.
 - (c) section 16(2) of the ^{M9}Northern Ireland (Emergency Provisions) Act 1996.]

Textual Amendments

- F1** Words in s. 5(2) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 16(2)(a)**; S.I. 2001/421, **art. 2**
- F2** Words in s. 5(3)(a) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 16(2)(b)**; S.I. 2001/421, **art. 2**
- F3** Words in s. 5(4) substituted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 16(2)(c)**; S.I. 2001/421, **art. 2**
- F4** S. 5(4)(c) and word “and” preceding it inserted (19.2.2001) by 2000 c. 11, s. 125, **Sch. 15 para. 16(2)(d)**; S.I. 2001/421, **art. 2**

Marginal Citations

- M6** 1968 c. 29 (N.I.).
- M7** 1989 c. 4.

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M8 1991 c. 24.

M9 1996 c. 22

6 Life prisoners.

- (1) When Commissioners grant a declaration to a life prisoner in relation to a sentence they must specify a day which they believe marks the completion of about two thirds of the period which the prisoner would have been likely to spend in prison under the sentence.
- (2) The prisoner has a right to be released on licence (so far as that sentence is concerned) —
 - (a) on the day specified under subsection (1), or
 - (b) if that day falls on or before the day of the declaration, by the end of the day after the day of the declaration.
- (3) But if he would have a right to be released on or by the end of a listed day (within the meaning of section 4(3)) he has a right to be released on or by the end of the next non-listed day.

7 Life prisoners: specified dates.

- (1) The Secretary of State must inform the Commissioners of the length of time served by persons—
 - (a) sentenced in Northern Ireland to imprisonment for life, and
 - (b) released on licence after 1982 and before 1999.
- (2) In specifying a day under section 6(1) Commissioners must have regard to—
 - (a) information given under subsection (1) above, and
 - (b) previous decisions of Commissioners.
- (3) Before Commissioners specify a day under section 6(1) the Secretary of State may notify them of cases which he believes are particularly relevant in the prisoner's case; and the Commissioners may take the notification into account.

8 Revocation of declaration.

- (1) The Secretary of State shall apply to Commissioners to revoke a declaration under section 3(1) if, at any time before the prisoner is released under section 4 or 6, the Secretary of State believes—
 - (a) that as a result of an order under section 3(8), or a change in the prisoner's circumstances, an applicable condition in section 3 is not satisfied, or
 - (b) that evidence or information which was not available to the Commissioners when they granted the declaration suggests that an applicable condition in section 3 is not satisfied.
- (2) The Commissioners shall grant an application under this section if (and only if) the prisoner has not been released under section 4 or 6 and they believe—
 - (a) that as a result of an order under section 3(8), or a change in the prisoner's circumstances, an applicable condition in section 3 is not satisfied, or

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- (b) that evidence or information which was not available to them when they granted the declaration suggests that an applicable condition in section 3 is not satisfied.

9 Licences: conditions.

- (1) A person's licence under section 4 or 6 is subject only to the conditions—
 - (a) that he does not support a specified organisation (within the meaning of section 3),
 - (b) that he does not become concerned in the commission, preparation or instigation of acts of terrorism connected with the affairs of Northern Ireland, and
 - (c) in the case of a life prisoner, that he does not become a danger to the public.
- (2) The Secretary of State may suspend a licence under section 4 or 6 if he believes the person concerned has broken or is likely to break a condition imposed by this section.
- (3) Where a person's licence is suspended—
 - (a) he shall be detained in pursuance of his sentence and, if at large, shall be taken to be unlawfully at large, and
 - (b) Commissioners shall consider his case.
- (4) On consideration of a person's case—
 - (a) if the Commissioners think he has not broken and is not likely to break a condition imposed by this section, they shall confirm his licence, and
 - (b) otherwise, they shall revoke his licence.
- (5) Where a person's licence is confirmed—
 - (a) he has a right to be released (so far as the relevant sentence is concerned) by the end of the day after the day of confirmation, or
 - (b) if he is at large, he has a right (so far as the relevant sentence is concerned) to remain at large.
- (6) But if he would have a right to be released by the end of a listed day (within the meaning of section 4(3)) he has a right to be released by the end of the next non-listed day.
- (7) Detention during suspension of a licence shall not be made unlawful by the subsequent confirmation of the licence.

Modifications etc. (not altering text)

- C1** [S. 9](#): certain functions restricted from exercise in Scotland for specified purposes (30.6.1999) by art. 8(2), Sch. 4 para. 2(1)(2)

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

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

- s. 3(6A)(6B) inserted by [2023 c. 41 Sch. 12 para. 2\(2\)](#)
- s. 3(7A)(7B) inserted by [2023 c. 41 Sch. 12 para. 2\(4\)](#)
- s. 13A inserted by [2023 c. 41 Sch. 12 para. 4](#)
- Sch. 3 para. 2(A1)(A2) inserted by [2023 c. 41 Sch. 12 para. 3\(2\)](#)
- Sch. 3 para. 2(1A) inserted by [2023 c. 41 Sch. 12 para. 3\(4\)](#)