

1972 No. 538 (N.I. 1)
NORTHERN IRELAND
**The Prosecution of Offences (Northern Ireland)
Order 1972**

Made - - - - 30th March 1972
Coming into Operation - 30th March 1972

To be laid before Parliament

At the Court at Windsor Castle, the 30th day of March 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas it has been made to appear to Her Majesty that by reason of urgency this Order requires to be made without a draft having been approved by resolution of each House of Parliament:—

Now, therefore, Her Majesty, in exercise of the powers conferred by section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1. This Order may be cited as the Prosecution of Offences (Northern Ireland) Order 1972 and shall come into operation forthwith.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(b) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of the Parliament of Northern Ireland.

(2) In this Order—

“deputy Director” means the deputy Director of Public Prosecutions for Northern Ireland appointed under the provisions of this Order;

“Director” means the Director of Public Prosecutions for Northern Ireland appointed under the provisions of this Order;

“documents” includes papers and records of any kind;

“indictable offence” includes any offence which the prosecution may prosecute on indictment;

“initiate” includes institute;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“transferred provision” has the meaning assigned to it by section 1(g) of the Interpretation Act (Northern Ireland) 1954.

(a) 1972 c. 22.

(b) 1954 c. 33 (N.I.).

(3) References in this Order to the Crown shall be construed as including references to any person or authority acting on behalf of the Crown or any Government department or agency and to any member of the Royal Ulster Constabulary acting as such.

Temporary provisions

3.—(1) Nothing in this Order shall be construed as making provision contrary to any provision made by the Northern Ireland (Temporary Provisions) Act 1972 and accordingly, so long as section 1 of that Act has effect, any reference in this Order to the Governor or the Governor acting upon the advice of the Privy Council for Northern Ireland or to a department of the Government of Northern Ireland has effect subject to the provisions of that Act.

(2) So long as section 1 of the said Act has effect, the Director (without prejudice to the validity of anything done by him or on his behalf) shall discharge his functions under the superintendence of the Attorney General and shall be subject to the directions of the Attorney General in all matters including the giving or withholding of any such consent as is mentioned in article 7 of this Order.

Office of the Director of Public Prosecutions for Northern Ireland

4.—(1) The Governor may appoint a Director and a deputy Director of Public Prosecutions for Northern Ireland.

(2) The Director and the deputy Director shall each hold his office during good behaviour but each—

- (a) may be removed from his office by the Governor upon the advice of the Privy Council for Northern Ireland;
- (b) may at any time at his own request be granted permission by the Governor to resign his office; and
- (c) shall unless the Governor by order otherwise directs retire from office at the end of the year of his service therein in which he attains the age of sixty-five years.

(3) The Ministry of Home Affairs after consultation with the Director and with the approval of the Ministry of Finance may appoint such professional and other officers and servants as may be necessary to assist the Director in carrying out the duties of his office.

(4) There shall be paid to the Director and to the deputy Director and to such professional and other officers and servants as aforesaid such salaries or other remuneration and such allowances by way of superannuation or otherwise in respect of their services in that behalf as the Ministry of Finance may determine, and the deputy Director and all such professional and other officers and servants shall in all matters be subject to the direction and control of the Director.

(5) A person shall not be appointed to be Director unless at the date of his appointment he has practised for not less than 10 years either at the Bar of Northern Ireland or as a solicitor of the Supreme Court and a person shall not be appointed to be deputy Director unless at the date of his appointment he has practised for not less than 7 years either at the Bar of Northern Ireland or as a solicitor of the Supreme Court. For the purposes of this paragraph

any period during which a person called to the Bar of Northern Ireland or admitted to practise as a solicitor of the Supreme Court has, after such call or admission, held an appointment under paragraph (3) above may be reckoned either as a period during which he has practised at such Bar or (as the case may be) as a period during which he has practised as such solicitor.

(6) The Director may with the approval of the Ministry of Home Affairs establish and maintain such offices at such place or places in Northern Ireland as he may consider necessary for the due execution of his functions under this Order.

(7) The Director may employ a solicitor to act as his agent in the conduct of any prosecution and the costs of an agent so employed shall be defrayed as part of the expenses incurred in the execution of the duties of the Director.

(8) Any person appointed under paragraph (3) above who is nominated by the Director may do any act or thing which the Director is required or authorised to do by or in pursuance of this Order or of any transferred provision or otherwise, and for the purposes of any criminal or other proceedings a person appointed under paragraph (3) above claiming to act under this paragraph shall until the contrary is proved be deemed to have been duly nominated so to act.

(9) The Director shall not be required to give security and no order shall be made by any court requiring security to be given to him with respect to any proceedings.

(10) Nothing contained in any transferred provision or in any rule of law or practice shall operate to prevent the Director or deputy Director or any person appointed under paragraph (3) above who has been duly admitted to practise at the Bar of Northern Ireland—

(a) from prosecuting or carrying on any criminal proceeding whatsoever in any county court or magistrates' court in Northern Ireland; or

(b) from exercising a right of audience in any such proceeding;

notwithstanding that he has not been instructed by a solicitor of the Supreme Court.

Functions of the Director

5.—(1) Without prejudice to the operation of the succeeding provisions of this article, it shall be the function of the Director—

(a) to consider, or cause to be considered, with a view to his initiating or continuing in Northern Ireland any criminal proceedings or the bringing of any appeal or other proceedings in or in connection with any criminal cause or matter in Northern Ireland, any facts or information brought to his notice, whether by the Chief Constable acting in pursuance of article 6(3) of this Order or by the Attorney General or by any other authority or person;

(b) to examine or cause to be examined all documents that are required under article 6 of this Order to be transmitted or furnished to him and where it appears to him to be necessary or appropriate to do so to cause any matter arising thereon to be further investigated;

(c) where he thinks proper to initiate, undertake and carry on, on behalf of the Crown proceedings for indictable offences and for such summary offences or classes of summary offences as he considers should be dealt with by him;

- (d) where a person is in custody charged with or convicted of an offence and application is made to any court for bail, to cause, in such cases as the Director thinks proper, enquiries to be made into the facts and circumstances and if necessary cause such representations to be made regarding the granting of bail as he may think fit including representations as to the sufficiency of the surety or sureties offered and as to the amount of bail;
 - (e) to represent the Crown in any proceedings brought in the county court in respect of any determination or order made by a magistrates' court on or in connection with a summary offence;
 - (f) to represent the Crown in any proceedings before the Court of Criminal Appeal or before the Supreme Court or the House of Lords in a criminal cause or matter;
 - (g) where in the opinion of the Attorney General the public interest so requires, to apply to the High Court in the name and on behalf of the Attorney General for any order of certiorari, mandamus, prohibition or other prerogative order or injunction with respect to any criminal proceedings or any matter arising thereout;
 - (h) when requested in writing by any government department (including a department of the Government of the United Kingdom) to consider the initiating of prosecutions and to initiate, undertake and carry on such prosecutions as he may think proper for offences against any statutory provision in Northern Ireland on behalf of any such department, and to represent that department on any appeal or other subsequent criminal proceedings arising out of or in connection with any such prosecutions.
- (2) The Director shall be responsible to the Attorney General for the due performance of the functions of the Director under this Order.
- (3) Nothing in this Order shall preclude any person from initiating, undertaking or carrying on any criminal proceedings, but the Director may undertake at any stage the conduct of those proceedings if he thinks fit.

Delivery of informations etc. to Director

6.—(1) Where a person is committed for trial the clerk of the court to which he is so committed shall deliver or cause to be delivered without delay to the Director a copy of all informations, depositions, examinations, statements and recognizances connected with the charge together with copies of all other documents in his custody connected with the charge or, if it is not reasonably practicable to copy such documents, together with particulars thereof, and where a complaint has been laid before a resident magistrate or justice of the peace, whether proceedings have been taken thereon or not, the resident magistrate or justice shall cause to be delivered to the Director copies of all documents in his custody connected therewith on being required by the Director so to do.

(2) Where the circumstances of any death investigated or being investigated by a coroner appear to him to disclose that a criminal offence may have been committed he shall as soon as practicable furnish to the Director a written report of those circumstances.

(3) It shall be the duty of the Chief Constable, from time to time, to furnish to the Director facts and information with respect to—

(a) indictable offences alleged to have been committed against the law of Northern Ireland;

(b) such other alleged offences as the Director may specify;

and at the request of the Director, to ascertain and furnish to the Director information regarding any matter which may appear to the Director to require

investigation on the ground that it may involve an offence against the law of Northern Ireland or information which may appear to the Director to be necessary for the discharge of his functions under this Order.

(4) At the end of section 13(5) of the Police Act (Northern Ireland) 1970(a) there shall be added the words “ and shall send copies thereof to the Director of Public Prosecutions for Northern Ireland ”.

Consents to prosecutions

7.—(1) In this Article—

“ consent provision ” means any transferred provision, whether passed before or after the coming into operation of this Order whereby the consent of the Attorney General is required (whether by itself or as an alternative to the consent of any other authority or person) to the initiation or carrying on of proceedings for an offence; but does not include section 8 of the Official Secrets Act 1911(b), section 8(2) of the Official Secrets Act 1920(c) or section 3(2) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922(d).

(2) Unless the Attorney General otherwise directs, a consent provision passed before the coming into operation of this Order shall be deemed to be complied with as respects the initiation after such coming into operation of proceedings for an offence to which it applies if the consent to the initiation or carrying on of those proceedings is given by the Director.

(3) Without prejudice to anything contained in a consent provision or in any other transferred provision, a consent provision—

(a) shall not prevent the issue or execution of a warrant for the arrest of any person for an offence to which the consent provision relates, or the remanding in custody or on bail of any person charged with such an offence; and

(b) shall be deemed to be complied with if the consent is produced to the court, in the case of an indictable offence, at any time before the indictment is presented or, in the case of an offence to be tried summarily, at any time before the plea of the accused person is taken.

(4) For the purposes of a consent provision it shall be sufficient to describe the offence to which the consent relates in general terms and—

(a) to describe or designate in ordinary language any property or place to which reference is made in the consent so as to identify with reasonable clearness that property or place in relation to the offence; and

(b) to describe or designate the accused person or any other person to whom reference is made in the consent in terms which are reasonably sufficient to enable him to be identified in relation to the offence, without necessarily stating his correct name, or his abode, style, degree or occupation.

(5) A consent required by a consent provision may be amended at any time before the arraignment of the accused person or, in the case of a summary trial, before the plea of the accused person is taken, and if at any subsequent stage of a trial it appears to the court that the consent is defective the court may afford the person or authority giving the consent the opportunity of making such amendments as the court may think necessary if the court is satisfied that such amendments can be made without injustice to the accused person.

(6) Any document purporting to be the consent, authorisation or direction of the Director or his deputy to or for the initiation or carrying on of criminal

(a) 1970 c. 9 (N.I.).

(b) 1911 c. 28.

(c) 1920 c. 75.

(d) 1922 c. 5 (N.I.).

proceedings or criminal proceedings in any particular form, and to be signed by the Director or his deputy, as the case may be, shall be admissible as prima facie evidence without further proof.

Abolition of Office of Crown Solicitor for a county and compensation for certain existing holders thereof

8.—(1) On such day as the Ministry of Home Affairs may by order appoint the Office of Crown Solicitor for any county or place shall be abolished, and the functions of every such Crown Solicitor in connection with criminal proceedings shall thereupon become functions of the Director.

(2) The Ministry of Home Affairs with the approval of the Ministry of Finance may by regulations make provision for the payment by the Ministry of Home Affairs, subject to such exceptions or conditions as may be prescribed by the regulations, of compensation to or in respect of persons who immediately before the day appointed as aforesaid, hold and have held, for such minimum period as may be prescribed by the regulations, part-time office as Crown Solicitor for any county or place.

(3) Where a person who receives compensation pursuant to regulations made under paragraph (2) above is appointed to any post under article 4 of this Order, he shall repay to the Ministry that compensation or such part thereof as the Ministry with the approval of the Ministry of Finance may determine.

(4) Regulations made under paragraph (2) above may include provision as to the manner in which the claim for compensation is to be made, and for the determination of any question arising under the regulations.

Consequential amendments

9.—(1) In sections 73, 96, 97, 106(1) and 120 of, and in paragraph 12 of Schedule 8 to the Electoral Law Act (Northern Ireland) 1962(a) (which relates to the prosecution of offences disclosed on election petitions) for the words “The Chief Crown Solicitor” there shall be substituted the words “The Director of Public Prosecutions for Northern Ireland”.

(2) In paragraph 3 of the notes to Schedule 1 to the Parliamentary Commissioner Act (Northern Ireland) 1969(b) the words “the Office of the Director of Public Prosecutions for Northern Ireland” shall be added at the end of paragraph (a) and in paragraph (b) the words “to the administration of the criminal law, or” shall be omitted.

(3) In section 20(3) of the Interpretation Act (Northern Ireland) 1954 for the words “except upon the direction of the Attorney-General” there shall be substituted the words “except by or with the consent of the Attorney-General or the Director of Public Prosecutions for Northern Ireland”.

Amendments as to prosecution of offences against a corporation

10. In section 18(3) of the Criminal Justice Act (Northern Ireland) 1945(c) for the words from “a grand jury” to “a true Bill” there shall be substituted the words “an indictment has been presented”.

W. G. Agnew

(a) 1962 c. 14 (N.I.).

(b) 1969 c. 10 (N.I.).

(c) 1945 c. 15 (N.I.).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order establishes and makes provision for the office of Director of Public Prosecutions for Northern Ireland.

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