Terrorism Act 2000

2000 CHAPTER 11

PART VII

NORTHERN IRELAND

Scheduled offences

65 Scheduled offence: interpretation.

(1) In this Part "scheduled offence" means, subject to any relevant note in Part I or III of Schedule 9, an offence specified in either of those Parts.

(2) Part II of that Schedule shall have effect in respect of offences related to those specified in Part I.

(3) The Secretary of State may by order—
- (a) add an offence to Part I or II of Schedule 9;
- (b) remove an offence from Part I or II of that Schedule;
- (c) amend Part I or II of that Schedule in some other way.

66 Preliminary inquiry.

(1) In proceedings before a magistrates' court for a scheduled offence, if the prosecution requests the court to conduct a preliminary inquiry into the offence the court shall grant the request.

(2) In subsection (1) "preliminary inquiry" means a preliminary inquiry under the [M1]Magistrates' Courts (Northern Ireland) Order 1981.

(3) Subsection (1)—
- (a) shall apply notwithstanding anything in Article 31 of that Order,
- (b) shall not apply in respect of an offence where the court considers that in the interests of justice a preliminary investigation should be conducted into the offence under that Order, and

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(c) shall not apply in respect of an extra-territorial offence (as defined in section 1(3) of the [M2]Criminal Jurisdiction Act 1975)).

(4) Where a person charged with a scheduled offence is also charged with a non-scheduled offence, the non-scheduled offence shall be treated as a scheduled offence for the purposes of this section.

Marginal Citations

M1 S.I. 1981/1675 (N.I. 26).

M2 1975 c. 59.

67 Limitation of power to grant bail.

(1) This section applies to a person who—

(a) has attained the age of fourteen, and

(b) is charged with a scheduled offence which is neither being tried summarily nor certified by the Director of Public Prosecutions for Northern Ireland as suitable for summary trial.

(2) Subject to subsections (6) and (7), a person to whom this section applies shall not be admitted to bail except—

(a) by a judge of the High Court or the Court of Appeal, or

(b) by the judge of the court of trial on adjourning the trial of a person charged with a scheduled offence.

(3) A judge may, in his discretion, admit a person to whom this section applies to bail unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would—

(a) fail to surrender to custody,

(b) commit an offence while on bail,

(c) interfere with a witness,

(d) otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person, or

(e) fail to comply with conditions of release (if any).

(4) In exercising his discretion in relation to a person under subsection (3) a judge shall have regard to such of the following considerations as he considers relevant (as well as to any others which he considers relevant)—

(a) the nature and seriousness of the offence with which the person is charged,

(b) the character, antecedents, associations and community ties of the person,

(c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail, and

(d) the strength of the evidence of his having committed the offence.

(5) Without prejudice to any other power to impose conditions on admission to bail, a judge admitting a person to bail under this section may impose such conditions as he considers—

(a) likely to result in the person's appearance at the time and place required, or

(b) necessary in the interests of justice or for the prevention of crime.

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(6) Subsection (7) applies where a person to whom this section applies is a serving member of—
  (a) any of Her Majesty's forces, or
  (b) the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

(7) Where this subsection applies to a person he may be admitted to bail on condition that he is held in military or police custody if the person granting bail is satisfied that suitable arrangements have been made; and—
  (a) bail on that condition may be granted by a judge or a resident magistrate, and
  (b) it shall be lawful for the person to be held in military or police custody in accordance with the conditions of his bail.

68 Bail: legal aid.

(1) Where it appears to a judge of the High Court or the Court of Appeal—
  (a) that a person charged with a scheduled offence intends to apply to be admitted to bail,
  (b) that it is desirable in the interests of justice that he should have legal aid, and
  (c) 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—
  (a) whether his means are sufficient to enable him to obtain legal aid, or
  (b) 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) Articles 32, 36 and 40 of the [M3]Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (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 III of that Order as if legal aid under this section were given in pursuance of a criminal aid certificate under Article 29 of that Order.

Marginal Citations
M3 S.I. 1981/228 (N.I. 8).

69 Maximum period of remand in custody.

(1) The period for which a person charged with a scheduled offence may be remanded in custody by a magistrates' court shall be a period of not more than 28 days beginning with the day following that on which he is remanded.

(2) Subsection (1) has effect—
  (a) notwithstanding Article 47(2) and (3) of the [M4]Magistrates' Courts (Northern Ireland) Order 1981, and
  (b) whether or not a person is also charged with a non-scheduled offence.

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Marginal Citations

M4 S.I. 1981/1675 (N.I. 26).

70 Young persons: custody on remand, &c.

(1) While a young person charged with a scheduled offence is remanded or committed for trial and not released on bail, he may be held in custody in such prison or other place as may be specified in a direction given by the Secretary of State under this section.

(2) Subsection (1) shall have effect in respect of a person—
- (a) notwithstanding the provisions of any enactment, and
- (b) whether or not he was remanded or committed for trial at a time when this section was not in force.

(3) The Secretary of State may give a direction under this section in respect of a person if he considers it necessary to make special arrangements as to the place at which the person is to be held in order—
- (a) to prevent his escape, or
- (b) to ensure his safety or the safety of others.

(4) The Secretary of State may give a direction under this section at any time after the person to whom it relates has been charged.

(5) In this section "young person" means a person who—
- (a) has attained the age of fourteen, and
- (b) has not attained the age of seventeen.

71 Directions under section 70.

(1) A direction under section 70 shall cease to have effect at the expiry of the period specified in the direction unless—
- (a) it has previously ceased to have effect, or
- (b) it is continued in force by a further direction.

(2) The specified period shall not end after the end of the period of two months beginning with the date of the direction.

(3) Where—
- (a) a person is held in custody in a prison or other place by virtue of a direction, and
- (b) the direction ceases to have effect (whether or not by reason of the expiry or cesser of section 70),

it shall be lawful for him to continue to be held in custody in that prison or place until arrangements can be made for him to be held in custody in accordance with the law then applicable to his case.

(4) Nothing in subsection (3) shall be taken as permitting the holding in custody of a person who is entitled to be released from custody.

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72 Time limits for preliminary proceedings.

(1) The Secretary of State may by regulations make provision, in respect of a specified preliminary stage of proceedings for a scheduled offence, as to the maximum period—

(a) to be allowed to the prosecution to complete the stage;

(b) during which the accused may, while awaiting completion of the stage, be in the custody of a magistrates' court or the Crown Court in relation to the offence.

(2) The regulations may, in particular—

(a) provide for a specified law about bail to apply in relation to cases to which custody or overall time limits apply (subject to any modifications which the Secretary of State considers it necessary to specify in the regulations);

(b) provide for time limits to cease to have effect in cases where the Attorney General for Northern Ireland certifies after the institution of proceedings that an offence is not to be treated as a scheduled offence;

(c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of another provision of the regulations;

(d) make provision which has effect in relation to a non-scheduled offence where separate counts of an indictment allege a scheduled offence and a non-scheduled offence;

(e) enable the Crown Court in specified circumstances to extend or further extend a time limit at any time before it expires.

(3) Subject to subsection (4), where an overall time limit expires before the completion of the stage of proceedings to which the limit applies, the accused shall be treated for all purposes as having been acquitted of the offence to which the proceedings relate.

(4) Regulations under this section which provide for a custody time limit in relation to a preliminary stage shall have no effect where—

(a) a person escapes from the custody of a magistrates' court or the Crown Court before the expiry of the custody time limit,

(b) a person who has been released on bail in consequence of the expiry of a custody time limit fails to surrender himself into the custody of the court at the appointed time, or

(c) a person who has been released on bail in consequence of the expiry of a custody time limit is arrested by a constable in connection with a breach or apprehended breach of a condition of his bail.

(5) If a person escapes from the custody of a magistrates' court or the Crown Court, the overall time limit which applies to the stage which proceedings relating to the person have reached at the time of the escape shall cease to have effect in relation to those proceedings.

(6) If a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time, the overall time limit which applies to the stage which proceedings relating to the person have reached at the time of the failure shall cease to have effect in relation to those proceedings.

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73 Time limits: supplementary.

(1) Where a person is convicted of an offence, the exercise of power conferred by virtue of section 72(2)(e) in relation to proceedings for the offence shall not be called into question on an appeal against the conviction.

(2) In the application of section 72 in relation to proceedings on indictment, "preliminary stage" does not include a stage—

(a) after the time when the case for the prosecution is opened, or

(b) if the court accepts a plea of guilty before the case for the prosecution is opened, after the plea is accepted.

(3) In the application of section 72 in relation to summary proceedings, "preliminary stage" does not include a stage—

(a) after the court begins to hear evidence for the prosecution at the trial,

(b) if the court accepts a plea of guilty before it has begun to hear evidence for the prosecution, after the plea is accepted, or

(c) after the court begins to consider whether to exercise its power under Article 44(4) of the [M5]Mental Health (Northern Ireland) Order 1986 (power to make hospital order without conviction).

(4) In this section and section 72—

"custody of the Crown Court" includes custody to which a person is committed in pursuance of—

(a) Article 37 or 40(4) of the [M6]Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' court committing accused for trial), or

(b) section 51(8) of the [M7]Judicature (Northern Ireland) Act 1978 (magistrates' court dealing with a person arrested under Crown Court warrant),

"custody of a magistrates' court" means custody to which a person is committed in pursuance of Article 47 or 49 of the [M8]Magistrates' Courts (Northern Ireland) Order 1981 (remand),

"custody time limit" means a time limit imposed by regulations in pursuance of section 72(1)(b) or, where a limit has been extended by the Crown Court by virtue of section 72(2)(e), the limit as extended,

"law about bail" means—

(a) the [M9]Magistrates' Courts (Northern Ireland) Order 1981,

(b) section 67 of this Act,

(c) any other enactment relating to bail, and

(d) any rule of law relating to bail, and

"overall time limit" means a time limit imposed by regulations in pursuance of section 72(1)(a) or, where a limit has been extended by the Crown Court by virtue of section 72(2)(e), the limit as extended.

(5) For the purposes of the application of a custody time limit in relation to a person who is in the custody of a magistrates' court or the Crown Court—

(a) all periods during which he is in the custody of a magistrates' court in respect of the same offence shall be aggregated and treated as a single continuous period; and

(b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated as a single continuous period.

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Marginal Citations

M5 S.I. 1986/595 (N.I. 4).
M6 S.I. 1981/1675 (N.I. 26).
M7 1978 c. 23.
M8 S.I. 1981/1675 (N.I. 26).
M9 S.I. 1981/1675 (N.I. 26).

74 Court for trial.

(1) A trial on indictment of a scheduled offence shall be held only at the Crown Court sitting in Belfast, unless—

(a) the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland directs that the trial, or a class of trials within which it falls, shall be held at the Crown Court sitting elsewhere, or

(b) the Lord Chief Justice of Northern Ireland directs that the trial, or part of it, shall be held at the Crown Court sitting elsewhere.

(2) A person committed for trial for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, shall be committed—

(a) to the Crown Court sitting in Belfast, or

(b) where a direction has been given under subsection (1) which concerns the trial, to the Crown Court sitting at the place specified in the direction;

and section 48 of the [M10]Judicature (Northern Ireland) Act 1978 (committal for trial on indictment) shall have effect accordingly.

(3) Where—

(a) a person is committed for trial to the Crown Court sitting in Belfast in accordance with subsection (2), and

(b) a direction is subsequently given under subsection (1), before the commencement of the trial, altering the place of trial,

the person shall be treated as having been committed for trial to the Crown Court sitting at the place specified in the direction.

Marginal Citations

M10 1978 c. 23.

75 Mode of trial on indictment.

(1) A trial on indictment of a scheduled offence shall be conducted by the court without a jury.

(2) The court trying a scheduled offence on indictment under this section shall have all the powers, authorities and jurisdiction which the court would have had if it had been sitting with a jury (including power to determine any question and to make any finding which would, apart from this section, be required to be determined or made by a jury).

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(3) A reference in an enactment to a jury, the verdict of a jury or the finding of a jury shall, in relation to a trial under this section, be construed as a reference to the court, the verdict of the court or the finding of the court.

(4) Where separate counts of an indictment allege a scheduled offence and a non-scheduled offence, the trial on indictment shall be conducted as if all the offences alleged in the indictment were scheduled offences.

(5) Subsection (4) is without prejudice to section 5 of the [M11]Indictments Act (Northern Ireland) 1945 (orders for amendment of indictment, separate trial and postponement of trial).

(6) Without prejudice to subsection (2), where the court trying a scheduled offence on indictment—

(a) is not satisfied that the accused is guilty of the offence, but

(b) is satisfied that he is guilty of a non-scheduled offence of which a jury could have found him guilty on a trial for the scheduled offence,

the court may convict him of the non-scheduled offence.

(7) Where the court trying a scheduled offence convicts the accused of that or some other offence, it shall give a judgment stating the reasons for the conviction at or as soon as is reasonably practicable after the time of conviction.

(8) A person convicted of an offence on a trial under this section without a jury may, notwithstanding anything in sections 1 and 10(1) of the [M12]Criminal Appeal (Northern Ireland) Act 1980, appeal to the Court of Appeal under Part I of that Act—

(a) against his conviction, on any ground, without the leave of the Court of Appeal or a certificate of the judge of the court of trial;

(b) against sentence passed on conviction, without that leave, unless the sentence is fixed by law.

(9) Where a person is convicted of an offence on a trial under this section, the time for giving notice of appeal under section 16(1) of that Act shall run from the date of judgment if later than the date from which it would run under that subsection.

Marginal Citations

M11 1945 c. 16(N.I.).

M12 1980 c. 47.

[[F1]76 Admission in trial on indictment.

(1) This section applies to a trial on indictment for—

(a) a scheduled offence, or

(b) two or more offences at least one of which is a scheduled offence.

(2) A statement made by the accused may be given in evidence by the prosecution in so far as—

(a) it is relevant to a matter in issue in the proceedings, and

(b) it is not excluded or inadmissible (whether by virtue of subsections (3) to (5) or otherwise).

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(3) Subsections (4) and (5) apply if in proceedings to which this section applies—

(a) the prosecution gives or proposes to give a statement made by the accused in evidence,

(b) prima facie evidence is adduced that the accused was subjected to torture, inhuman or degrading treatment, violence or the threat of violence in order to induce him to make the statement, and

(c) the prosecution does not satisfy the court that the statement was not obtained in the manner mentioned in paragraph (b).

(4) If the statement has not yet been given in evidence, the court shall—

(a) exclude the statement, or

(b) direct that the trial be restarted before a differently constituted court (before which the statement shall be inadmissible).

(5) If the statement has been given in evidence, the court shall—

(a) disregard it, or

(b) direct that the trial be restarted before a differently constituted court (before which the statement shall be inadmissible).

(6) This section is without prejudice to any discretion of a court to—

(a) exclude or ignore a statement, or

(b) direct a trial to be restarted,

where the court considers it appropriate in order to avoid unfairness to the accused or otherwise in the interests of justice.**]**

Textual Amendments

F1 S. 76 ceased to have effect (26.7.2002) by virtue of S.I. 2002/2141, **art. 2**

77 Possession: onus of proof.

(1) This section applies to a trial on indictment for a scheduled offence where the accused is charged with possessing an article in such circumstances as to constitute an offence under any of the enactments listed in subsection (3).

(2) If it is proved that the article—

(a) was on any premises at the same time as the accused, or

(b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed (and, if relevant, knowingly possessed) the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.

(3) The following are the offences mentioned in subsection (1)—

The [M13]*Explosive Substances Act 1883*

Section 3, so far as relating to subsection (1)(b) thereof (possessing explosive with intent to endanger life or cause serious damage to property).

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Section 4 (possessing explosive in suspicious circumstances).

The [M14]Protection of the Person and Property Act (Northern Ireland) 1969

Section 2 (possessing petrol bomb, &c. in suspicious circumstances).

The [M15]Firearms (Northern Ireland) Order 1981

Article 6(1) (manufacturing, dealing in or possessing certain weapons, &c.).

Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property).

Article 18(2) (possessing firearm or imitation firearm at time of committing, or being arrested for, a specified offence).

Article 22(1), (2) or (4) (possession of a firearm or ammunition by a person who has been sentenced to imprisonment, &c.).

Article 23 (possessing firearm or ammunition in suspicious circumstances).

Marginal Citations

M13 1883 c. 3.
M14 1969 c. 29 (N.I.).
M15 S.I. 1981/155 (N.I. 2)

78 Children: sentence.

(1) This section applies where a child is convicted on indictment of a scheduled offence committed while this section is in force.

(2) Article 45(2) of the [M16]Criminal Justice (Children) (Northern Ireland) Order 1998 (punishment for serious offence) shall have effect with the substitution for the words " 14 years " of the words "five years".

(3) In this section "child" means a person who has not attained the age of 17.

Marginal Citations

M16 S.I. 1998/1504 (N.I. 9).

79 Restricted remission.

(1) The remission granted under prison rules in respect of a sentence of imprisonment passed in Northern Ireland for a scheduled offence shall not, where it is for a term of five years or more, exceed one-third of the term.

(2) Where a person is sentenced on the same occasion for two or more scheduled offences to terms which are consecutive, subsection (1) shall apply as if those terms were a single term.

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(3) Where a person is serving two or more terms which are consecutive but not all subject to subsection (1), the maximum remission granted under prison rules in respect of those terms taken together shall be arrived at by calculating the maximum remission for each term separately and aggregating the result.

(4) In this section "prison rules" means rules made under section 13 of the [M17]Prison Act (Northern Ireland) 1953.

(5) The Secretary of State may by order substitute a different length of sentence and a different maximum period of remission for those mentioned in subsection (1).

(6) This section applies where—

(a) the scheduled offence is committed while this section is in force,

(b) the offence (being a scheduled offence within the meaning of the [M18]Northern Ireland (Emergency Provisions) Act 1996) was committed while section 15 of that Act was in force,

(c) the offence (being a scheduled offence within the meaning of the [M19]Northern Ireland (Emergency Provisions) Act 1991) was committed while section 14 of that Act was in force, or

(d) the offence (being a scheduled offence within the meaning of the [M20]Northern Ireland (Emergency Provisions) Act 1978) was committed while section 22 of the [M21]Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

Marginal Citations

M17 1953 c.18 (N.I.)
M18 1996 c. 22.
M19 1991 c. 24.
M20 1978 c. 5.
M21 1989 c. 4.

80 Conviction during remission.

(1) This section applies where—

(a) a person is sentenced to imprisonment or a term of detention in a young offenders centre for a period exceeding one year,

(b) he is discharged from prison or the centre in pursuance of prison rules, and

(c) before his sentence or term would have expired (but for the discharge) he commits, and is convicted on indictment of, a scheduled offence.

(2) If the court before which he is convicted of the scheduled offence sentences him to imprisonment or a term of detention it shall in addition order him to be returned to prison or a young offenders centre for the period between the date of the order and the date on which the sentence or term mentioned in subsection (1) would have expired but for his discharge.

(3) No order shall be made under subsection (2) if the sentence imposed by the court is—

(a) a suspended sentence,

(b) a sentence of life imprisonment, or

(c) a sentence of detention during the Secretary of State's pleasure under Article 45(1) of the [M22]Criminal Justice (Children) (Northern Ireland) Order 1998.

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(4) An order made under subsection (2) shall cease to have effect if an appeal against the scheduled offence results in—

(a) the acquittal of the person concerned, or

(b) the substitution of a sentence other than imprisonment or a term of detention.

(5) The period for which a person is ordered under this section to be returned to prison or a young offenders centre—

(a) shall be taken to be a sentence of imprisonment or term of detention for the purposes of the [M23]Prison Act (Northern Ireland) 1953 and for the purposes of the [M24]Treatment of Offenders Act (Northern Ireland) 1968 other than section 26(2) (reduction for time spent in custody),

(b) shall not be subject to any provision of prison rules for discharge before expiry, and

(c) shall be served before, and be followed by, the sentence or term imposed for the scheduled offence and be disregarded in determining the appropriate length of that sentence or term.

(6) For the purposes of this section a certificate purporting to be signed by the governor or deputy governor of a prison or young offenders centre which specifies—

(a) the date on which a person was discharged from prison or a young offenders centre,

(b) the sentence or term which the person was serving at the time of his discharge, the offence in respect of which the sentence or term was imposed and the date on which he was convicted of that offence, and

(c) the date on which the person would, but for his discharge in pursuance of prison rules, have been discharged from prison or a young offenders centre,

shall be evidence of the matters specified.

(7) In this section—

"prison rules" means rules made under section 13 of the [M25]Prison Act (Northern Ireland) 1953,

"sentence of imprisonment" does not include a committal in default of payment of any sum of money or for want of sufficient distress to satisfy any sum of money or for failure to do or abstain from doing anything required to be done or left undone, and

"young offenders centre" has the meaning assigned to it by section 2(a) of the [M26]Treatment of Offenders Act (Northern Ireland) 1968.

(8) For the purposes of subsection (1) consecutive terms of imprisonment or of detention in a young offenders centre shall be treated as a single term and a sentence of imprisonment or detention in a young offenders centre includes—

(a) a sentence or term passed by a court in the United Kingdom or any of the Islands, and

(b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence within the meaning of the [M27]Army Act 1955, the [M28]Air Force Act 1955 and the [M29]Naval Discipline Act 1957.

(9) The Secretary of State may by order substitute a different period for the period of one year mentioned in subsection (1).

(10) This section applies irrespective of when the discharge from prison or a young offenders centre took place but only if—

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(a) the scheduled offence is committed while this section is in force,

(b) the offence (being a scheduled offence within the meaning of the [M30]Northern Ireland (Emergency Provisions) Act 1996) was committed while section 16 of that Act was in force,

(c) the offence (being a scheduled offence within the meaning of the [M31]Northern Ireland (Emergency Provisions) Act 1991) was committed while section 15 of that Act was in force, or

(d) the offence (being a scheduled offence within the meaning of the [M32]Northern Ireland (Emergency Provisions) Act 1978) was committed while section 23 of the [M33]Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

Marginal Citations

M22 S.I. 1998/1504 (N.I. 9).
M23 1953 c. 18 (N.I.).
M24 1968 c. 29 (N.I.).
M25 1953 c. 18 (N.I.).
M26 1968 c. 29 (N.I.).
M27 1955 c. 18.
M28 1955 c. 19.
M29 1957 c. 53.
M30 1996 c. 22.
M31 1991 c. 24.
M32 1978 c. 5.
M33 1989 c. 4.

Status:
Point in time view as at 01/04/2003.

Changes to legislation:
Terrorism Act 2000, Cross Heading: Scheduled offences is up to date with all changes known to be in force on or before 31 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.