



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 IB 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.