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STATUTORY INSTRUMENTS

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**1996 No. 3160**

**The Criminal Justice (Northern Ireland) Order 1996**

**PART IV**

**COURSE OF JUSTICE: EVIDENCE, PROCEDURE, ETC.**

*Imputations on character*

**Imputations on character**

**44.** In section 1(f) of the Criminal Evidence Act (Northern Ireland) 1923 there shall be inserted at the end of sub-paragraph (ii) “or the deceased victim of the alleged crime”.

*Corroboration*

**Abolition of corroboration rules**

**45.—(1)** Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a person merely because that person is—

- (a) an alleged accomplice of the accused, or
- (b) where the offence charged is a sexual offence, the person in respect of whom it is alleged to have been committed,

is hereby abrogated.

(2) In Article 13(2) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (abolition of requirement of corroboration warning in respect of evidence of a child) the words from “in relation to” to the end shall be omitted.

(3) Any requirement that—

- (a) is applicable at the summary trial of a person for an offence, and
- (b) corresponds to the requirement mentioned in paragraph (1) or that mentioned in Article 13(2) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988,

is hereby abrogated.

(4) Nothing in this Article applies in relation to—

- (a) any trial, or
- (b) any preliminary investigation or preliminary inquiry into an indictable offence conducted by a magistrates' court,

which began before the coming into operation of this Article.

## **Abolition of corroboration requirements under Criminal Law Amendment Act 1885**

**46.**—(1) In the Criminal Law Amendment Act 1885 in—

- (a) section 2 (procurement); and
- (b) section 3 (procurement of women by threats, false pretences or administering drugs),

the words from “Provided that” onwards (which provide that a person shall not be convicted of the offence concerned on the evidence of one witness only unless the witness is corroborated) are hereby repealed.

(2) Nothing in this Article applies in relation to—

- (a) any trial, or
- (b) any preliminary investigation or preliminary inquiry into an indictable offence conducted by a magistrates' court,

which began before the coming into operation of this Article.

### *Intimidation, etc., of witnesses, jurors and others*

## **Intimidation, etc., of witnesses, jurors and others**

**47.**—(1) A person who does to another person—

- (a) an act which intimidates, and is intended to intimidate, that other person;
- (b) knowing or believing that the other person is assisting in the investigation of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence; and
- (c) intending thereby to cause the investigation or the course of justice to be obstructed, perverted or interfered with,

shall be guilty of an offence.

(2) A person who does or threatens to do to another person—

- (a) an act which harms or would harm, and is intended to harm, that other person;
- (b) knowing or believing that the other person, or some other person, has assisted in an investigation into an offence or has given evidence or particular evidence in proceedings for an offence, or has acted as a juror or concurred in a particular verdict in proceedings for an offence; and
- (c) does or threatens to do the act because of what (within sub-paragraph (b)) he knows or believes,

shall be guilty of an offence.

(3) A person does an act “to” another person with the intention of intimidating, or (as the case may be) harming, that other person not only where the act is done in the presence of that other and directed at him directly but also where the act is done to a third person and is intended, in the circumstances, to intimidate or (as the case may be) harm the person at whom the act is directed.

(4) The harm that may be done or threatened may be financial as well as physical (whether to the person or a person’s property) and similarly as respects an intimidatory act which consists of threats.

(5) The intention required by paragraph (1)(c) and the motive required by paragraph (2)(c) need not be the only or the predominating intention or motive with which the act is done or, in the case of paragraph (2), threatened.

(6) A person guilty of an offence under this Article shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.

(7) If, in proceedings against a person for an offence under paragraph (1), it is proved that he did an act falling within sub-paragraph (a) with the knowledge or belief required by sub-paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the intention required by sub-paragraph (c) of that paragraph.

(8) If, in proceedings against a person for an offence under paragraph (2), it is proved that he did or threatened to do an act falling within sub-paragraph (a) within the relevant period with the knowledge or belief required by sub-paragraph (b), he shall be presumed, unless the contrary is proved, to have done the act with the motive required by sub-paragraph (c) of that paragraph.

(9) In this Article—

“investigation into an offence” means such an investigation by the police or other person charged with the duty of investigating offences or charging offenders;

“offence” includes an alleged or suspected offence;

“potential”, in relation to a juror, means a person who has been summoned for jury service at the court at which proceedings for the offence are pending; and

“the relevant period”—

- (a) in relation to a witness or juror in any proceedings for an offence, means the period beginning with the institution of the proceedings and ending with the first anniversary of the conclusion of the trial or, if there is an appeal or reference under section 10 or 12 of the Criminal Appeal Act 1995, of the conclusion of the appeal;
- (b) in relation to a person who has or is believed by the accused to have, assisted in an investigation into an offence, but was not also a witness in proceedings for an offence, means the period of one year beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation; and
- (c) in relation to a person who both has or is believed by the accused to have, assisted in the investigation into an offence and was a witness in proceedings for the offence, means the period beginning with any act of his, or any act believed by the accused to be an act of his, assisting in the investigation and ending with the anniversary mentioned in sub-paragraph (a).

(10) For the purposes of the definition of the relevant period in paragraph (9)—

- (a) proceedings for an offence are instituted at the earliest of the following times—
  - (i) when a summons or warrant is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981 in respect of the offence;
  - (ii) when a person is charged with the offence after being taken into custody without a warrant;
  - (iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969;

and where the application of this sub-paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times;

- (b) proceedings at a trial of an offence are concluded with the occurrence of any of the following, the discontinuance of the prosecution, the discharge of the jury without a finding, the acquittal of the accused or the sentencing of or other dealing with the accused for the offence of which he was convicted; and

- (c) proceedings on an appeal are concluded on the determination of the appeal or the abandonment of the appeal.
- (11) This Article is in addition to, and not in derogation of, any offence subsisting at common law.

*Insanity and unfitness to be tried*

**Procedure in relation to unfitness to be tried**

**48.** In Article 49 of the Mental Health (Northern Ireland) Order 1986 (procedure in relation to unfitness to be tried)—

- (a) after paragraph (4) there shall be inserted—
  - “(4A) A jury shall not make a determination under paragraph (4) except on the oral evidence of a medical practitioner appointed for the purposes of Part II by the Commission and on the written or oral evidence of one other medical practitioner”;
- (b) paragraphs (5) to (8) shall be omitted;
- (c) in paragraph (9) for “Article 51(6)” there shall be substituted “Articles 49A, 50A and 51(6)”.

**Trial of the facts in cases of defendants found unfit to be tried**

**49.** After Article 49 of the Mental Health (Northern Ireland) Order 1986 there shall be inserted—

**“Finding that the accused did the act or made the omission charged against him**

**49A.—**(1) This Article applies where in accordance with Article 49(4) it is determined by a jury that the accused is unfit to be tried.

- (2) The trial shall not proceed or further proceed but it shall be determined by a jury—
  - (a) on the evidence (if any) already given in the trial; and
  - (b) on such evidence as may be adduced or further adduced by the prosecution, or adduced by a person appointed by the court under this Article to put the case for the defence,

whether it is satisfied, as respects the count or each of the counts on which the accused was to be or was being tried, that he did the act or made the omission charged against him as the offence.

(3) If as respects that count or any of those counts the jury is satisfied as mentioned in paragraph (2), it shall make a finding that the accused did the act or made the omission charged against him.

(4) If as respects that count or any of those counts the jury is not so satisfied, it shall return a verdict of acquittal as if on the count in question the trial had proceeded to a conclusion.

- (5) A determination under paragraph (2) shall be made—
  - (a) where the question of fitness to be tried was determined on the arraignment of the accused, by a jury other than that which determined that question; and
  - (b) where that question was determined at any later time, by the jury by whom the accused was being tried.”

### **Procedure in relation to finding of insanity**

**50.** In Article 50 of the Mental Health (Northern Ireland) Order 1986 (procedure in relation to finding of insanity)—

- (a) in paragraph (1)(a) for “evidence” there shall be substituted “oral evidence of a medical practitioner appointed for the purposes of Part II by the Commission and on the written or oral evidence of one other medical practitioner”;
- (b) paragraphs (2) and (3) shall be omitted.

### **Powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.**

**51.—(1)** After Article 50 of the Mental Health (Northern Ireland) Order 1986 there shall be inserted—

#### **“Powers to deal with persons not guilty by reason of insanity or unfit to be tried, etc.**

**50A.—(1)** This Article applies where—

- (a) a finding is recorded that the accused is not guilty by reason of insanity; or
  - (b) findings are recorded that the accused is unfit to be tried and that he did the act or made the omission charged against him.
- (2) Subject to paragraphs (3) to (5), the court shall either—
- (a) make an order that the accused be admitted to hospital; or
  - (b) make in respect of the accused such one of the following orders as the court thinks most suitable in all the circumstances of the case, namely—
    - (i) a guardianship order;
    - (ii) subject to and in accordance with Part II of Schedule 2A, a supervision and treatment order within the meaning of that Schedule; and
    - (iii) an order for his absolute discharge.
- (3) A person who is admitted to a hospital in pursuance of an order under paragraph (2)(a) shall be treated for the purposes of this Order—
- (a) as if he had been so admitted in pursuance of a hospital order made on the date on which the order under paragraph (2)(a) was made; and
  - (b) if the court so directs, as if a restriction order had been made, either without limit of time or during such period as may be specified in the direction.
- (4) An order shall not be made under paragraph (2)(a) by a court unless an opportunity has been given to the Department to make representations to the court concerning the making of such an order.
- (5) A guardianship order placing a patient under the guardianship of any person shall not be made under paragraph (2)(b)(i) unless the court is satisfied that that person is willing to receive the patient into guardianship.
- (6) Where the offence to which the findings relate is an offence the sentence for which is fixed by law—
- (a) paragraphs (2)(b), (4) and (5) shall not apply; and
  - (b) the court shall give a direction under paragraph (3)(b) without specifying any period.
- (7) Where the Secretary of State is notified by the responsible medical officer that a person detained in a hospital in pursuance of an order made by virtue of paragraph (1)(b) no longer requires treatment for mental disorder, the Secretary of State may remit that person for trial—

- (a) to the Crown Court at the place where, but for the order, he would have been tried; or
- (b) to a prison; or
- (c) to a remand centre; or
- (d) to a remand home;

and on his arrival at the Crown Court, prison, remand centre or remand home the order shall cease to have effect.

(8) The provisions of Schedule 2A shall have effect with respect to supervision and treatment orders.”

(2) In Article 51 of the Mental Health (Northern Ireland) Order 1986 (appeals)—

- (a) in paragraph (2), after “a hospital order” there shall be inserted “, a supervision and treatment order” and after “the hospital order” where it twice occurs there shall be inserted “supervision and treatment order”;
- (b) in paragraphs (3) and (4) after “hospital order” wherever it occurs there shall be inserted “, supervision and treatment order”.

(3) In Article 84(1)(b) of the Mental Health (Northern Ireland) Order 1986 (interpretation of Part V)—

- (a) for “49(7) or 50(3) has the same effect” there shall be substituted “50A(3) shall be treated”;
- (b) for “49 or 50” there shall be substituted “50A(2)”.

(4) After Schedule 2 to the Mental Health (Northern Ireland) Order 1986 there shall be inserted as Schedule 2A the provisions set out in Schedule 4 to this Order.

#### *Advance information*

#### **Rules as to furnishing of information by prosecution in criminal cases**

**52.**—(1) Magistrates' courts rules may make, with respect to proceedings against any person for a prescribed offence or an offence of any prescribed class, provision—

- (a) subject to paragraph (4), for requiring the prosecution to do such things as may be prescribed for the purpose of securing that the accused or a person representing him is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecution proposes to adduce evidence; and
- (b) for requiring a magistrates' court, if satisfied that any requirement imposed under subparagraph (a) has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.

(2) Rules made under paragraph (1)(a)—

- (a) may require the prosecution to do as provided in the rules either—
  - (i) in all cases; or
  - (ii) only if so requested by or on behalf of the accused; and
- (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecution material for the purposes of any such exemption.

(3) It shall not be open to a person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of paragraph (1) was not complied with by the prosecution.

(4) For the purposes of paragraph (1)(a), a written statement tendered, or proposed to be tendered, in evidence under section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (proof by written statement) shall constitute advance information of that statement.

(5) In this Article “prescribed” means prescribed by magistrates' courts rules.