
STATUTORY INSTRUMENTS

1999 No. 2789

The Criminal Evidence (Northern Ireland) Order 1999

PART VI

RESTRICTIONS ON USE OF EVIDENCE

Inferences from silence not permissible where no prior access to legal advice

36.—(1) The Criminal Evidence (Northern Ireland) Order 1988 shall be amended as follows.

(2) In Article 2 (interpretation and savings), in paragraph (2) there shall be inserted at the appropriate place—

““authorised place of detention” means—

- (a) a police station; or
- (b) any other place prescribed for the purposes of this Order by order made by the Secretary of State;

and an order made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”.

(3) In Article 3 (circumstances in which inferences may be drawn from accused’s failure to mention particular facts when questioned or charged), after paragraph (2) there shall be inserted—

“(2A) Where the accused was at an authorised place of detention at the time of the failure, paragraphs (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to being questioned, charged or informed as mentioned in paragraph (1).”.

(4) In Article 5 (inferences from failure or refusal to account for objects, marks, etc.), after paragraph (4) there shall be inserted—

“(4A) Where the accused was at an authorised place of detention at the time of the failure or refusal, paragraphs (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.”.

(5) In Article 6 (inferences from failure or refusal to account for presence at a particular place), after paragraph (3) there shall be inserted—

“(3A) Where the accused was at an authorised place of detention at the time of the failure or refusal, paragraphs (1) and (2) do not apply if he had not been allowed an opportunity to consult a solicitor prior to the request being made.”.