



# Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968

## 1968 CHAPTER 28

An Act to amend the law and practice relating to certain proceedings in criminal courts, including the law relating to evidence in such proceedings; to amend the criminal law in certain respects; to alter the penalties which may be imposed for certain offences; to do away with certain offences together with the torts of maintenance and champerty; to repeal certain obsolete or unnecessary enactments; and for connected purposes. [12th December 1968]

### 1 Proof by written statement.

<sup>F1</sup>(1) In any criminal proceedings to which this section applies, a written statement by any person shall, if such of the conditions mentioned in subsection (2) as are applicable are satisfied, be admissible as evidence to the like extent as oral evidence to the like effect by that person.

(2) Subject to subsection (3), the said conditions are—

- (a) the statement shall purport to be signed by the person who made it;
- (b) the statement shall contain a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully said in it anything which he knew to be false or did not believe to be true;
- (c) not less than fourteen days before the hearing at which the statement is tendered in evidence, a copy of the statement is served, by or on behalf of the party proposing to tender it, on each of the other parties to the proceedings; and
- (d) none of the other parties or their solicitors, within seven days from the service of the copy of the statement, serves a notice on the party so proposing objecting to the statement being tendered in evidence under this section.

(3) The conditions mentioned in subsection (2)(c) and (d) shall not apply if the parties agree before or during the hearing that the statement shall be tendered in evidence under this section.

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- (4) The following provisions shall also have effect in relation to any statement tendered in evidence under this section, namely—
- (a) if the statement is made by a person under the age of [<sup>F2</sup>eighteen] years, his age shall be set forth in the statement;
  - (b) if it is made by a person who cannot read, it shall be read to him before he signs it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read and that after it was so read the maker of the statement assented to it;
  - (c) if it refers to any other document as an exhibit, the copy served on any other party to the proceedings under subsection (2)( c) shall be accompanied by a copy of that other document or, if it is not possible to make a copy of that other document or if an exhibit other than a document is referred to in the statement, a copy of the statement served under subsection (2)( c) shall be accompanied by a notice of the time and place when the exhibit may be examined by that other party and his solicitor and any expert witness whom the party may wish to call at the trial to give evidence relating to the exhibit, or by any one or more of those persons.
- (5) Notwithstanding that a written statement made by any person may be admissible as evidence under this section—
- (a) the party by whom or on whose behalf a copy of the statement was served may call that person to give evidence; and
  - (b) the court may, of its own motion or on the application (which application may be made before or during the hearing) of any party to the proceedings, require that person to attend before the court and give oral evidence.
- (6) So much of any statement as is admitted in evidence under this section shall, unless the court otherwise directs, be read aloud at the hearing and, where the court so directs, an account shall be given orally of so much of any statement as is not read aloud.
- (7) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in court, or identified, as the case may be, by the maker of the statement.
- (8) [<sup>F3</sup>Subject to section 1A and] Notwithstanding section 24 of the Interpretation Act (Northern Ireland) 1954 , a document required by this section to be served on any person may be served—
- (a) by delivering it to him or to his solicitor; or
  - (b) by addressing it to him and leaving it at his usual or last known place of abode or place of business or by addressing it to his solicitor and leaving it at his office; or
  - (c) by sending it in a registered letter or by the recorded delivery service addressed to him at his usual or last known place of abode or place of business or addressed to his solicitor at his office; or
  - (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or sending it in a registered letter or by the recorded delivery service addressed to the secretary or clerk of that body at that office<sup>F4</sup>; and in this paragraph references to the secretary, in relation to a limited liability partnership, are to any designated member of the limited liability partnership.]

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- (9) This section shall apply to every criminal proceeding other than a preliminary investigation of an indictable offence conducted under the<sup>F5</sup> Magistrates' Courts (Northern Ireland) Order 1981].

*Subs. (10) rep. by 1975 c. 59*

- F1** 1975 c.59; 1975 c.62; 1979 c.58  
**F2** Words in s. 1(4)(a) substituted (4.7.1996 with application (1.1.1998) as mentioned in s. 69(2) of the amending Act) by [Criminal Procedure and Investigations Act 1996 \(c. 25\)](#), s. 69(1) (as modified in its application to Northern Ireland by Sch. 4 para. 29); S.I. 1997/3108, art. 2  
**F3** 1989 NI 12  
**F4** SR 2004/307  
**F5** 1981 NI 26

**Modifications etc. (not altering text)**

- C1** S. 1 modified (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 96, 126(2), **Sch. 4 para. 10(3)(b)** (with Sch. 8 paras. 20, 27)  
**C2** S. 1(2)(c) modified (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 96, 126(2), **Sch. 4 para. 10(5)(b)** (with Sch. 8 paras. 20, 27)  
**C3** S. 1(2)(d) applied (with modifications) (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), ss. 96, 126(2), **Sch. 4 para. 10(6)(b)** (with Sch. 8 paras. 20, 27)

**[<sup>F6</sup>1A Service by ordinary post.**

- (1) Without prejudice to subsection (8) of section 1, a document required by that section to be served on any person may, in relation to criminal proceedings in a magistrates' court, be served by ordinary post in an envelope in the manner described in paragraph (c) or (d) of that subsection.
- (2) A written statement contained in a document served in accordance with subsection (1) shall not be admissible in evidence under section 1 unless the person upon whom the document is served provides an acknowledgement in such form and manner as may be prescribed by magistrates' courts rules.
- (3) Unless the contrary is proved—
- such an acknowledgement shall be taken as proof of service; and
  - the document shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.]

- F6** 1989 NI 12

**2 Proof by formal admission.**

- (1) Subject to the provisions of this section, any fact of which oral evidence may be given in any criminal proceedings may be admitted for the purpose of those proceedings by or on behalf of the prosecutor or defendant, and the admission by any party of any such fact under this section shall, as against that party, be conclusive evidence in those proceedings of the fact admitted.

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- (2) An admission under this section may be made before or at the proceedings and, if made otherwise than in court, shall be in writing signed by the person making it, if that person is an individual, or by a director or manager or the secretary or clerk, or some other similar officer, if the admission is made by a body corporate.
- (3) An admission under this section for the purpose of proceedings relating to any matter shall be treated as an admission for the purpose of any subsequent criminal proceedings relating to that matter (including any appeal or retrial).
- (4) Notwithstanding that any fact may have been admitted for the purposes of any criminal proceedings, oral evidence of that fact may be given by either party to the proceedings.
- (5) An admission under this section may be withdrawn not later than one clear day before the trial in the proceedings for the purpose of which it was made, and no such admission may be withdrawn at any later time unless the court shall otherwise allow by reason of circumstances which could not reasonably have been foreseen; and, if such an admission is withdrawn, the prosecutor may, with the leave of the court, comment on the withdrawal.

### **3 Procedure for shortening arraignments.**

- (1) Upon the trial of a person on an indictment containing counts charging offences of a like or of a substantially similar nature, the presiding Judge, if satisfied that that person—
  - (a) is in possession of a copy of the indictment;
  - (b) is able to read; and
  - (c) will not be prejudiced,may direct the proper officer to use the shortened form of arraignment referred to in subsection (2) of this section.
- (2) In using the shortened form of arraignment the proper officer shall make public the nature of the charges on which the accused is to be tried by reading aloud and in full at least one count in respect of each category of offence charged. Each of the other counts relating to the same category of offence may then be put to the accused by referring to the number of the count and adding such other particulars as, without a full reading, may enable the accused to understand the charge and follow it in the copy of the indictment in his possession.
- (3) A plea in answer to any such form of arraignment shall be a good and sufficient plea notwithstanding any existing enactment or rule of law or practice; but the presiding Judge may in his discretion, as respects any arraignment in the shortened form, disallow the same and any plea made thereto and direct that the accused be rearraigned on the count or counts in question in the ordinary form.
- (4) Where the shortened form of arraignment provided for by this section is used and a plea thereto has been entered, the conditions stated in paragraphs (a), (b) and (c) of subsection (1) shall thereafter be deemed to have been duly satisfied.
- (5) Where a person is charged with an offence committed after a previous conviction—
  - (a) an arraignment made in accordance with subsection (2) shall not be held to contravene any enactment or rule of law or practice which operates to require him to be arraigned only upon so much of the indictment as charges the subsequent offence; and

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- (b) nothing in this section shall affect the operation of any enactment or rule of law or practice which requires the jury to be charged, in the first instance, to enquire concerning the subsequent offence only.
- (6) Nothing in this section shall affect the operation of any rule of law or practice requiring the substance of each count in an indictment to be stated to the jury by whom the prisoner is to be tried upon that indictment.
- (7) In this section the expression “proper officer” means the [<sup>F7</sup> chief clerk] or any other officer acting for the court or his deputy.

**F7** SR 1979/103

*S. 4 inserts s. 5(3A) in 1967 c. 18 (NI)*

*S. 5 adds s. 14(6) to 1953 c. 14 (NI)*

*S. 6(1) substitutes ss. 25(2), 26(2) of 1929 c. 1 (20 Geo.5) (NI); subs. (2) repeals ss. 16, 17 of 1872 c. 57*

## **7 Assault on, and obstruction of, constables, etc.**

<sup>F8</sup>(1) Any person who—

*Para. (a) rep. by 1998 c. 32*

- (b) assaults any person with intent to resist or prevent the lawful apprehension of himself or of any other person for any offence;

shall be guilty of an offence and shall be liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both; or
  - (ii) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [<sup>F9</sup> level 3 on the standard scale], or to both.
- (2) Any person may arrest without a warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing an offence under subsection (1).

*Subs. (3) repeals ss. 12#14 of 1851 c. 19; s. 38 of 1861 c. 100; s. 10 of 1862 c. 50; s. 12 of 1871 c. 112; s. 14 of 1935 c. 13 (NI); s. 25(3) of 1953 c. 14 (NI)*

**F8** 1972 c.9 (NI)

**F9** 1984 NI 3

*S. 8 substitutes s. 2 of 1960 c. 3 (NI)*

## **9 Riotous, disorderly and indecent behaviour, etc.**

[<sup>F10</sup>(1) Any person—

- (a) guilty of any indecent behaviour in any street, road, highway or other public place, or in any place to which the public have access (whether as of right or by permission and whether subject to or free of charge); or]

*Para. (b) rep. by 1990 NI 6*

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, shall be guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding<sup>[F11]</sup> level 3 on the standard scale], or to both.

*Subs. (2) repeals s. 59 of 1935 c. 13 (NI); s. 27 of 1953 c. 3 (NI)*

**F10** 1987 NI 7

**F11** 1984 NI 3

## **10 Arrest of person committing indictable offence in the night.**

- (1) Any person may arrest without a warrant anyone who is, or whom he, with reasonable cause, suspects to be, committing any indictable offence in the night.
- (2) In subsection (1), “night” means the interval between nine o'clock in the evening and six o'clock in the morning of the next succeeding day.

*Subs. (3) repeals s. 11 of 1851 c. 19*

*Ss. 11, 12 rep. by 1981 NI 26*

*S. 13, with Schedule 2, effects amendments*

*S. 14, with Schedule 3, effects repeals*

## **15 Saving.**

Nothing in this Act shall affect any term of imprisonment or the amount of any fine which may be imposed on conviction for an offence committed before the commencement of this Act.

## **16 Abolition of certain offences, and other repeals.**

- (1) The following offences are hereby abolished, namely—
  - (a) any distinct offence under the common law of maintenance (including champerty, but not embracery), challenging to fight, eavesdropping or being a common barrator, a common scold or a common night walker;
  - (b) any offence under an enactment mentioned in Schedule 4 to the extent to which the offence depends on any section or part of a section included in column 3 of that Schedule.

*Subs. (2), with Schedule 4, effects repeals*

## **17 Civil rights in respect of maintenance and champerty.**

- (1) No person shall, under the law of Northern Ireland, be liable in tort for any conduct on account of its being maintenance or champerty as known to the common law, except in the case of a cause of action accruing before this section has effect.
- (2) The abolition of criminal and civil liability under the law of Northern Ireland for maintenance and champerty shall not affect any rule of that law as to the cases in which a contract is to be treated as contrary to public policy or otherwise illegal.

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**18 Short title and commencement.**

- (1) This Act may be cited as the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968.
- (2) *Commencement*

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*Schedules 1, 2 — Amendments*

*Schedules 3, 4 — Repeals*



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