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## STATUTORY INSTRUMENTS

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# 1983 No. 1120

## The Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

### PART II **N.I.**

#### ATTEMPTS

##### **Attempting to commit an offence **N.I.****

**3.**—(1) If, with intent to commit an offence to which this Article applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.

[<sup>F1</sup>(1A) Subject to section 8 of the Computer Misuse Act 1990 (relevance of external law), if this paragraph applies to an act, what the person doing it had in view shall be treated as an offence to which this Article applies.

(1B) Paragraph (1A) above applies to an act if—

- (a) it is done in Northern Ireland; and
- (b) it would fall within paragraph (1) as more than merely preparatory to the commission of an offence under section 3 of the Computer Misuse Act 1990 but for the fact that the offence, if completed, would not be an offence triable in Northern Ireland.]

(2) A person may be guilty of attempting to commit an offence to which this Article applies even though the facts are such that the commission of the offence is impossible.

(3) In any case where—

- (a) apart from this paragraph a person's intention would not be regarded as having amounted to an intent to commit an offence; but
- (b) if the facts of the case had been as he believed them to be, his intention would be so regarded,

then, for the purposes of paragraph (1), he shall be regarded as having had an intent to commit that offence.

(4) This Article applies to any offence which, if it were completed, would be triable in Northern Ireland, other than—

- (a) conspiracy (at common law or under Article 9 or any other statutory provision);
- (b) aiding, abetting, counselling, procuring or suborning the commission of an offence;
- (c) an offence under section 4 (1) (assisting offenders) of the Criminal Law Act (Northern Ireland) 1967<sup>F2</sup>;
- (d) an offence under Article 8.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: The Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, PART II is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F2** 1967 c. 18 (N.I.).

### [<sup>F3</sup>Extended jurisdiction in relation to certain attempts **N.I.**

**3A.**—(1) If this Article applies to an act, what the person doing the act had in view shall be treated as an offence to which Article 3(1) applies.

(2) This Article applies to an act if—

- (a) it is done in Northern Ireland, and
- (b) it would fall within Article 3(1) as more than merely preparatory to the commission of a Group A offence but for the fact that that offence, if completed, would not be an offence triable in Northern Ireland.

(3) In this Article “Group A offence” has the same meaning as in Part III of the Criminal Justice (Northern Ireland) Order 1996.

(4) Paragraph (1) is subject to the provisions of Article 43 of the Order of 1996 (relevance of external law).

(5) Where a person does any act to which this Article applies, the offence which he commits shall for all purposes be treated as the offence of attempting to commit the relevant Group A offence.]

**F3** 1996 NI 24

### Application of procedural and other provisions to offences under Article 3 **N.I.**

**4.**—(1) Any provision to which this Article applies shall have effect with respect to an offence under Article 3 of attempting to commit an offence as it has effect with respect to the offence attempted.

(2) This Article applies to provisions of any of the following descriptions made by or under any statutory provision—

- (a) provisions whereby proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provisions which also make other exceptions to the prohibition);
- (b) provisions conferring power to institute proceedings;
- (c) provisions as to the venue of proceedings;
- (d) provisions whereby proceedings may not be instituted after the expiration of a time limit;
- (e) provisions conferring a power of arrest or search;
- (f) provisions conferring a power of seizure and detention of property;
- (g) provisions whereby a person may not be convicted or committed for trial on the uncorroborated evidence of one witness (including any provision requiring the evidence of not less than two credible witnesses);
- (h) provisions conferring a power of forfeiture, including any power to deal with anything liable to be forfeited;
- (i) provisions whereby, if an offence committed by a body corporate is proved to have been committed with the consent or connivance of another person, that person also is guilty of the offence.

## Trial and penalties **N.I.**

- 5.—(1) A person guilty by virtue of Article 3 of attempting to commit an offence shall—
- (a) if the offence attempted is murder or any other offence the sentence for which is fixed by law, be liable on conviction on indictment to imprisonment for life; and
  - (b) if the offence attempted is indictable but does not fall within sub-paragraph (a), be liable on conviction on indictment to any penalty to which he would have been liable on conviction on indictment of that offence; and
  - (c) if the offence attempted is punishable either on conviction on indictment or on summary conviction, be liable on summary conviction to any penalty to which he would have been liable on summary conviction of that offence; and
  - (d) if the offence attempted is punishable only on summary conviction, be liable on summary conviction to any penalty to which he would have been liable on conviction of that offence.

(2) Where, in proceedings against a person for an offence under Article 3, there is evidence sufficient in law to support a finding that he did an act falling within paragraph (1) of that Article, the question whether or not his act fell within that paragraph is a question of fact.

(3) Nothing in paragraph (1) affects the operation of—  
*Sub#para. (a) rep. by 2003 NI 13*

- (b) section 4 of the Criminal Law Amendment Act 1885<sup>F4</sup> (maximum penalty of two years' imprisonment for attempted unlawful carnal knowledge of a girl under fourteen);
- (c) section 1 (3) of the Punishment of Incest Act 1908<sup>F5</sup> (maximum penalty of two years' imprisonment for attempted incest by a male);

*Sub#para.(d) rep. by 1989 NI 15*

**F4** 1885 c. 69.

**F5** 1908 c. 45.

## Effect of Part II on common law and other statutory provisions **N.I.**

6.—(1) The offence of attempt at common law and any offence at common law of procuring materials for crime are hereby abolished for all purposes not relating to acts done before the coming into operation of this Order.

(2) Except as regards offences committed before the coming into operation of this Order, references in any statutory provision which fall to be construed as references to the offence of attempt at common law shall be construed as references to the offence under Article 3.

(3) In the Misuse of Drugs Act 1971<sup>F6</sup>

- (a) in section 12 (1) (a) the reference to an offence under that Act includes a reference to an offence under Article 3 of attempting to commit such an offence;
- (b) in section 19 for the words from “to attempt” to the end there shall be substituted the words “to incite another to commit an offence under any other provision of this Act”.

(4) Nothing in Article 3 (4) affects the operation of section 6 of the Criminal Jurisdiction Act 1975<sup>F7</sup>.

**F6** 1971 c. 38.

**F7** 1975 c. 59.

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

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