



# Prison Act (Northern Ireland) 1953

## 1953 CHAPTER 18

### ADMINISTRATIVE PROVISIONS

#### **1 Functions of the Ministry in relation to prisons and prisoners.**

- (1) The Ministry of Home Affairs<sup>F1</sup> (in this Act referred to as “the Ministry”) shall be the authority responsible for providing and maintaining prisons and for the general regulation, direction and superintendence of prisons and prisoners.
- (2) Without prejudice to the foregoing sub-section, the Ministry shall continue to exercise and perform, subject to the provisions of this Act, all such powers, jurisdiction and duties as were heretofore exercised and performed by the Ministry in relation to prisons and prisoners.

**F1** Functions transf. to S of S, SI 1973/2163

VALID FROM 12/04/2010

#### **[<sup>F2</sup>1A Powers of the Secretary of State**

- (1) For purposes connected with any matter mentioned in subsection (2), the Secretary of State may continue to exercise the functions (except functions under prison rules) which the Secretary of State had by virtue of this Act immediately before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (notwithstanding the transfer of those functions to the Department by virtue of that Order).
- (2) The matters are—

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- (a) activities regulated by, or otherwise relating to the subject matter of, Parts 1 to 3 of the Regulation of Investigatory Powers Act 2000<sup>F3</sup>, including (in particular) in relation to information obtained through any such activities—
  - (i) the taking of decisions on the basis of the information;
  - (ii) the controlling of access to the information;
  - (iii) the holding and use of the information (so far as not covered by sub-paragraphs (i) and (ii));
- (b) where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for, decisions about whether a prisoner is to be so accommodated or is to cease to be so accommodated, including (in particular) the setting of any criteria upon which such decisions are to be based;
- (c) national security, including (in particular)—
  - (i) the taking of decisions on the basis of protected information;
  - (ii) the controlling of access to protected information;
  - (iii) the holding and use of protected information (so far as not covered by sub-paragraphs (i) and (ii)).

“Protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.

- (3) In particular, the Secretary of State may continue to make prison rules.
- (4) The Department must exercise its functions subject to any thing done by the Secretary of State under subsection (1) and, in particular, prison rules made by the Department have effect subject to prison rules made by the Secretary of State.
- (5) Before making prison rules the Secretary of State or the Department (as the case may be) must consult the other.
- (6) Prison rules may, in particular, confer or impose functions on the Secretary of State.
- (7) The Secretary of State may from time to time, for purposes connected with any matter mentioned in subsection (2) and after consultation with the Department, give a direction setting out arrangements under which officers of the Department (including persons appointed under section 2(2)) who have duties in relation to prisons or prisoners are (so far as provided by, and in accordance with, the arrangements) to be treated as officers of the Secretary of State (rather than of the Department) and subject to his direction and control accordingly; and the officers covered by the direction are to act accordingly.
- (8) The arrangements may (in particular) provide for officers to exercise functions of the Secretary of State.]

**F2** S. 1A inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(1), **Sch. 4 para. 3** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**F3** 2000 c. 23.

**Modifications etc. (not altering text)**

**C1** S. 1A(7) modified by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), art. 46(5) (as inserted (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice](#)

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- Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 29(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)
- C2** S. 1A(8) modified by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), art. 46(5) (as inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 6(2), **Sch. 5 para. 29(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**)

## 2 Administrative powers of the Ministry.

- (1) The Ministry shall have and may exercise all such powers as appear to it to be necessary for the proper administration and maintenance of any prison including the equipment, provisioning and supply thereof and the making of and giving effect to arrangements for the welfare, employment and training of prisoners.
- (2) The Ministry shall appoint the governors <sup>F4</sup>. . . and such other officers and staff as appear to it to be necessary.
- (3) The numbers, remuneration and conditions of service of persons so appointed shall be determined by the Ministry with the approval of the Ministry of Finance<sup>F5</sup>.
- (4) The Ministry may, with the approval of the Ministry of Finance<sup>F6</sup>, enlarge, rebuild, repair or alter any prison and build new prisons.
- (5) Where it appears to the Ministry to be necessary or expedient for the purpose of this Act that any land should be acquired, the Ministry may, with the approval of the Ministry of Finance<sup>F6</sup>, acquire by agreement that land and any easement or right in or over any land adjacent thereto.
- (6) The Ministry, with the approval of the Ministry of Finance<sup>F6</sup>, may use, appropriate or dispose of in whatsoever manner it may think fit any premises which have ceased to be used as a prison.

**F4** Words in s. 2(2) repealed (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 73, 102(2), **Sch. 6 Pt. 3**; S.R. 2008/293, **art. 2**, Sch.

**F5** Now Minister for Civil Service, SI 1973/2163

**F6** Now Treasury, SI 1973/2163

## 3 <sup>F7</sup> Lock-ups.

Where it appears to the Ministry to be necessary, the Ministry may provide and maintain suitable accommodation for the temporary detention of persons awaiting trial or sentence.

**F7** S of S is resp.auth. for Belfast and Londonderry, 1954 c.9 (NI)

## 4 Address of prison.

A writ, warrant or other legal instrument delivered to the governor of a prison and identifying that prison by its situation or by any other sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.

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## 5 Annual report.

- (1) The Ministry shall prepare an annual report on the administration of this Act and the Minister of Home Affairs<sup>F8</sup> (in this Act referred to as “the Minister”) shall lay the report before [<sup>F9</sup> the Parliament of the United Kingdom].
- (2) Each annual report shall contain—
  - (a) a statement of the condition of prisons and prisoners;
  - (b) a statement of the accommodation of each prison and the daily average and the highest number of prisoners contained therein;
  - (c) such particulars of the work done by prisoners in each prison, including the kind and quantities of articles produced and the number of prisoners employed, as may in the opinion of the Minister give the best information to Parliament;
  - (d) a statement of the punishments inflicted in each prison and of the offences for which they were inflicted ...<sup>F10</sup>

**F8** Functions transf. to S of S, SI 1973/2163

**F9** SI 1973/2163

**F10** 1976 NI 4

## 6 Duty of governor to deliver calendar of prisoners.

The governor of every prison in which persons committed for trial before [<sup>F11</sup> the Crown Court] are confined shall deliver to that court a calendar of those persons.

**F11** 1978 c. 23

*S. 7 rep. by 2005 c. 12*

## 8 Powers of prison officers.

Every officer of a prison shall while acting as such have all the powers, authority, protection and privileges of a constable.

## 9 Religious ministrations.

- (1) Where in any prison the number of prisoners who belong to any religious denomination is such as in the opinion of the Minister to require the appointment of a minister of that denomination, the Minister may appoint such a minister to that prison.
- (2) The Ministry may allow a minister of any denomination to visit prisoners of his denomination in a prison to which no minister of that denomination has been appointed under this section.
- (3) No prisoner shall be visited against his will by a minister.
- (4) Every prisoner shall be allowed, in accordance with the arrangements in force in the prison in which he is confined, to attend religious services held therein or to be visited by a minister of his denomination appointed to or permitted to visit prisoners under this section.

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- (5) The governor of a prison shall on the reception of each prisoner record the religious denomination, if any, to which the prisoner declared himself to belong and shall give to any minister who is appointed or permitted to visit prisoners under this section a list of the prisoners who have declared themselves to belong to his denomination; and a minister shall not be permitted to visit any other prisoners except with the permission of the governor at the special request of the prisoner concerned.
- (6) There may be paid to ministers appointed to or permitted to visit prisons under this section such remuneration as the Ministry with the approval of the Ministry of Finance<sup>F12</sup> may think reasonable.

**F12** Now Minister for Civil Service, SI 1973/2163

### [<sup>F13</sup>10 Independent monitoring boards

- (1) The Secretary of State shall appoint a group of independent monitors (to be known as “the independent monitoring board”) for each prison, young offenders centre and remand centre.
- (2) In the case of a prison used as a women's prison, at least two of the monitors appointed shall be women.]

**F13** 2005 NI 15

*S. 11 rep. by 1980 NI 10*

## 12 Ejectment warrants in respect of official accommodation.

- (1) Where any living accommodation is provided for a prison officer or his family by virtue of his office, then, if he ceases to be a prison officer or is suspended from office or dies, he, or, as the case may be, his family, shall quit the accommodation when required to do so by notice of the Ministry.
- (2) Where a prison officer or the family of a prison officer refuses or neglects to quit the accommodation forty-eight hours after the giving of such a notice as aforesaid, any resident magistrate, on proof made to him of the facts authorising the giving of the notice and of the service of the notice and of the neglect or refusal to comply therewith may by warrant direct the under-sheriff for the county in which the accommodation is situated, within a period specified in the warrant, to enter, by force if necessary, into the accommodation and deliver possession of it to the Ministry or any person appointed by the Ministry.

## RULES

### 13<sup>F14</sup> Rules for the management of prisons.

- (1) Subject to the provisions of this Act the Ministry may make rules to be styled “prison rules” for—
  - (a) the administration, regulation and management of prisons;

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- (b) the classification, segregation, accommodation, maintenance, clothing, treatment, training, employment, discipline, punishment and control of persons required to be detained in prisons;
  - (c) the temporary release, with or without suspension of the currency of the sentence, of persons serving a sentence of imprisonment; ...<sup>F15</sup> [<sup>F16</sup>, or a person ordered to be detained in a young offenders centre];
  - (d) the photographing, measuring [<sup>F16</sup>, palm-printing] and finger-printing of persons sentenced to be detained in prisons;
  - (e) the conduct, duty and discipline of the staff of prisons;
  - [<sup>F17</sup>(f) the functions of independent monitoring boards;]
- and different prison rules may be made for different prisons or classes of prisons.
- (2) Prison rules shall make provision for ensuring that a person who is charged with any offence under the rules shall be given an opportunity of answering the charge.
  - (3) Prison rules may provide for the training of particular classes of persons.
  - (4) Prison rules shall provide for the special treatment of the following persons while required to be detained in a prison, that is to say—
    - Paras. (a)(b) rep. by 1968 c. 29 (NI); para. (c) rep. by 1980 NI 10; para. (d) rep. by 1968 c. 29 (NI)*
    - (e) any ...<sup>F18</sup> person detained in a prison, not being a person serving a sentence or a person imprisoned in default of payment of a sum adjudged to be paid by him on his conviction [<sup>F16</sup> or a person committed to custody on his conviction].
      - Subs. (5) rep. by 1968 c. 29 (NI)*
      - Subs. (6) rep. by 2005 NI 15*
  - (7) Prison rules may make provision whereby a person serving such a sentence or for such a term as may be prescribed by the rules, may, on the ground of his ...<sup>F19</sup> good conduct, be granted remission of such part of that sentence or term as may be so prescribed; and on the discharge of a person from a prison in pursuance of any such remission his sentence shall expire.
  - (8) A copy of the relevant prison rules shall be posted in a conspicuous place in every prison.
  - (9) The Ministry may by prison rules make provision for any other matter which appears to the Ministry to be necessary or expedient for the purpose of carrying this Act into effect.

**F14** 1968 c. 20

**F15** 1968 c. 29 (NI); 1980 NI 10

**F16** 1968 c. 29 (NI)

**F17** 2005 NI 15

**F18** 1980 NI 10

**F19** 1976 NI 4

*S. 14 rep. by 1968 c. 29 (NI); 1976 NI 4*

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## CONFINEMENT AND TREATMENT OF PRISONERS

### 15 Place of confinement of prisoners.

- (1) A prisoner sentenced by any court or committed to a prison on remand or pending trial or otherwise may, notwithstanding anything to the contrary in any other enactment, be lawfully confined in any prison provided or maintained by the Ministry.
- (2) Prisoners shall be committed to such prison as the Ministry may from time to time direct; and may during the term of their imprisonment be removed, by direction of the Ministry, from the prison in which they are confined to any other prison.

### [<sup>F20</sup> 15A Detention in the custody of a constable where admission to prison not practicable

Where—

- (a) a person is in the custody of a constable;
- (b) it is the duty of the constable to take that person to a prison in which his detention is authorised by law; and
- (c) it is for any reason not practicable to secure the admission of that person to that prison,

that person may lawfully be detained in the custody of a constable until such time as he can be admitted to that prison or is required to appear before a court.]

**F20** 2004 NI 5

### 16 <sup>F21</sup> Removal of prisoners for judicial and other purposes.

- (1) The Ministry may, if it is satisfied that the attendance at any place of a person detained in a prison is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place.
- (2) The Ministry may, if it is satisfied that a person so detained requires [<sup>F22</sup> medical investigation or observation or] medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purposes of the [<sup>F22</sup> investigation, observation or] treatment.
- (3) Where any person is directed under this section to be taken to any place he shall, unless the Ministry otherwise directs, be deemed to be in custody while being so taken, while at that place, and while being taken back to the prison in which he is required in accordance with law to be detained.
- (4) A person taken from a prison for [<sup>F22</sup> medical investigation or observation or] medical or surgical treatment under sub-section (2) of this section may by direction of the Ministry, but not otherwise, be discharged on the expiration of his sentence without necessitating his return to prison.
- (5) In this section “hospital” has the same meaning as in the Health Services Act (Northern Ireland), 1948 <sup>F23</sup>.

*Subs. (6) rep. in pt. by 1961 c. 15 (NI), residue spent*



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- F21** 1980 NI 3  
**F22** 1986 NI 15  
**F23** 1971 c. 1 (NI), see now 1972 NI 14

*S. 17 rep. by 1980 NI 10*

## 18 Lawful custody of prisoner.

- (1) Every prisoner sentenced by any court to imprisonment ...<sup>F24</sup> [<sup>F25</sup>, or ordered to be detained in a young offenders centre] or committed to a prison on remand or pending trial or sentence or otherwise shall be deemed to be in the lawful custody of the governor of the prison in which he is detained.
- (2) A prisoner shall be deemed to be in lawful custody while he is confined in, or is being taken to or from, any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of an officer of the prison or while he is temporarily detained, pending trial or sentence, in any lock-up [<sup>F26</sup> and while he is being taken to any place to which he is required or authorised by or under this Act or the Treatment of Offenders Act (Northern Ireland) 1968 to be taken, or is kept in custody subject to and in accordance with any such requirement or authorisation].

- F24** 1968 c. 29 (NI); 1980 NI 10  
**F25** 1968 c. 29 (NI)  
**F26** 1968 c. 29 (NI)

## 19 Right of justice of the peace to visit prisons.

<sup>F27</sup> .....

- F27** S. 19 repealed (16.7.2008) by Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), arts. 1(4), 74, 102(2), Sch. 6 Pt. 3; S.R. 2008/293, art. 2, Sch.

## [<sup>F28</sup>19A Testing prisoners for alcohol

- (1) If an authorisation is in force for the prison, any designated prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has alcohol in his body.
- (2) If the authorisation so provides, the power conferred by subsection (1) shall include power—
- (a) to require a prisoner to provide a sample of breath, whether instead of or in addition to a sample of urine, and
  - (b) to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine, a sample of breath or both.
- (3) In this section—  
 “authorisation” means an authorisation by the Secretary of State;



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“intimate sample” has the same meaning as in Part VI of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12);

“designated prison officer”, in relation to any prison, means a person appointed under section 2(2) who has been designated for the purposes of this section by the governor of the prison.]

F28 2004 NI 5

### [<sup>F29</sup>19B Testing prisoners for drugs

- (1) If an authorisation is in force for the prison, any designated prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has any drug in his body.
- (2) If the authorisation so provides, the power conferred by subsection (1) shall include power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine.

(3) In this section—

“authorisation” means an authorisation by the Secretary of State;

“drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971 (c. 38);

“intimate sample” has the same meaning as in Part VI of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12);

“designated prison officer”, in relation to a prison, means a person appointed under section 2(2) who has been designated for the purposes of this section by the governor of the prison.]

F29 2004 NI 5

## RELEASE ON LICENCE, SUPERVISION AND TEMPORARY DISCHARGE

*S. 20 rep. by 1968 c. 29 (NI)*

*S. 21 rep. by 1980 NI 10*

*S. 22 rep. by 1968 c. 29 (NI)*

*S. 23 rep. by 2001 NI 2*

### 24 Temporary discharge of prisoners on account of ill-health.

- (1) If the Minister is satisfied that by reason of the condition of a prisoner's health it is undesirable to detain him in prison, but that, such condition of health being due in whole or in part to the prisoner's own conduct in prison, it is desirable that his release should be temporary and conditional only, the Minister may, if he thinks fit, having regard to all the circumstances of the case, by order authorise the temporary discharge

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of the prisoner for such period and subject to such conditions as may be stated in the order.

- (2) Where an order of temporary discharge is made in the case of a prisoner not under sentence, the order shall contain conditions requiring the attendance of the prisoner at any further proceedings in his case at which his presence may be required.
- (3) Any prisoner discharged under this section shall comply with any conditions stated in the order of temporary discharge, and shall return to prison at the expiration of the period stated in the order, or of such extended period as may be fixed by any subsequent order of the Minister, and if the prisoner fails so to comply or return, he may be arrested without warrant and taken back to prison.
- (4) Where a prisoner under sentence is discharged in pursuance of an order of temporary discharge, the currency of the sentence shall be suspended from the day on which he is discharged from prison under the order to the day on which he is received back into prison, so that the former day shall be reckoned and the latter shall not be reckoned as part of the sentence.
- (5) Nothing in this section shall affect the duties of the medical officer of a prison in respect of a prisoner whom the Minister does not think fit to discharge under this section.

## OFFENCES

### 25 Being unlawfully at large while under sentence.

Every person who, having been sentenced to imprisonment, ...<sup>F30</sup> [<sup>F31</sup> or ordered to be detained in a young offenders centre] is afterwards, and before the expiration of the term for which he was so sentenced, at large without some lawful excuse, the proof whereof shall lie on him, shall be guilty of an offence and shall on conviction thereof on indictment be liable to imprisonment for a term not exceeding two years.

**F30** 1968 c. 29 (NI); 1980 NI 10

**F31** 1968 c. 29 (NI)

### 26 Escapes, etc.

Every person who—

- (a) having been convicted of an offence, escapes from any lawful custody, whether in prison or not, in which he may be under such conviction; or
- (b) whether convicted or not, escapes from any prison or lock-up in which he is lawfully confined; or
- (c) being in any lawful custody otherwise than as aforesaid escapes from such custody;<sup>F32</sup> . . .

*Para.(d) rep. by 2004 c.4*

shall be guilty of felony and shall on conviction thereof on indictment be liable to imprisonment for a term not exceeding three years.

F32 2004 c.4

## 27 Attempts to break prison.

Every person who attempts to break prison or who forcibly breaks out of any cell or other place within any prison wherein he is lawfully detained or makes any breach therein with intent to escape shall be guilty of felony and shall on conviction thereof on indictment be liable to imprisonment for a term not exceeding five years.

## 28 Prison breach.

Every person who, by force or violence, breaks any prison with intent to set at liberty himself or any person lawfully confined or awaiting execution therein shall be guilty of felony and shall on conviction thereof on indictment be liable to imprisonment for a term not exceeding seven years.

## [<sup>F33</sup>29 Assisting or permitting a person to escape from lawful custody

- (1) A person who assists any person in escaping or attempting to escape from lawful custody, whether in prison or not, is guilty of an offence.
- (2) A person who—
  - (a) is an officer of a prison in which a person is lawfully confined, or
  - (b) is a constable having a person in his lawful custody, whether in prison or not,is guilty of an offence if he voluntarily and intentionally permits that person to escape.
- (3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.]

F33 S. 29 substituted (19.12.2008) for ss. 29, 30 by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 75; S.R. 2008/472, art. 2(2), Sch. Pt. II

## 31 Other offences in connection with escape.

Every person who, by failing to perform any legal or official duty, permits any person in his lawful custody on a criminal charge or any prisoner in his lawful custody to escape therefrom shall be guilty of an offence and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months or to a fine not exceeding [<sup>F37</sup> level 2 on the standard scale] or to both such imprisonment and such fine.

F37 1984 NI 3

## 32 Causing discharge of prisoner under pretended authority.

- (1) Every person who knowingly and unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged shall

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be guilty of an offence and shall on conviction thereof on indictment be liable to imprisonment for a term not exceeding five years.

(2) Any prisoner so discharged shall be deemed to have escaped.

### [<sup>F38</sup>33 Facilitating escape by conveying things into prison

- (1) Any person who with intent to facilitate the escape of a prisoner—
- (a) brings, throws or otherwise conveys anything into a prison,
  - (b) causes another person to bring, throw or otherwise convey anything into a prison, or
  - (c) gives anything to a prisoner or leaves anything in any place (whether inside or outside a prison),

is guilty of an offence

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years.]

**F38** S. 33 substituted (19.12.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 76; S.R. 2008/472, art. 2(2), Sch. Pt. II

### [<sup>F39</sup>34 Sections 34A and 34B: classification of articles

(1) This section defines the categories of articles which are referred to in sections 34A and 34B.

(2) A List A article is any article or substance in the following list (“List A”)—

- (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971 (c. 38));
- (b) an explosive;
- (c) any firearm or ammunition (as defined in Article 2(2) of the Firearms (Northern Ireland) Order 2004 (NI 3));
- (d) any other offensive weapon (as defined in Article 3(10) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)).

(3) A List B article is any article or substance in the following list (“List B”)—

- (a) intoxicating liquor (as defined for the purposes of the Licensing (Northern Ireland) Order 1996 (NI 22));
- (b) a mobile or satellite telephone;
- (c) a camera;
- (d) a sound-recording device.

(4) In List B—

“camera” includes any device by means of which a photograph (as defined in section 34C) can be produced;

“sound-recording device” includes any device by means of which a sound-recording (as defined in section 34C) can be made.

(5) The reference in paragraph (b), (c) or (d) of list B to a device of any description includes a reference to —

- (a) a component part of a device of that description;

- (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).
- (6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.
- (7) The Secretary of State may by order amend this section for the purpose of
  - (a) adding an entry to List A or List B;
  - (b) repealing or modifying any entry for the time being included in List A or List B;
  - (c) adding, repealing or modifying any provision for the interpretation of any such entry.
- (8) An order made under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.]

**F39** Ss. 34, 34A, 34B substituted (19.12.2008) for ss. 34, 35 by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 77; S.R. 2008/472, [art. 2\(2\)](#), Sch. Pt. II

#### [<sup>F40</sup>34A Conveyance etc. of List A articles into or out of prison

- (1) A person who, without authorisation—
  - (a) brings, throws or otherwise conveys a List A article into or out of a prison,
  - (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
  - (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (d) knowing a person to be a prisoner, gives a List A article to him,
 is guilty of an offence.
- (2) In this section “authorisation” means authorisation given for the purposes of this section—
  - (a) in relation to all prisons or prisons of a specified description, by prison rules or the Secretary of State; or
  - (b) in relation to a particular prison, by the Secretary of State or by the governor of the prison.
- (3) Authorisation may be given to specified persons or persons of a specified description—
  - (a) in relation to specified articles or articles of a specified description;
  - (b) in relation to specified acts or acts of a specified description; or
  - (c) on such other terms as may be specified.
 In this subsection “specified” means specified in the authorisation.
- (4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.
- (5) Authorisation given by the governor of a prison shall—
  - (a) be given in writing; and

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(b) specify the purpose for which it is given.

(6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine (or both)]

**F40** Ss. 34, 34A, 34B substituted (19.12.2008) for ss. 34, 35 by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 77; S.R. 2008/472, [art. 2\(2\)](#), Sch. Pt. II

### [<sup>F41</sup>34B Conveyance etc. of List B or C articles into or out of prison

(1) A person who, without authorisation—

- (a) brings, throws or otherwise conveys a List B article into or out of a prison,
- (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
- (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
- (d) knowing a person to be a prisoner, gives a List B article to him,

is guilty of an offence.

(2) A person who, without authorisation—

- (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
- (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,
- (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
- (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
- (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
- (f) while inside a prison, gives a List C article to a prisoner,

is guilty of an offence.

(3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.

(4) In proceedings for an offence under this section it is a defence for the accused to show that—

- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
- (b) in all the circumstances there was an overriding public interest which justified the doing of that act.

(5) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both).

(6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (6) to (8) of section 34C apply in relation to authorisations so given as they apply to authorisations given for the purposes of that section.]

**F41** Ss. 34, 34A, 34B substituted (19.12.2008) for ss. 34, 35 by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), 77; S.R. 2008/472, [art. 2\(2\)](#), Sch. Pt. II

### [<sup>F42</sup>34C Other offences relating to prison security

- (1) A person who, without authorisation—
- (a) takes a photograph, or makes a sound-recording, inside a prison, or
  - (b) transmits, or causes to be transmitted, any image or any sound from inside a prison by electronic communications for simultaneous reception outside the prison,
- is guilty of an offence.
- (2) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.
- (3) A person who, without authorisation—
- (a) brings or otherwise conveys a restricted document out of a prison or causes such a document to be brought or conveyed out of a prison, or
  - (b) transmits, or causes to be transmitted, a restricted document (or any information derived from a restricted document) from inside a prison by means of electronic communications,
- is guilty of an offence.
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
  - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both); or
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both).
- (6) In this section “authorisation” means authorisation given for the purposes of this section—
- (a) in relation to all prisons or prisons of a description specified in the authorisation, by prison rules or by the Secretary of State;
  - (b) in relation to a particular prison—
    - (i) by the Secretary of State
    - (ii) by the governor of the prison;
    - (iii) by a person working at the prison who is authorised by the governor to grant authorisation on his behalf.
- (7) Authorisation may be given—



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(a) to persons generally or to specified persons or persons of a specified description; and

(b) on such terms as may be specified.

In this subsection “specified” means specified in the authorisation.

(8) Authorisation given by or on behalf of the governor of a prison must be in writing.

(9) In this section “restricted document” means the whole (or any part of)—

(a) a photograph taken inside the prison;

(b) a sound-recording made inside the prison;

(c) a personal record (or a document containing information derived from a personal record);

(d) any other document which contains—

(i) information relating to an identified or identifiable relevant individual, if the disclosure of that information would or might prejudicially affect the interests of that individual; or

(ii) information relating to any matter connected with the prison or its operation, if the disclosure of that information would or might prejudicially affect the security or operation of the prison.

(10) In subsection (9)—

“personal record” means any record which is required by prison rules to be prepared and maintained in relation to any prisoner (and it is immaterial whether or not the individual concerned is still a prisoner at the time of any alleged offence);

“relevant individual” means an individual who is or has at any time been—

(a) a prisoner or a person working at the prison; or

(b) a member of such a person's family or household.

(11) In this section—

“document” means anything in which information is recorded (by whatever means);

“electronic communications” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001 (c. 9);

“photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced; and

“sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.]

**F42** S. 34C inserted (19.12.2008) by [Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216 \(N.I. 1\)\)](#), arts. 1(4), **78**; [S.R. 2008/472](#), **art. 2(2)**, Sch. Pt. II

## 36 Evidence in prosecution for escape, etc.

In any prosecution (whether under this Act or otherwise) for any escape, attempt to escape, rescue or attempt to rescue of any prisoner, either against the prisoner himself or against any person concerned therein, or aiding, abetting or assisting the prisoner, or for any other offence arising in relation to any prisoner, a certificate given by the clerk

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of the court<sup>F45</sup> in which the prisoner was sentenced or was remanded in custody shall, together with proof of the identity of the prisoner, be sufficient evidence of the nature and fact of conviction or remand, as the case may be, and of the period of confinement to which such prisoner was sentenced or remanded.

F45 1978 c. 23

### 37 **Restriction on prosecutions.**

If any person is charged with any offence under this Act ...<sup>F46</sup> further proceedings on such a charge shall not be taken against him without the consent of the Attorney-General for Northern Ireland.

F46 1975 c. 59

## MISCELLANEOUS

### 38<sup>F47</sup> **Arrest, etc., of persons unlawfully at large.**

- (1)<sup>F48</sup> A constable or a prison officer may arrest without warrant any person—
- (a) whom he reasonably suspects of having committed, or attempted to commit, any offence against this Act; or
  - (b) whom he reasonably suspects of being unlawfully at large;
- and convey him before a justice of the peace to be dealt with according to law, or take him to the place in which he is required by law to be detained.
- (2)<sup>F49</sup> Where any person sentenced to imprisonment, ...<sup>F50</sup> [<sup>F51</sup> or ordered to be detained in a young offenders centre] is unlawfully at large at any time during the period for which he is liable to be detained in pursuance of the sentence, then, unless the Minister otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained, of the time during which he is absent from prison.
- (3) The provisions of the last foregoing sub-section shall not apply to any period during which any such person is detained in pursuance of any other sentence of any court [<sup>F52</sup> in the United Kingdom] in a prison or other institution, but shall apply in addition to any other provisions of this Act imposing any punishment for an escape.
- (4) The provisions of the last foregoing sub-section shall apply to a person who is detained in custody in default of payment of any sum of money as if he were sentenced to imprisonment.
- (5) For the purposes of this section a person who, after being temporarily released in pursuance of prison rules, is at large at any time during the period for which he is liable to be detained in pursuance of his sentence, shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made by the Minister in pursuance of the rules.

F47 1957 c. 53

F48 1961 c. 39

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**F49** 1961 c. 15 (NI); 1967 c. 80  
**F50** 1968 c. 29 (NI); 1980 NI 10  
**F51** 1968 c. 29 (NI)  
**F52** 1961 c. 39

### **39**<sup>F53</sup> **Notification of an inquiry into death of prisoner.**

- (1) In the event of the death of a prisoner, the governor of a prison shall give immediate notice thereof to the coroner within whose area the prison is situated, and to the<sup>F54</sup> independent monitoring board], and, where practicable, to the nearest relative of the prisoner.
- (2) The coroner shall hold an inquest into the cause of death of any prisoner in a prison within his area, and, where practicable, sufficient time between the death and the holding of the inquest shall intervene to allow the attendance of the next-of-kin of the prisoner.
- (3) No prison officer nor any person who is engaged in any sort of trade or dealing with a prison shall be a juror on such inquest.

**F53** 1955 c. 18; 1955 c. 19; 1959 c. 15 (NI)  
**F54** 2005 NI 15

#### **Modifications etc. (not altering text)**

**C3** S. 39(3) applied (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Coroners Act \(Northern Ireland\) 1959 \(c. 15\)](#), s. 18(4) (as added by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 44** (with s. 385); S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**)

*S. 40 rep. by 2004 NI 5*

### **[**<sup>F55</sup>**41** **Re-settlement etc., of persons convicted of offences.**

- (1) The Secretary of State may make and give effect to such schemes as he may think expedient for the supervision or assistance of persons serving a sentence of imprisonment or detained in a young offenders centre with a view to their resettlement and rehabilitation.
- (2) The Secretary of State may make grants towards the expenditure of any society which is engaged in assisting persons convicted of offences with a view to their resettlement and rehabilitation.]

**F55** 1982 NI 10

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## SUPPLEMENTAL

### 42<sup>F56</sup> Laying of prison rules.

Prison rules shall be laid before each House of Parliament as soon as may be after they are made and if either such House, within the statutory period next after the day on which such rules are laid before it, resolves that the rules be annulled, the rules shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of new rules.

**F56** Rules are subject to annulment by Parl. of UK, SI 1973/2163

### 43 Financial provisions.

Expenses incurred by the Ministry with the approval of the Ministry of Finance<sup>F57</sup> under or for the purposes of this Act shall be defrayed out of moneys provided by [<sup>F58</sup> the Parliament of the United Kingdom].

**F57** Now Treasury, SI 1973/2163

**F58** SI 1973/2163

*S. 44 rep. by 1980 NI 10*

### 45 Adaptation of statutory references to former places of detention.

Wherever any one or more than one of the following expressions, that is to say:—

house of correction, the city marshalsea, bridewell, district bridewell, sheriff's prison, penitentiary house, gaol, county gaol, common gaol, convict prison,

occurs or occur in any enactment in relation to the detention or punishment of any person, the word “prison” shall be substituted therefor, but, if in the said enactment the word “prison” is already used in conjunction with or as an alternative to any of the said expressions, that expression shall be omitted from the said enactment.

### 46 Provisions as to capital punishment.

*Subs. (1) (2) rep. by SR 1982/192; subs. (3) rep. in pt. by SLR 1973; SI 1973/2163, residue amends 1868 c. 24*

### 47 Interpretation.

(1) For the purposes of this Act, unless the contrary intention appears, the following expressions have the meaning hereby respectively assigned to them, that is to say—

“governor” includes the person for the time being in charge of any prison;

“intoxicating liquor” includes any fermented, distilled or spirituous liquor which under the law for the time being in force is subject to an excise duty;

“land” includes land covered by water and any estate or interest in land;

“Minister” means the Minister of Home Affairs<sup>F59</sup> for Northern Ireland;

“Ministry” means the Ministry of Home Affairs<sup>F59</sup> for Northern Ireland;

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*Definition rep. by 1989 NI 15*

“prisoner” includes any person lawfully committed to any prison.

[<sup>F60</sup>(1A) In this Act “prison” includes any prison or other institution for the treatment of offenders, not being—

- (a) a young offenders centre;
- (b) a remand centre; [<sup>F61</sup> or]
- (c) a juvenile justice centre]

but this Act,<sup>F62</sup> . . . , shall have effect in relation to young offenders centres and remand centres and to persons detained therein as it has effect in relation to prisons and prisoners.

- (2) A reference in this Act to any [<sup>F60</sup> prison] shall be construed as including a reference to all land and buildings used for the purposes of or in connection with that [<sup>F60</sup> prison].
- (3) For the purposes of this Act, a person committed to prison in default of payment of a sum adjudged to be paid by a conviction shall be treated as undergoing a sentence of imprisonment for the term for which he is committed, and consecutive terms of imprisonment shall be treated as one term.

*Subs. (4)(5) rep. by 1954 c. 33 (NI)*

**F59** Functions transf. to S of S, SI 1973/2163

**F60** 1989 NI 15

**F61** 1998 NI 9

**F62** 2005 NI 15

*S. 48 rep. by SLR 1973*

#### **49 Short title.**

- (1) This Act may be cited as the Prison Act (Northern Ireland), 1953.

*Subs. (2) rep. by SLR 1973*

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