



Northern Ireland (Emergency Provisions) Act 1991

1991 CHAPTER 24

PART I

SCHEDULED OFFENCES

Evidence and onus of proof

11 Admissions by persons charged with scheduled offences

(1) In any criminal proceedings for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, a statement made by the accused may be given in evidence by the prosecution in so far as—

- (a) it is relevant to any matter in issue in the proceedings, and
- (b) it is not excluded by the court in pursuance of subsection (2) below or in the exercise of its discretion referred to in subsection (3) below (and has not been rendered inadmissible by virtue of such a direction as is mentioned in subsection (2)(iii) below).

(2) Where in any such proceedings—

- (a) the prosecution proposes to give, or (as the case may be) has given, in evidence a statement made by the accused, and
- (b) prima facie evidence is adduced that the accused was subjected to torture, to inhuman or degrading treatment, or to any violence or threat of violence (whether or not amounting to torture), in order to induce him to make the statement,

then, unless the prosecution satisfies the court that the statement was not obtained by so subjecting the accused in the manner indicated by that evidence, the court shall do one of the following things, namely—

- (i) in the case of a statement proposed to be given in evidence, exclude the statement;

- (ii) in the case of a statement already received in evidence, continue the trial disregarding the statement; or
 - (iii) in either case, direct that the trial shall be restarted before a differently constituted court (before which the statement in question shall be inadmissible).
- (3) It is hereby declared that, in the case of any statement made by the accused and not obtained by so subjecting him as mentioned in subsection (2)(b) above, the court in any such proceedings as are mentioned in subsection (1) above has a discretion to do one of the things mentioned in subsection (2)(i) to (iii) above if it appears to the court that it is appropriate to do so in order to avoid unfairness to the accused or otherwise in the interests of justice.
- (4) This section does not apply to a summary trial.

12 Onus of proof in relation to offences of possession

- (1) Where a person is charged with possessing a proscribed article in such circumstances as to constitute an offence to which this section applies and it is proved that at the time of the alleged offence—
- (a) he and that article were both present in any premises; or
 - (b) the article was in premises of which he was the occupier or which he habitually used otherwise than as a member of the public,
- the court may accept the fact proved as sufficient evidence of his possessing (and, if relevant, knowingly possessing) that article at that time unless it is further proved that he did not at that time know of its presence in the premises in question, or, if he did know, that he had no control over it.
- (2) This section applies to vessels, aircraft and vehicles as it applies to premises.
- (3) In this section “proscribed article” means an explosive, firearm, ammunition, substance or other thing (being a thing possession of which is an offence under one of the enactments mentioned in subsection (4) below).
- (4) This section applies to scheduled offences under the following enactments, that is to say—

The Explosive Substances Act 1883

Section 3, so far as relating to subsection (1)(b) thereof (possessing explosive with intent to endanger life or cause serious damage to property).

Section 4 (possessing explosive in suspicious circumstances).

The Protection of the Person and Property Act(Northern Ireland) 1969

Section 2 (possessing petrol bomb, etc., in suspicious circumstances).

The Firearms (Northern Ireland) Order 1981

Article 3 (possessing firearm or ammunition without, or otherwise than as authorised by, a firearm certificate).

Article 6 (possessing machine gun, or weapon discharging, or ammunition containing, noxious substance).

Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property).

Article 18(2) (possessing firearm or imitation firearm at time of committing, or being arrested for, a specified offence).

Article 22(1), (2) or (4) (possession of a firearm or ammunition by a person who has been sentenced to imprisonment, etc.).

Article 23 (possessing firearm or ammunition in suspicious circumstances).

(5) This section does not apply to a summary trial.