



Northern Ireland (Emergency Provisions) Act 1978

1978 CHAPTER 5

PART I

SCHEDULED OFFENCES

Preliminary enquiries, bail and young persons in custody

1 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 is 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.

2 Limitation of power to grant bail in case of scheduled offences

- (1) Subject to the provisions of this section, a person to whom this section applies 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) A judge shall not admit any such person to bail unless he is satisfied that the applicant—

- (a) will comply with the conditions on which he is admitted to bail; and
 - (b) will not interfere with any witness ; and
 - (c) will not commit any offence while he is on bail.
- (3) Without prejudice to any other power to impose conditions on admission to bail, a judge may impose such conditions on admitting a person to bail under this section as appear to him to be likely to result in that person's appearance at the time and place required or to be necessary in the interests of justice or for the prevention of crime.
- (4) Nothing in this section shall prejudice any right of appeal against the refusal of a judge to grant bail.
- (5) This section applies, subject to subsection (6) below, to any person—
- (a) who is charged with a scheduled offence; and
 - (b) who has attained the age of 14; and
 - (c) who is not a serving member of any of Her Majesty's regular naval, military or air forces.
- (6) This section does not apply to a person charged with a scheduled offence—
- (a) which is being tried summarily ; or
 - (b) which the Director of Public Prosecutions for Northern Ireland certifies is in his opinion suitable to be tried summarily.

3 Legal aid to applicants for bail in case of scheduled offences

- (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 criminal aid certificate under section 21 of that Act.

4 Holding in custody of young persons charged with scheduled offences

- (1) Where a person to whom this section applies has been remanded or committed for trial as respects a scheduled offence and is not released on bail, he may—
- (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,

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 (in this section and section 5 below referred to as "a direction").

- (2) The Secretary of State may give a direction in respect of a person to whom this section applies if he considers that it is necessary, in order to prevent his escape or to ensure his safety or the safety of others, to make special arrangements as to the place at which that person is to be held in custody while on remand or while committed for trial.
- (3) A direction may be given by the Secretary of State at any time after the young person to whom it relates has been charged with a scheduled offence, and may be varied or revoked by a further direction.
- (4) This section applies to any young person charged with a scheduled offence.
- (5) In this section " young person " means a person who has attained the age of 14 and is under the age of 17.

5 Directions under s. 4

- (1) A direction shall, if it has not previously ceased to have effect, cease to have effect at the expiration of such period as may be specified in the direction (being a period not exceeding two months beginning with the date of the direction), unless continued in force by a further direction.
- (2) Where, by virtue of a direction, a young person is held in custody in a prison or other place and the direction ceases to have effect (whether or not by reason of the expiry or cesser of section 4 above) 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.
- (3) Nothing in subsection (2) above shall be taken to make lawful the holding in custody of any person who would, disregarding that subsection, be entitled to be released from custody.