

## SUSPENDED SENTENCES (Imposition)

### Treatment of Offenders Act (NI) 1968

<u>Description</u>	<u>Minimum Requirements</u>	<u>Permissible Duration/Conditions</u>	<u>Cases</u>	<u>Notes</u>
<p>An order suspending a sentence of custody or detention in the YOC so that it shall not take effect unless D commits a further offence within the suspension period which is punishable with imprisonment.</p>	<p>The Court must first be satisfied that the offence requires a custodial sentence or detention in the YOC and, secondly, determine what length that sentence should be. Only then should it consider whether circumstances exist which would justify a suspension of the sentence.</p> <p><b>NB</b> - Section 18(1C) and (1D) are <u>not</u> yet in force (as at 31/7/10).</p>	<p>1. <u>Non-Serious Offences</u> - A court which passes a sentence of imprisonment (or detention in the YOC) of not more than 2 years for a non-serious offence may suspend the sentence for not less than 1 year or more than 3 years from the date of the order. [s.18(1)]</p> <p>2. <u>'Serious Offences'</u> - A court which passes a sentence of imprisonment (or detention in the YOC) of not more than 7 years for a 'serious offence' may suspend the sentence for not less than 1 year or more than 5 years from the date of the order. [s.18(1A)]</p> <p>s.18(1B) - "serious offence" means an offence for which a person aged 21 years or over may, on conviction on indictment, be sentenced to imprisonment for 5 years or more.</p> <p>s. 18(2) - Can not make a probation order for another offence at the same time as making a suspended sentence.</p> <p>A fine, compensation order, restitution order or forfeiture order can be imposed in addition to a suspended sentence.</p>	<p><i>AG's Ref (2 of 1993)</i> [1993] 5 NIJB 75 - General Principles</p> <p><i>AG's Ref (1&amp;2 of 1996)</i> [1996] NI 456 - General Principles</p> <p><i>R v CK (a minor)</i> [2009] NICA 17 - Juvenile Justice Centre Order can not be suspended.</p> <p><i>R v Genese</i> [1976] 1 WLR 958 - Fine can be imposed in addition to a suspended sentence.</p> <p><i>R v Coleman</i> [1969] 2 QB 468 - Suspension of consecutive sentences</p> <p><i>R v Campbell</i> (1993) 14 Cr App R(S) 401 - Imposing suspended sentence and a community service order at same time is bad sentencing practice.</p> <p><i>R v Sapiano</i> (1968) 52 Cr App R 674 - Imposing suspended sentence at same time as immediate custody is wrong in principle.</p> <p><i>R v Hamilton</i> [1985] 1 QB 148 - Activating suspended sentence during period of suspension period of another suspended sentence.</p> <p><i>R v Russell</i> [1986] 5 NIJB - The custodial term should not be increased simply because it is being suspended.</p> <p><i>R v Price</i> [1997] 9 BNIL 85 - Time on remand does not count if suspended sentence activated.</p>	<p>The court must explain to D in ordinary language his liability if during the operational period he commits an offence punishable with imprisonment. [s.18(3)]</p> <p>For the purposes of other enactments, a suspended sentence is deemed to be a sentence of imprisonment (subject to express exceptions). [Art.18(5)]</p>
<p style="text-align: center;"><b><u>Textbooks</u></b></p> <p>Blackstone (2010), E6.1-6.7</p> <p>Valentine, Folder 7, Pg.17</p> <p>Allen &amp; McAleenan, 2.78-2.111</p>				