

NIPS Policy on Temporary Release during the Coronavirus (Covid 19) Public Health Emergency

Introduction

This document sets out the policy underpinning the Northern Ireland Prison Service's decision to use Prison Rule 27 (*Temporary release*) to manage the prison population during the 2020 public health emergency caused by the worldwide coronavirus (Covid-19) pandemic.

2. The Department of Justice has a discretionary power to release certain prisoners temporarily for any period or periods and subject to any conditions. This power is exercised by the Northern Ireland Prison Service (NIPS) on behalf of the Department. This rule applies to prisoners other than those remanded in custody by any court; those committed to custody for trial; or those committed to be sentenced or otherwise dealt with before or by the Crown Court.

3. A prisoner released under Rule 27 may be recalled to prison at any time whether the conditions of his release have been broken or not.

4. Public confidence in its actions is of paramount importance to NIPS. In developing this policy NIPS has therefore decided to limit those who can be released temporarily for the purpose outlined in paragraph 1 by excluding certain sentence types, certain offences and certain prisoners from being considered. NIPS considers this to be a measured and proportionate response to the current unprecedented pandemic created by coronavirus (Covid-19).

5. On this basis those excluded are:

- (i) a prisoner serving an extended custodial sentence, an indeterminate custodial sentence or a life sentence;
- (ii) a prisoner serving a sentence under a hospital order or transfer direction within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4);

- (iii) a sentence that engages the notification requirements of Part 2 of the Sexual Offences Act 2003;
- (iv) a prisoner who is liable to removal from the United Kingdom at sentence completion point;
- (v) a prisoner who has been recalled from licence during the currency of their sentence;
- (vi) a prisoner on a restricted transfer from another jurisdiction;
- (vi) a prisoner currently subject to management under public protection arrangements or judged to present a Risk of Serious Harm (RoSH); and
- (vi) a prisoner serving a sentence for an offence:
 - involving homicide, manslaughter or attempted murder – (including any offence which has contributed to or led to the death of an individual or individuals);
 - connected or related to terrorism¹;
 - involving the use or possession of explosives;
 - involving the possession or use of a firearm or use of an offensive weapon;
 - involving domestic violence² or cruelty; or
 - under the Harassment Order (Northern Ireland) 1997; or
 - perpetrated on the grounds of race, religion, sexual orientation, transphobia, sectarianism or disability.
- (vii) a prisoner recalled from any period of temporary release under Prison Rule 27³.

¹ See Annex A for list of relevant offences.

² Includes a prisoner serving a sentence for an offence involving threatening behaviour, domestic violence or cruelty in an intimate or close family relationship.

³ Amended on 11 April 2020.

6. Finally, and in order to ensure that a prisoner released temporarily has adequate support in the community and/or does not present a danger to themselves or others, a prisoner will only be released if NIPS is satisfied that:

- (i) they have immediate access to accommodation in the community; and
- (ii) they are not on NIPS's Supporting People at Risk (SPAR) Evolution programme (*CarePlan/SPAR Evo*) at the time they are temporarily released.

NIPS should not release a prisoner if there are reasonable grounds for believing they would, upon that release, be likely to present as homeless; or present a risk to their own wellbeing; or breach any other aspect of Public Health Agency guidance during their period of temporary release.

Conditions during the temporary release period

7. Prisoners released temporarily will be subject to the following conditions during any period of temporary release:

- You must not commit any offence;
- You must confine yourself to your accommodation from 7.00pm to 7.00 am;
- You are required at all times to comply fully with any advice and guidance issued by the Public Health Agency, the Department of Health, the Police Service of Northern Ireland and any other Government department or agency in relation to the current Covid 19 (coronavirus) pandemic;
- You must not have any contact, directly or indirectly with your victim(s). If you find yourself inadvertently in contact with them you must take every reasonable step to end that contact immediately;
- You must not consume alcohol;
- You must not enter premises licensed to sell alcohol;
- You must not consume any drug except a drug prescribed for your personal use and only then in the amount or quantity so prescribed;
- You must not engage in any social media platforms; and
- You must have no contact with any press/media organisations or outlets.

Final discharge during the Temporary Release Period

8. Those sentenced prisoners who will not be subject to a licence at their Earliest Date of Release will be treated as having been discharged if they are still on temporary release on that date.

9. Those prisoners who will reach their Custody Expiry Date during their period out of custody on temporary release will be given a post-dated licence under the terms of Article 17 of the Criminal Justice (NI) Order 2008 at the time they are released temporarily. In the anticipated absence of licensing panels during the ongoing public health emergency this licence will carry the standard conditions, as prescribed by the Criminal Justice (Sentencing) (Licence Conditions) (Northern Ireland) Rules 2009 and an additional condition, namely:

“Subject to any Government-sanctioned guidance or direction regarding restrictions on your movement, travel or association with others or any other Government-sanctioned guidance or direction which may impact on your ability to fulfil this condition, you must actively participate in any programme of work recommended by your probation officer, designed to reduce any risk you may present and to attend and co-operate in assessments by PBNi as to your suitability for programmes and other offence focused work. Once your probation officer has informed you that the current health emergency regarding coronavirus (Covid-19) and associated restrictions has ended, you will be expected to meet this condition fully, and as directed by your probation officer.”

10. The licence will also require each individual to make contact by telephone with the Probation Board for Northern Ireland on the date their Article 17 licence commences in order to discuss how their supervision is to be managed. Finally, the licence will make clear that additional licence conditions may be added following review at the end of the public health emergency period if the licence is still operative at that point.

Review

11. This policy will be kept under review and will close when the current public health emergency is declared at an end by the United Kingdom Government and the Northern Ireland Executive.

31 March 2020

Annex A

Terrorism Act 2000

- Section 11 (membership of a proscribed organisation)
- Section 12 (inviting or expressing support for terrorist organisations)
- Section 15 (fund-raising)
- Section 16 (use of money or property for terrorist purposes)
- Section 17 (involvement in terrorist funding arrangements)
- Section 17A (insuring payments made in response to terrorist threats)
- Section 18 (laundering of terrorist property)
- Section 19 (failure to disclose professional belief or suspicion about terrorist offences)
- Section 21A (failure in regulated sectors to disclose knowledge or suspicion about terrorist offences)
- Section 38B (failure to disclose information about acts of terrorism)
- Section 39 (disclosure of information prejudicial to a terrorist investigation etc.)
- Section 54 (weapons training)
- Section 56 (directing a terrorist organisation)
- Section 57 (possession of articles for terrorist purposes)
- Section 58 (collection, possession or viewing of information useful for terrorism)
- Section 58A (eliciting, publishing or communicating information about members of armed forces or police etc.)
- Section 58B
- Section 59 (inciting terrorism overseas, England and Wales)
- Section 60 (inciting terrorism overseas, Northern Ireland)
- Section 61 (inciting terrorism overseas, Scotland)

Anti-terrorism, Crime and Security Act 2001

- Section 50
- Section 67
- Section 79
- Section 113

Terrorism Act 2006

- Section 1
- Section 2
- Section 5
- Section 6
- Section 8
- Section 9
- Section 10
- Section 11

Counter-Terrorism Act 2008 – section 54

Terrorism Prevention and Investigation Measures Act 2011 – section 23

Counter-Terrorism and Security Act 2015 – section 10

Attempts, conspiracy, encouraging, assisting, inciting, aiding, abetting, counselling,
procuring commission of all the above

Legacy versions of the above

Manslaughter

Culpable homicide [Scot]

Kidnapping

Abduction [Scot]

Assault by explosive device [Scot]

Assault to severe injury [Scot]

Assault and poisoning [Scot]

Poisoning [Scot]

False Imprisonment [NI]

Offences Against the Person Act 1861

- Section 4
- Section 18
- Section 23
- Section 28
- Section 29
- Section 30

Explosive Substances Act 1883

- Section 2
- Section 3
- Section 4
- Section 5

Biological Weapons Act 1974 – section 1

Taking of Hostages Act 1982 – section 1

Aviation Security Act 1982

- Section 1
- Section 2
- Section 3
- Section 4
- Section 6(2)

Nuclear Material (Offences) Act 1983

- Section 1B
- Section 1C
- Section 2

Aviation and Maritime Security Act 1990

- Section 1
- Section 9
- Section 10
- Section 11
- Section 14(4)

Channel Tunnel (Security) Order 1994 SI1994/570 – Part 2
Chemical Weapons Act 1996

- Section 2
- Section 11

Anti-terrorism, Crime and Security Act 2001

- Section 47
- Section 114

Space Industry Act 2018, Schedule 4

- Paragraph 1
- Paragraph 2
- Paragraph 3
- Paragraph 4

Firearms (Northern Ireland) Order 2004 SI2004/702

- Article 58(1) (possession of firearm with intent to endanger life etc.)
- Article 60 (carrying a firearm with criminal intent)

Attempts, conspiracy, encouraging, assisting, inciting, aiding, abetting, counselling,
procuring commission of all the above.

Attempt, conspiracy, encouraging, assisting, inciting murder.