
STATUTORY INSTRUMENTS

1991 No. 1711 (N.I. 16)

NORTHERN IRELAND

The Criminal Justice (Northern Ireland) Order 1991

*Made - - - - 24th July 1991
Coming into operation in accordance with Article 1(2)
and (3)*

At the Court at Buckingham Palace, the 24th day of July 1991

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament: Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽¹⁾ 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.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 1991.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) The following provisions shall come into operation on such day as the Secretary of State may by order appoint, namely—

(a) Article 6; and (b) Article 8 and the Schedule so far as they relate to the Criminal Jurisdiction Act 1975⁽²⁾ and the Criminal Damage (Northern Ireland) Order 1977⁽³⁾.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954⁽⁴⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly. Remands to police custody

(1) 1974 c. 28
(2) 1975 c. 59
(3) 1977 NI 4
(4) 1954 c. 33 (N.I.)

3.—(1) In Article 47 of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁵⁾ (remands) after paragraph (4) there shall be inserted the following paragraphs—

“(4A) In the exercise of its power under paragraph (1)(a) to remand in custody an accused to whom this paragraph applies, a magistrates' court may, on an application made under this paragraph by a member of the Royal Ulster Constabulary not below the rank of inspector, commit the accused to detention at a police station.

(4B) In the exercise of its power under paragraph (1)(a) to remand in custody an accused to whom this paragraph applies, a magistrates' court may, on an application made under this paragraph by a member of the Royal Ulster Constabulary not below the rank of inspector, commit the accused to the custody (otherwise than at a police station) of a constable.

(4C) The period for which an accused is remanded under paragraph (4A) or (4B) shall not exceed 3 days commencing on (and including) the day following that on which he is remanded.

(4D) Paragraphs (4A) and (4B) apply to an accused who—

- (a) is not under the age of 21 years; and
- (b) is not already detained under a custodial sentence.

(4E) An accused shall not be committed to detention at a police station under paragraph (4A) unless there is a need for him to be so detained for the purposes of inquiries into other offences; and, if a person is committed to such detention—

- (a) he shall, as soon as that need ceases, be brought back before the magistrates' court which committed him or any other magistrates' court for the county court division for which that court was acting or before any other magistrates' court having jurisdiction to conduct the proceedings;
- (b) he shall be treated as a person in police detention to whom the duties under Article 40 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁶⁾ (responsibilities in relation to persons detained) relate; and
- (c) his detention shall be subject to periodic review at the times set out in Article 41 of that Order (review of police detention).

(4F) An accused shall not be committed to the custody (otherwise than at a police station) of a constable under paragraph (4B) unless there is a need for him to be kept in such custody for the purposes of inquiries into other offences; and if a person is committed to such custody, he shall, as soon as that need ceases, be brought back before the magistrates' court which committed him or any other magistrates' court for the county court division for which that court was acting or before any other magistrates' court having jurisdiction to conduct the proceedings.”.

(2) In Article 63(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁷⁾ (taking of non-intimate samples without consent) in sub-paragraph (a) after the words “police detention” there shall be inserted the words “or is being held in custody by the police on the authority of a court”.

Documents to be furnished to court and served on accused in connection with preliminary inquiry

4. In Article 32 of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁸⁾ (documents to be furnished to court and served on accused in connection with preliminary inquiry) in paragraph (1) (b)(iii) for paragraphs (aa) and (bb) there shall be substituted the following paragraphs—

(5) 1981 NI 26
(6) 1989 NI 12
(7) 1989 NI 12
(8) 1981 NI 26

- “(aa) in the case of a written exhibit, a copy of that exhibit or a notice of the time and place when that exhibit may be examined by the accused or his solicitor or any witness whom the accused may wish to call at his trial to give evidence relating to it; and
- (bb) in the case of any other exhibit, a notice of the time and place when that exhibit may be examined as mentioned in paragraph (aa);”.

Claims for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 in respect of injury to persons under 18

5. In paragraph 3 of Schedule 2 to the Criminal Injuries (Compensation) (Northern Ireland) Order 1988⁽⁹⁾ (saving provisions in relation to claims for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977⁽¹⁰⁾ after sub-paragraph (2) there shall be inserted the following sub-paragraphs—

“(2A) Where the victim was, at the time when the criminal injury was sustained, under the age of 18 years, sub-paragraph (2) shall have effect with the addition at the end of the words “or,”

- (c) if there was reasonable cause for not making the application at any earlier time, is made before the relevant date.

(2B) In this paragraph “the relevant date” means—

- (a) in the case of a person who attains the age of 21 years in the period beginning on 30th June 1988 and ending on the first anniversary of the coming into operation of Article 5 of the Criminal Justice (Northern Ireland) Order 1991, the date on which that period ends; and
- (b) in the case of any other person, the date on which that person attains the age of 21 years.”.

Extra-territorial offences-arson

6. In Part I of Schedule 1 to the Criminal Jurisdiction Act 1975⁽¹¹⁾ (offences in Republic of Ireland triable in Northern Ireland)—

- (a) paragraph 3 shall cease to have effect;
- (b) for paragraph 6 and the cross-heading immediately preceding it there shall be substituted—

“Criminal damage

6. Any offence under section 35 of the Malicious Damage Act 1861⁽¹²⁾ (interference with railways).

6A. Any offence under Article 3(1) and (3) or Article 3(2) and (3) of the Criminal Damage (Northern Ireland) Order 1977⁽¹³⁾ (arson).”.

Powers of Probation Board and of inspectors

7.—(1) The Probation Board (Northern Ireland) Order 1982⁽¹⁴⁾ shall have effect subject to the following provisions of this Article.

(9) 1988 NI 4
(10) 1977 NI 15
(11) 1975 c. 59
(12) 1861 c. 97
(13) 1977 NI 4
(14) 1982 NI 10

(2) In Article 4(2)(d) (power of Board to enter into arrangements with voluntary organisations, etc.) for head (ii) there shall be substituted the following head—

“(ii) to give effect to schemes for the supervision and assistance of offenders and the prevention of crime, whether made by those organisations or persons or made by the Board under subparagraph (c).”.

(3) For Article 14 there shall be substituted the following Article—

“Powers of inspection

14.—(1) An inspector may, with the approval of the Secretary of State, at any time carry out an inspection of the exercise by the Board and the members of the staff of the Board of their functions under this Order and any other statutory provision, or such of those functions as the Secretary of State may direct.

(2) Where an inspector is carrying out an inspection under paragraph (1), the Board and the members of the staff of the Board shall—

- (a) furnish the inspector with, and permit him to inspect, such accounts, books, records, documents and papers of the Board as the inspector may reasonably require and give the inspector such explanation of them as he may reasonably require;
- (b) furnish the inspector with such other information with respect to the Board’s property and activities as the inspector may reasonably require.

(3) Where an organisation or person has entered into arrangements with the Board under Article 4(2)(d), that organisation or person and the officers and employees of that organisation or person shall—

- (a) furnish an inspector with, and permit him to inspect and make copies of, such accounts, books, records, documents and papers of that organisation or person relating to those arrangements as the inspector may reasonably require for the purposes of an inspection under paragraph (1) and give the inspector such explanation of them as he may reasonably require;
- (b) furnish an inspector with such other information with respect to the carrying out of those arrangements by that organisation or person as he may reasonably require for the purposes of such an inspection.

(4) On the conclusion of an inspection under paragraph (1), an inspector shall make a report to the Secretary of State who may, if he thinks fit, publish that report in such form as he thinks fit.

(5) An inspector may at any reasonable time and whether in the course of an inspection under paragraph (1) or not—

- (a) enter (on production if required of his credentials) and inspect any relevant establishment;
- (b) make such investigation as he thinks fit of the management of that establishment and of the treatment of persons residing, working or otherwise present in that establishment.

(6) Any person who obstructs an inspector in the exercise of his powers under this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(7) The expenses incurred by an inspector under this Article shall be defrayed by the Secretary of State.

(8) In this Article and Article 15(1)—

“inspector” means a person appointed by the Secretary of State for the purposes of this Article;

“relevant establishment” means—

- (a) a probation hostel;
- (b) a bail hostel;
- (c) any other establishment provided by the Board under Article 4;
- (d) any establishment in respect of which arrangements have been entered into by the Board under Article 4(2)(d);
- (e) any other place where schemes mentioned in Article 4(2)(c) or (d)(ii) are given effect.”.

(4) In Article 15 (rules and regulations) for paragraph (1) there shall be substituted the following paragraph—

“(1) The Secretary of State may make rules—

- (a) for the regulation and management of relevant establishments; and
- (b) for the regulation of an inspection under Article 14(1) and of the exercise (otherwise than in the course of such an inspection) of the powers of an inspector under Article 14(5).”.

Repeals

8. The statutory provisions set out in the Schedule (which include provisions which are spent or unnecessary) are hereby repealed to the extent specified in column 3 of that Schedule.

Clerk of the Privy Council

Status: This is the original version (as it was originally made).

SCHEDULE

Article 8

REPEALS

Chapter or Number	Short Title	Extent of Repeal
1975 c. 59.	The Criminal Jurisdiction Act 1975.	In Part I of Schedule 1, paragraph 3.
1977 NI 4.	The Criminal Damage (Northern Ireland) Order 1977.	Article 13(10) and (11).
1977 NI 14.	The Criminal Damage (Compensation) (Northern Ireland) Order 1977.	Article 13.
1988 NI 4.	The Criminal Injuries (Compensation) (Northern Ireland) Order 1988.	Article 13(4).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order—

- (a) empowers magistrates' courts to remand accused persons to detention at a police station or to the custody (otherwise than at a police station) of a constable;
- (b) amends the list of documents which the prosecution must serve on the accused and furnish to the court in connection with a preliminary inquiry;
- (c) extends the time limit for a claim for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 by a person who was under 18 when the injury was sustained;
- (d) amends the list of extra-territorial offences in Schedule 1 to the Criminal Jurisdiction Act 1975 to take account of the restatement of the law as to offences of damage to property in the Criminal Damage (Northern Ireland) Order 1977; and
- (e) amends the power of the Probation Board for Northern Ireland to enter into arrangements with voluntary organisations and extends the Secretary of State's powers of inspection in relation to the functions of the Board and establishments used in connection with those functions.