



Criminal Justice (Terrorism and Conspiracy) Act 1998

1998 CHAPTER 40

Proscribed organisations

1 Evidence and inferences: Great Britain

- (1) The following sections shall be inserted after section 2 of the Prevention of Terrorism (Temporary Provisions) Act 1989—

“2A Evidence and inferences

- (1) This section applies where a person is charged with an offence under section 2(1)(a) above; and references here to a specified organisation must be construed in accordance with section 2B below.
- (2) Subsection (3) below applies if a police officer of or above the rank of superintendent states in oral evidence that in his opinion the accused—
- (a) belongs to an organisation which is specified, or
 - (b) belonged at a particular time to an organisation which was then specified.
- (3) If this subsection applies—
- (a) the statement shall be admissible as evidence of the matter stated, but
 - (b) the accused shall not be committed for trial in England and Wales, or be found to have a case to answer or be convicted, solely on the basis of the statement.
- (4) Subsection (6) below applies if evidence is given that—
- (a) at any time before being charged with the offence the accused, on being questioned under caution by a constable, failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and
 - (b) before being questioned he was permitted to consult a solicitor.

- (5) Subsection (6) below also applies if evidence is given that—
- (a) on being charged with the offence or informed by a constable that he might be prosecuted for it the accused failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and
 - (b) before being charged or informed he was permitted to consult a solicitor.
- (6) If this subsection applies—
- (a) the court or jury, in considering any question whether the accused belongs or belonged at a particular time to a specified organisation, may draw from the failure inferences relating to that question, but
 - (b) the accused shall not be committed for trial in England and Wales, or be found to have a case to answer or be convicted, solely on the basis of the inferences.
- (7) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.
- (8) This section does not—
- (a) prejudice the admissibility of evidence admissible apart from this section;
 - (b) preclude the drawing of inferences which could be drawn apart from this section;
 - (c) prejudice an enactment providing (in whatever words) that an answer or evidence given by a person in specified circumstances is not admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).
- (9) In subsection (8)(c) above the reference to giving evidence is a reference to giving it in any manner (whether by giving information, making discovery or disclosure, producing documents or otherwise).
- (10) In any proceedings in Scotland for an offence under section 2(1)(a) above in which the accused is charged with belonging to a specified organisation, where the court or jury draws an inference as mentioned in subsection (6) above any evidence that he belongs or, as the case may be, belonged to the organisation shall be sufficient evidence of that matter.
- (11) In this section “police officer” means a member of—
- (a) a police force within the meaning of the Police Act 1996 or the Police (Scotland) Act 1967, or
 - (b) the Royal Ulster Constabulary.
- (12) This section does not apply to a statement made or failure occurring before the day on which the Criminal Justice (Terrorism and Conspiracy) Act 1998 was passed.

2B Specified organisations

- (1) For the purposes of section 2A above an organisation is specified at a particular time if at that time—
 - (a) it is specified under section 3(8) of the Northern Ireland (Sentences) Act 1998 or under subsection (2) below, and
 - (b) it is, or forms part of, an organisation which is proscribed for the purposes of this Act.
 - (2) If the condition in subsection (3) below is satisfied the Secretary of State may by order specify an organisation which is not specified under section 3(8) of the Northern Ireland (Sentences) Act 1998.
 - (3) The condition is that the Secretary of State believes that the organisation—
 - (a) is concerned in terrorism connected with the affairs of Northern Ireland, or in promoting or encouraging it, and
 - (b) has not established or is not maintaining a complete and unequivocal ceasefire.
 - (4) An order under this section shall be made by statutory instrument; and no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.”
- (2) For the purposes of section 27 of the Prevention of Terrorism (Temporary Provisions) Act 1989 (duration etc) sections 2A and 2B of that Act shall be treated as having been continued in force by the order under subsection (6) of section 27 which has effect when this Act is passed.

2 Evidence and inferences: Northern Ireland

The following sections shall be inserted after section 30 of the Northern Ireland (Emergency Provisions) Act 1996 —

“30A Evidence and inferences

- (1) This section applies where a person is charged with an offence under section 30(1)(a); and references here to a specified organisation must be construed in accordance with section 30B.
- (2) Subsection (3) applies if a police officer of or above the rank of superintendent states in oral evidence that in his opinion the accused—
 - (a) belongs to an organisation which is specified, or
 - (b) belonged at a particular time to an organisation which was then specified.
- (3) If this subsection applies—
 - (a) the statement shall be admissible as evidence of the matter stated, but
 - (b) the accused shall not be committed for trial or be found to have a case to answer or be convicted solely on the basis of the statement.
- (4) Subsection (6) applies if evidence is given that—

- (a) at any time before being charged with the offence the accused, on being questioned under caution by a constable, failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and
 - (b) before being questioned he was permitted to consult a solicitor.
- (5) Subsection (6) also applies if evidence is given that—
 - (a) on being charged with the offence or informed by a constable that he might be prosecuted for it the accused failed to mention a fact which is material to the offence and which he could reasonably be expected to mention, and
 - (b) before being charged or informed he was permitted to consult a solicitor.
- (6) If this subsection applies—
 - (a) the court, in considering any question whether the accused belongs or belonged at a particular time to a specified organisation, may draw from the failure inferences relating to that question, but
 - (b) the accused shall not be committed for trial or be found to have a case to answer or be convicted solely on the basis of the inferences.
- (7) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.
- (8) This section does not—
 - (a) prejudice the admissibility of evidence admissible apart from this section;
 - (b) preclude the drawing of inferences which could be drawn apart from this section;
 - (c) prejudice an enactment providing (in whatever words) that an answer or evidence given by a person in specified circumstances is not admissible in evidence against him or some other person in any proceedings or class of proceedings (however described, and whether civil or criminal).
- (9) In subsection (8)(c) the reference to giving evidence is a reference to giving it in any manner (whether by giving information, making discovery, producing documents or otherwise).
- (10) In this section “police officer” means a member of—
 - (a) a police force within the meaning of the Police Act 1996 or the Police (Scotland) Act 1967, or
 - (b) the Royal Ulster Constabulary.
- (11) This section does not apply to a statement made or failure occurring before the day on which the Criminal Justice (Terrorism and Conspiracy) Act 1998 was passed.

30B Specified organisations

- (1) For the purposes of section 30A an organisation is specified at a particular time if at that time—

- (a) it is specified under section 3(8) of the Northern Ireland (Sentences) Act 1998 or under subsection (2) below, and
 - (b) it is, or forms part of, an organisation which is proscribed for the purposes of this Act.
- (2) If the condition in subsection (3) is satisfied the Secretary of State may by order specify an organisation which is not specified under section 3(8) of the Northern Ireland (Sentences) Act 1998.
- (3) The condition is that the Secretary of State believes that the organisation—
- (a) is concerned in terrorism connected with the affairs of Northern Ireland, or in promoting or encouraging it, and
 - (b) has not established or is not maintaining a complete and unequivocal ceasefire.
- (4) An order under this section shall be made by statutory instrument; and no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.”

3 Arrest and detention

- (1) In section 14(1)(a) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (arrest and detention of persons suspected of certain offences etc) after “above” there shall be inserted “or under section 30 of the Northern Ireland (Emergency Provisions) Act 1996”.
- (2) This section applies whether the offence is suspected to have been committed before or on or after the day on which this Act is passed.

4 Forfeiture orders

- (1) This section applies if—
- (a) a person is convicted of an offence under section 2 of the Prevention of Terrorism (Temporary Provisions) Act 1989 (membership etc of proscribed organisations), and
 - (b) at the time of the offence he belonged to an organisation which was then a specified organisation for the purposes of section 2A of that Act.
- (2) This section also applies if—
- (a) a person is convicted of an offence under section 30 of the Northern Ireland (Emergency Provisions) Act 1996 (membership etc of proscribed organisations), and
 - (b) at the time of the offence he belonged to an organisation which was then a specified organisation for the purposes of section 30A of that Act.
- (3) The court by or before which the person is convicted may order the forfeiture of any money or other property if—
- (a) he had it in his possession or under his control at the time of the offence, and
 - (b) it has been used in furtherance of or in connection with the activities of the specified organisation, or the court believes it may be so used unless forfeited.
- (4) If a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, before

making such an order in respect of it the court must give him an opportunity to be heard.

- (5) The standard of proof required to determine any question arising as to whether subsection (1)(b), (2)(b) or (3)(a) or (b) is satisfied shall be that applicable in civil proceedings.
- (6) For the purposes of this section property includes property wherever situated and whether real or personal, heritable or moveable, a thing in action or other intangible or incorporeal property.
- (7) Schedule 4 to the Prevention of Terrorism (Temporary Provisions) Act 1989 shall apply in relation to orders under subsection (3) above, and in its application by virtue of this subsection—
 - (a) the references in paragraphs 1(1), 11(1) and 21(1) to section 13(2), (3) or (4) of that Act shall be treated as references to subsection (3) above;
 - (b) the references in paragraphs 1(1)(d), 11(1)(d) and 21(1)(d) to section 13(6) of that Act shall be treated as references to subsection (4) above.
- (8) This section applies where the offence is committed on or after the day on which this Act is passed, and for this purpose an offence committed over a period of more than one day or at some time during a period of more than one day must be taken to be committed on the last of the days in the period.
- (9) The following paragraphs apply so far as this section extends to England and Wales and Scotland—
 - (a) section 27(5) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (duration) shall apply to this section;
 - (b) for the purposes of section 27 this section shall be treated as having been continued in force by the order under subsection (6) of section 27 which has effect when this Act is passed.
- (10) So far as this section extends to Northern Ireland, for the purposes of section 62 of the Northern Ireland (Emergency Provisions) Act 1996 (duration etc) it shall be treated as a temporary provision of that Act.