

COMBINATION ORDERS

Criminal Justice (NI) Order 1996

Description	Minimum Requirements	Permissible Duration/Conditions	Cases	Notes
<p>An order requiring D to be both: (a) under the supervision of a probation officer for a specified period and (b) perform unpaid work for a specified number of hours so specified.</p> <p>A combination order is a 'community order'. [Art.2(1)]</p>	<p>D must 16 years old or over.[Art.15(1)]</p> <p>The offence for which the D is being sentenced must be punishable with imprisonment. [Art.15(1)]</p> <p>The sentence for the offence must not be fixed by law (i.e. not a mandatory life sentence or a minimum custodial sentence under Article 70(2) of the Firearms (NI) Order 2004 or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006). [Art.15(1)]</p>	<p>The duration of the supervision element must not be less than 12 months nor more than 3 years. [Art.15(1)]</p> <p>The duration of the unpaid work element must not be less than 40 hours nor more than 100 hours aggregate. [Art.15(1)]</p> <p>(a) The order shall be such as in the opinion of the court is, or taken together are, the most suitable for the offender; and (b) The restrictions on liberty imposed by the order or orders shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it. [Art.8(2)]</p> <p>In forming any such opinion for (a) above, a court may take into account any information about the offender which is before it. In forming any such opinion for (b) above, a court shall take into account all such information about the circumstances of the offence (including any aggravating or mitigating factors) as is available to it. [Art.9(1)&(2)]</p> <p><i>Quaere</i> - Can be imposed at the same time as a fine, an order for costs, a compensation order, a forfeiture order, a restitution order or an order of disqualification.</p>	<p>Re Weatherall [1984] 19 NIJB 1 - Legitimate expectation</p> <p><i>R v Moss</i> [1983] 5 Crim App R(S) 209 - Legitimate expectation</p> <p><i>Thorpe v Griggs</i> (1984) 6 Cr App R(S) 286 - Service of order on D.</p> <p><i>R v Starie</i> (1979) 1 Cr App R(S) 172 - Should not impose community service order at same time as imprisonment or a suspended sentence.</p> <p><i>R v Fonteneau</i> [2001] 1 Cr App R(S) 15 - Imposing order when D is near end of custodial sentence.</p>	<p>Art.15(3) - Before making a combination order, the court shall-</p> <p style="padding-left: 40px;">(a) state in open court that it is of the opinion that Article 8(1) applies and why it is of that opinion; and (b) explain to the offender in ordinary language why it is making a combination order. (A magistrates' court is required to have such reasons entered in the Order Book. [Art.15(4)])</p> <p>Art.15(5) - A combination order is treated as if it were a probation order (so far as it imposes requirements to be under the supervision of a probation order) and as if it were a community service order (so far as it imposes requirements to perform unpaid work).</p> <p><i>Quaere</i> – Sch.13 to the Criminal Justice Act 1982 and Sch.3 to the Criminal Justice Act 1991 permit making a combination order where D resides in E&W or Scotland.</p>
<p><u>Textbooks</u></p> <p>Valentine, Folder 7, pg.33</p> <p>Allen & McAleenan, 1.221-1.232</p>	<p>Art.15(2) - The court must be of the opinion that the making of a combination order is desirable in the interests of-</p> <p style="padding-left: 20px;">(a) securing the rehabilitation of the offender; or (b) protecting the public from harm from him or preventing the commission by him of further offences.</p> <p>The court must be of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence. [Art.8(1)]</p> <p>The court must obtain and consider a PSR [Art.9(3)] unless, in the circumstances of the case, it is of the opinion that a PSR is unnecessary. Where the court does not obtain a PSR, it shall state in open court that it is of that opinion and what the circumstances are [Art.9(4)]. NB. Difference if D under 18 [Art.9(5)].</p>			