

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 1A(7) AND (8) OF THE PRISON ACT (NORTHERN IRELAND) 1953 (AS AMENDED BY THE NORTHERN IRELAND ACT 1998 (DEVOLUTION OF POLICING AND JUSTICE FUNCTIONS) ORDER 2010)

1. (1) Section 1A(7) of the Prison Act (Northern Ireland) 1953 (“the 1953 Act”) provides that the Secretary of State may from time to time, for purposes connected with any matter mentioned in section 1A(2) and after consultation with the Department of Justice (“the Department”), give a direction setting out arrangements under which officers of the Department (including persons appointed under section 2(2) of the 1953 Act) who have duties in relation to prisons or prisoners are to be treated as officers of the Secretary of State and subject to his direction and control accordingly; and the officers covered by the direction are to act accordingly.

(2) Section 1A(8) of the 1953 Act provides that the arrangements may (in particular) provide for officers to exercise functions of the Secretary of State.

(3) Article 46(5) of the Criminal Justice (Northern Ireland) Order 2008 (“the 2008 Order”) provides that arrangements under section 1A(7) of the 1953 Act may include arrangements for purposes connected with any of the Secretary of State's functions by virtue of –

- (a) the Life Sentences (Northern Ireland) Order 2001, or
- (b) Chapter 4 or 7 of Part 2 of the 2008 Order (including rules made under paragraph 4 or 4A of Schedule 4 to that Order).

(4) In accordance with section 1A(7) of the 1953 Act, the Secretary of State has consulted with the Department before giving this direction.

2 This direction is given by the Secretary of State under section 1A(7) and (8) of the 1953 Act. It sets out those arrangements that will have effect from 12 October 2011. It will cease to have effect at the end of 11 October

2012, unless, before then, it is revoked by a further direction. It should be read in conjunction with section 1A of the 1953 Act.

3. The direction is as set out below.

4. (1) The functions of the Secretary of State listed in sub-paragraph (2) are exercisable by officers of the Department (including persons appointed under section 2(2) of the 1953 Act) who have duties in relation to prisons and prisoners, subject to sub-paragraph (3), and, in exercising those functions or in considering whether to exercise those functions, those officers are to be treated as officers of the Secretary of State subject to his direction and control.

(2) The functions of the Secretary of State referred to in sub-paragraph (1) are those conferred or imposed on him by:

- (a) Prison rules;
- (b) The Life Sentences (Northern Ireland) Order 2001;
- (c) Chapter 4 of Part 2 of the 2008 Order; and
- (d) Chapter 7 of Part 2 of the 2008 Order (including rules made under paragraph 4 or 4A of Schedule 4 to that Order).

(3) Any function listed in sub-paragraph (2) shall be exercisable in accordance with this direction subject to any policy, principle or provision which provides for the office, rank, or position which must be held by an individual in order to exercise that function, or which restricts the circumstances in which that function may be exercised.

5. Any officer of the Department (including a person appointed under section 2(2) of the 1953 Act) who has duties in relation to prisons and prisoners is to be treated as an officer of the Secretary of State subject to his direction and control in any circumstances where, in the course of the officer's duties, the officer is carrying out any activity, or is otherwise dealing with any matter, mentioned in section 1A(2) of the 1953 Act.

6. In all other respects (in particular in relation to matters such as discipline and pay and allowances), officers to whom paragraph 4 or 5 applies will continue to be and be treated as officers of the Department.

7. (1) Protected information within the meaning of section 1A(2) of the 1953 Act which is held by an officer to whom paragraph 4 or 5 applies must not be further disclosed, except to another such officer, without the authority of the Secretary of State.

(2) The Secretary of State's function under section 1A(2) of the 1953 Act of forming an opinion for the purposes of the definition of "protected information" is exercisable by any such officer and, in exercising that function or in considering whether to exercise that function, the officer is to be treated as an officer of the Secretary of State subject to his direction and control.

(3) The reference in sub-paragraph (1) to the Secretary of State includes a person who may act on his behalf.

8. Nothing in this direction prevents functions of the Secretary of State being exercised otherwise than by officers of the Department.



[Minister of State]

Dated

30th September 2011