
STATUTORY INSTRUMENTS

1996 No. 3160

The Criminal Justice (Northern Ireland) Order 1996

PART III
JURISDICTION

Offences to which this Part applies

- 38.**—(1) This Part applies to two groups of offences—
- (a) any offence mentioned in paragraph (2) (a “Group A offence”); and
 - (b) any offence mentioned in paragraph (3) (a “Group B offence”).
- (2) The Group A offences are—
- (a) an offence under any of the following provisions of the Theft Act (Northern Ireland) 1969—
 - section 1 (theft);
 - section 15 (obtaining property by deception);
 - section 16 (obtaining pecuniary advantage by deception);
 - section 17 (false accounting);
 - section 18 (false statements by company directors, etc.);
 - section 19(2) (procuring execution of valuable security by deception);
 - section 20 (blackmail);
 - section 21 (handling stolen goods);
 - (b) an offence under either of the following provisions of the Theft (Northern Ireland) Order 1978
 - Article 3 (obtaining services by deception);
 - Article 4 (avoiding liability by deception);
 - (c) an offence under any of the following provisions of the Forgery and Counterfeiting Act 1981—
 - section 1 (forgery);
 - section 2 (copying a false instrument);
 - section 3 (using a false instrument);
 - section 4 (using a copy of a false instrument);
 - section 5 (offences which relate to money orders, share certificates, passports, etc.);
 - (d) the common law offence of cheating in relation to the public revenue.
- (3) The Group B offences are—
- (a) conspiracy to commit a Group A offence;

- (b) conspiracy to defraud;
- (c) attempting to commit a Group A offence;
- (d) incitement to commit a Group A offence.

(4) The Secretary of State may by order amend paragraph (2) or (3) by adding or removing any offence.

Jurisdiction in respect of Group A offences

39.—(1) For the purposes of this Part, “relevant event”, in relation to any Group A offence, means any act or omission or other event (including any result of one or more acts or omissions) proof of which is required for conviction of the offence.

(2) For the purpose of determining whether or not a particular event is a relevant event in relation to a Group A offence any question as to where it occurred is to be disregarded.

(3) A person may be guilty of a Group A offence if any of the events which are relevant events in relation to the offence occurred in Northern Ireland.

Questions immaterial to jurisdiction in the case of certain offences

40.—(1) A person may be guilty of a Group A or Group B offence whether or not—

- (a) he was a British citizen at any material time;
- (b) he was in Northern Ireland at any such time.

(2) On a charge of attempting to commit a Group A offence, the defendant may be guilty of the offence whether or not—

- (a) the attempt was made in Northern Ireland;
- (b) it had an effect in Northern Ireland.

(3) On a charge of conspiracy to commit a Group A offence, or on a charge of conspiracy to defraud in Northern Ireland, the defendant may be guilty of the offence whether or not—

- (a) he became a party to the conspiracy in Northern Ireland;
- (b) any act or omission or other event in relation to the conspiracy occurred in Northern Ireland.

(4) Paragraph (1)(a) does not apply where jurisdiction is given to try the offence in question by a statutory provision which makes provision by reference to the nationality of the person charged.

(5) Paragraph (2) does not apply in relation to any charge under the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 brought by virtue of Article 3A of that Order.

(6) Paragraph (3) does not apply in relation to any charge under that Order brought by virtue of Article 9A of that Order.

Rules for determining certain jurisdictional questions relating to the location of events

41. In relation to a Group A or Group B offence—

- (a) there is an obtaining of property in Northern Ireland if the property is either despatched from or received at a place in Northern Ireland; and
- (b) there is a communication in Northern Ireland of any information, instruction, request, demand or other matter if it is sent by any means—
 - (i) from a place in Northern Ireland to a place elsewhere; or
 - (ii) from a place elsewhere to a place in Northern Ireland.

Attempt, conspiracy and incitement

42.—(1) In the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983—

(a) after Article 3 there shall be inserted—

“Extended jurisdiction in relation to certain attempts

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.”;

(b) after Article 9 there shall be inserted—

“Extended jurisdiction over certain conspiracies

9A.—(1) This Part has effect in relation to an agreement which falls within this Article as it has effect in relation to one which falls within Article 9(1).

(2) An agreement falls within this Article if—

(a) a party to it, or a party’s agent, did anything in Northern Ireland in relation to it before its formation, or

(b) a party to it became a party in Northern Ireland (by joining it either in person or through an agent), or

(c) a party to it, or a party’s agent, did or omitted anything in Northern Ireland in pursuance of it,

and the agreement would fall within Article 9(1) as an agreement relating to the commission of a Group A offence but for that offence, if committed in accordance with the parties’ intentions, not being an offence triable in Northern Ireland.

(3) In paragraph (2) “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) An offence which is an offence of conspiracy, by virtue of this Article, shall be treated for all purposes as an offence of conspiracy to commit the relevant Group A offence.”.

(2) A person may be guilty of incitement to commit a Group A offence if the incitement—

(a) takes place in Northern Ireland; and

- (b) would be triable in Northern Ireland but for what the person charged had in view not being an offence triable in Northern Ireland.
- (3) A person may be guilty of conspiracy to defraud if—
 - (a) a party to the agreement constituting the conspiracy, or a party's agent, did anything in Northern Ireland in relation to the agreement before its formation, or
 - (b) a party to it became a party in Northern Ireland (by joining it either in person or through an agent), or
 - (c) a party to it, or a party's agent, did or omitted anything in Northern Ireland in pursuance of it,

and the conspiracy would be triable in Northern Ireland but for the fraud which the parties to it had in view not being intended to take place in Northern Ireland.

- (4) Paragraphs (2) and (3) are subject to Article 43.

Relevance of external law

43.—(1) A person is guilty of an offence triable by virtue of Article 3A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, or by virtue of Article 42(2), only if what he had in view would involve the commission of an offence under the law in force where the whole or any part of it was intended to take place.

(2) A person is guilty of an offence triable by virtue of Article 9A of that Order, or by virtue of Article 42(3), only if the pursuit of the agreed course of conduct would at some stage involve—

- (a) an act or omission by one or more of the parties, or
- (b) the happening of some other event,

constituting an offence under the law in force where the act, omission or other event was intended to take place.

(3) Conduct punishable under the law in force in any place is an offence under that law for the purposes of this Article, however it is described in that law.

(4) Subject to paragraph (6), a condition specified in paragraph (1) or (2) shall be taken to be satisfied unless, not later than Crown Court rules or magistrates' court rules may provide, the defence serve on the prosecution a notice—

- (a) stating that, on the facts as alleged with respect to the relevant conduct, the condition is not in their opinion satisfied;
- (b) showing their grounds for that opinion; and
- (c) requiring the prosecution to show that it is satisfied.

(5) In paragraph (4) “the relevant conduct” means—

- (a) where the condition in paragraph (1) is in question, what the defendant had in view; and
- (b) where the condition in paragraph (2) is in question, the agreed course of conduct.

(6) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under paragraph (4).

(7) In the Crown Court, the question whether the condition is satisfied shall be decided by the judge alone.

(8) In Article 8(3) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (preparatory hearing in a case of serious fraud), after sub-paragraph (a) there shall be inserted—

- “(aa) a question arising under Article 43 of the Criminal Justice (Northern Ireland) Order 1996 (relevance of external law to certain charges of conspiracy, attempt and incitement); and”.