



Northern Ireland (Emergency Provisions) (Amendment) Act 1975

1975 CHAPTER 62

Trial of certain offences, etc.

1 Admissibility of written statements made outside Northern Ireland

- (1) Section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (admissibility of written statements in criminal proceedings other than preliminary investigations and preliminary enquiries), section 3 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968 (admissibility of written statements in preliminary enquiries) and sections 1A and 1B of the Perjury Act (Northern Ireland) 1946 (penalties for the making of false statements which are tendered in evidence under either the said section 1 or 3) shall apply to written statements made in Great Britain as well as to written statements made in Northern Ireland.
- (2) The said section 3 shall apply also to written statements made outside the United Kingdom and (after the commencement of section 9 of the Criminal Jurisdiction Act 1975) the Republic of Ireland, but, in relation to such statements, that section shall have effect with the omission of subsection (2)(c).

2 Preliminary enquiry into scheduled offences

- (1) Where in any proceedings before a magistrates' court for a scheduled offence (not being an extra-territorial offence as defined in section 1(3) of the Criminal Jurisdiction Act 1975) the prosecutor requests the court to conduct a preliminary enquiry into the offence under the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968, the court shall, notwithstanding anything in section 1 of that Act of 1968, conduct a preliminary enquiry into the offence unless the court are of opinion that in the interests of justice a preliminary investigation should be conducted into the offence under Part VI of the Magistrates' Courts Act (Northern Ireland) 1964.

- (2) Where in any proceedings a person charged with a scheduled offence is also charged with another offence which is not a scheduled offence, that other offence shall be treated as a scheduled offence for the purposes of subsection (1) above.

3 Trial of scheduled and non-scheduled offences together

- (1) For subsection (3) of section 2 of the Northern Ireland (Emergency Provisions) Act 1973 (in this Act referred to as " the principal Act") there shall be substituted the following subsection:—

“(3) Where separate counts of an indictment allege a scheduled offence and an offence which is not a scheduled offence, the trial on indictment shall, without prejudice to section 5 of the Indictments Act (Northern Ireland) 1945 (orders for amendment of indictment, separate trial and postponement of trial), be conducted as if all the offences alleged in the indictment were scheduled offences.”

- (2) In sections 4(2) and 6(1) of the principal Act after the words " scheduled offence" there shall be inserted the words " or two or more offences which are or include scheduled offences. "

4 Removal of certain limitations on power to grant bail

- (1) For subsection (1) of section 3 of the principal Act (persons charged with scheduled offences not to be admitted to bail except by a judge of the High Court and persons convicted of such offences not to be admitted to bail pending an appeal) there shall be substituted the following subsection:—

“(1) Subject to the provisions of this section, a person to whom this section applies and who is charged with a scheduled offence shall not be admitted to bail except—

- (a) by a judge of the Supreme Court; or
- (b) by the judge of the court of trial, on adjourning the trial of a person so charged.”

- (2) At the end of the said section 3 there shall be added the following subsection:—

“(6) This section does not apply to a person charged with a scheduled offence which is being tried summarily or which the Director of Public Prosecutions for Northern Ireland certifies is in his opinion suitable to be tried summarily.”

5 Legal aid to applicants for bail

- (1) Where it appears to a judge of the Supreme Court—

- (a) that a person charged with a scheduled offence intends to apply to be admitted to bail; and
- (b) that it is desirable in the interests of justice that that person should have legal aid but that he has not sufficient means to enable him to obtain that aid,

the judge may assign to him a solicitor and counsel, or counsel only, in the application for bail.

- (2) If on a question of granting a person free legal aid under this section there is a doubt whether his means are sufficient to enable him to obtain legal aid or whether it is

desirable in the interests of justice that he should have free legal aid, the doubt shall be resolved in favour of granting him free legal aid.

- (3) Sections 24, 27 and 32 of the Legal Aid and Advice Act (Northern Ireland) 1965 (statements, payments, rules and stamp duty) shall apply in relation to legal aid under this section as they apply in relation to legal aid under Part II of that Act as if any legal aid under this section were given in pursuance of a defence certificate under section 21 of that Act.

6 Court of trial for scheduled offences

- (1) Subject to subsection (3) below, in section 4 of the principal Act (Belfast City Commission and Belfast Recorder's Court to be the only courts of trial on indictment of scheduled offences) references to the Belfast Recorder's Court shall cease to have effect.
- (2) Accordingly—
- (a) in section 30(5) of the principal Act for the words from " shall" onwards there shall be substituted the words " shall, if he was committed to a county court or to a court of assize other than the Belfast City Commission, be treated as having been committed to that Commission ";
 - (b) in paragraph 2(3) of Schedule 2 to the Criminal Jurisdiction Act 1975 for the words from " on that date " onwards there shall be substituted the words " on that date any committal for trial of the offence by a county court or by a court of assize other than the Belfast City Commission shall be treated as a committal to that Commission ".
- (3) This section shall not apply to a trial on indictment where the accused was committed to the Belfast Recorder's Court before the commencement of this Act.

7 Repeal of s. 5 of principal Act

Section 5 of the principal Act (admissibility in certain circumstances in criminal proceedings for scheduled offences of written statements made and signed in the presence of a constable) shall cease to have effect and section 30(6) of that Act shall apply accordingly.

8 Exclusion of summary proceedings from ss. 6 and 7 of principal Act

Section 6 of the principal Act (admissibility in criminal proceedings for scheduled offences of statements made by the accused) and section 7 of that Act (onus of proof in criminal proceedings for scheduled offences where the accused is charged with possession of a proscribed article) shall not apply to summary trials.

Powers of detention, search, seizure, etc.

9 Detention of terrorists, etc.

- (1) Part I of Schedule 1 to this Act shall have effect with respect to the detention of terrorists and persons suspected of being terrorists.
- (2) The transitional provisions set out in Part II of Schedule 1 to this Act shall have effect.

(3) Schedule 1 to the principal Act (detention of terrorists) shall cease to have effect.

10 Power to stop and question

At the end of section 16(1) of the principal Act (power to stop and question any person for the purpose of ascertaining certain matters) there shall be added the words " or of ascertaining any one or more of those matters ".

11 Power to search for radio transmitters

- (1) Any member of Her Majesty's forces on duty or any constable may enter any premises or other place other than a dwelling-house for the purpose of ascertaining whether any apparatus for wireless telegraphy designed or adapted for emission, as opposed to reception (in this section referred to as a " transmitter") is at that place and may search the place for any transmitter with a view to exercising the powers conferred by subsection (4) below.
- (2) Any member of Her Majesty's forces on duty authorised by a commissioned officer of those forces or any constable authorised by an officer of the Royal Ulster Constabulary not below the rank of chief inspector may enter any dwelling-house in which it is suspected that there is a transmitter and may search it for any transmitter with a view to exercising the said powers.
- (3) Any member of Her Majesty's forces on duty or any constable may—
 - (a) stop any person in any public place and, with a view to exercising the said powers, search him for the purpose of ascertaining whether he has any transmitter with him ; and
 - (b) with a view to exercising the said powers, search any person not in a public place whom he suspects of having a transmitter with him.
- (4) A member of Her Majesty's forces or a constable authorised to search any premises or other place or any person may seize any transmitter found in the course of the search unless it appears to the person so authorised that the transmitter has been, is being and is likely to be used only lawfully and may retain it.
- (5) Sections 18 and 25 of the principal Act (supplementary provisions as to powers of entry and search conferred by Part II and compensation) shall apply for the purposes of this section as they apply for the purposes of Part II of that Act, and that Act, respectively.
- (6) In this section " transmitter " includes part of a transmitter and " wireless telegraphy " has the same meaning as in section 19(1) of the Wireless Telegraphy Act 1949.

Offences against public security and public order

12 Invitations to join, or carry out directions given by, proscribed organisation

In section 19(1) of the principal Act (belonging to or soliciting or inviting financial support for a proscribed organisation) after paragraph (b) there shall be inserted the following paragraph:—

- “(c) solicits or invites any person to become a member of a proscribed organisation or to carry out on behalf of a proscribed organisation

orders or directions given, or requests made, by a member of that organisation.”.

13 Extension of classes of information in s. 20 of principal Act

For section 20(1) of the principal Act (unlawful collection, etc. of information) there shall be substituted the following subsection:—

“(1) No person shall, without lawful authority or reasonable excuse (the proof of which lies on him)—

- (a) collect, record, publish, communicate or attempt to elicit any information with respect to any person to whom this paragraph applies which is of such a nature as is likely to be useful to terrorists;
- (b) collect or record any information which is of such a nature as is likely to be useful to terrorists in planning or carrying out any act of violence; or
- (c) have in his possession any record of or document containing any such information as is mentioned in paragraph (a) or (b) above ;

and if any person contravenes this section, he shall be liable—

- (i) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £400, or both ;
- (ii) on conviction on indictment to imprisonment for a term not exceeding five years or a fine, or both.

(1A) Subsection (1)(a) above applies to any of the following persons, that is to say—

- (a) any constable or member of Her Majesty's forces ;
- (b) any person holding judicial office;
- (c) any officer of any court; and
- (d) any person employed for the whole of his time in the prison service in Northern Ireland.”

14 Riotous and disorderly behaviour

Section 22 of the principal Act (amendment of provisions relating to punishment for riotous, disorderly and indecent behaviour, etc.) shall cease to have effect; and accordingly, section 9(1) of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 shall have effect as originally enacted.

15 Training in making or use of firearms, explosives or explosive substances

(1) Subject to subsection (2) below, any person who instructs or trains another or receives instruction or training in the making or use of firearms, explosives or explosive substances shall be liable—

- (a) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £400, or both;
- (b) on conviction on indictment to imprisonment for a term not exceeding five years or to a fine, or both.

(2) In any prosecution for an offence under this section it shall be a defence for the person charged to prove that the instruction or training was given or received with lawful authority or for industrial, agricultural or sporting purposes only or otherwise with good reason.

- (3) The court by or before whom a person is convicted of an offence under this section may order the forfeiture of any thing which appears to the court to have been in his possession for purposes connected with the offence.
- (4) Without prejudice to section 33 of the Interpretation Act 1889 (offences under two or more laws), nothing in this section shall derogate from the operation of the Unlawful Drilling Act 1819.

16 Wearing of hoods, etc. in public places

Any person who, without lawful authority or reasonable excuse (the proof of which lies on him), wears in a public place or in the curtilage of a dwelling-house (other than one in which he is residing) any hood, mask or other article whatsoever made, adapted or used for concealing the identity or features shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £400, or both.

Miscellaneous and general

17 Prosecutions

- (1) A prosecution shall not be instituted in respect of any offence under this Act except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (2) Article 7 of the Prosecution of Offences (Northern Ireland) Order 1972 shall apply in relation to any offence under this Act as if subsection (1) above were a consent provision within the meaning of that Article.

18 Amendments to list of scheduled offences

Part I of Schedule 4 to the principal Act (scheduled offences for the purposes of the Act) shall have effect subject to the amendments in Schedule 2 to this Act.

19 Expenses

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State for the purposes of this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable under any other Act out of money so provided.

20 Interpretation, etc.

- (1) In this Act "the principal Act" has the meaning assigned by section 3 above and any expression used in this Act and in the principal Act shall have the same meaning in this Act as in that Act.
- (2) Any reference in this Act, except so far as the context otherwise requires, to an enactment shall be construed as a reference to that enactment as amended, applied or extended by or under any other enactment, including this Act.
- (3) It is hereby declared that, in applying section 38(1) of the Interpretation Act 1889 (effect of repeal and re-enactment) for the construction of references in this Act to

other Acts, account is to be taken of repeal and re-enactment by a Measure of the Northern Ireland Assembly or an Order in Council.

21 Commencement, duration, expiry and revival of certain provisions

- (1) This Act shall come into force on the expiration of the period of two weeks beginning with the day on which it is passed.
- (2) Sections 2, 5, 9, 11, 15 and 16 above and Schedule 1 to this Act shall expire with 24th January 1976 unless continued in force by an order under this section.
- (3) The Secretary of State may by order contained in a statutory instrument provide—
 - (a) that all or any of the said provisions which are for the time being in force (including any in force by virtue of an order under this section) shall continue in force for a period not exceeding six months from the coming into operation of the order ;
 - (b) that all or any of the said provisions which are for the time being in force shall cease to be in force ; or
 - (c) that all or any of the said provisions which are not for the time being in force shall come into force again and remain in force for a period not exceeding six months from the coming into operation of the order.
- (4) No order shall be made under this section unless—
 - (a) a draft of the order has been approved by resolution of each House of Parliament; or
 - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (5) Orders under this section (except an order of which a draft has been so approved) shall be laid before Parliament after being made and, if at the end of the period of 40 days (computed in accordance with section 7(1) of the Statutory Instruments Act 1946) after the day on which the Secretary of State made an order a resolution has not been passed by each House approving the order in question, the order shall then cease to have effect (but without prejudice to anything previously done or to the making of a new order).
- (6) On the expiry or cesser of any provision of this Act, section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply as if the provision had been repealed by another Act.

22 Consequential amendments

- (1) Any reference in section 11 of the principal Act (constable's general power of arrest and seizure) to an offence under that Act shall be construed as including a reference to an offence under this Act.
- (2) In section 29 of the principal Act, in subsection (1) for the words " Schedules 1 and 3 " substitute " Schedule 3 " and in subsections (3) and (4) for the words " either of the said Schedules " substitute " the said Schedule 3 ".
- (3) In section 30(3)(a) and (c) of the principal Act and section 3(2)(a) and (c) of the Northern Ireland (Young Persons) Act 1974 (extension and revival of certain

provisions for period not exceeding one year) for the words " one year " substitute " six months ".

23 Short title, repeals and extent

- (1) This Act may be cited as the Northern Ireland (Emergency Provisions) (Amendment) Act 1975.
- (2) The enactments set out in Schedule 3 to this Act (which include enactments which were obsolete or unnecessary before the passing of this Act) are hereby repealed to the extent specified in column 3 of that Schedule.
- (3) This Act shall extend to Northern Ireland only.