

SCHEDULES

SCHEDULE 4

MODIFICATIONS FOR NORTHERN IRELAND

General

- 1 In their application to Northern Ireland the provisions of this Act mentioned in the following paragraphs of this Schedule shall have effect subject to the modifications set out in those paragraphs.
- 2 Where a provision of this Act which extends to Northern Ireland confers power on the Secretary of State to prepare a code of practice, that power may be so exercised as to prepare a code of practice having effect only in Northern Ireland and containing provisions different to those contained in any code of practice prepared under that provision and having effect in England and Wales.
- 3 In any provision of this Act which extends to Northern Ireland—
- (a) reference to an enactment includes reference to an enactment comprised in Northern Ireland legislation;
 - (b) reference to a police officer is a reference to a member of the Royal Ulster Constabulary or of the Royal Ulster Constabulary Reserve.

Part I of this Act

- 4 In section 1 for subsections (1) and (2) substitute—
- “(1) This Part applies where a person is charged with an offence, the court proceeds to deal summarily with the charge and that person pleads not guilty.
- (2) This Part also applies where—
- (a) a person is charged with an indictable offence and he is committed for trial for the offence concerned,
 - (b) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (serious or complex fraud),
 - (c) a person is charged with an indictable offence and proceedings for the trial of the person on the charge concerned are transferred to the Crown Court by virtue of a notice of transfer given under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995 (certain cases involving children),
 - (d) a count charging a person with a summary offence is included in an indictment under the authority of Article 193A of the Road Traffic (Northern Ireland) Order 1981 (offences relating to drink or drugs),
or

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- (e) an indictment charging a person with an indictable offence is presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

(2A) In subsection (2)—

“indictable offence” means an offence which is triable on indictment, whether it is exclusively so triable or not;

“summary offence” has the same meaning as in Article 193A of the Road Traffic (Northern Ireland) Order 1981.”

- 5 (1) In section 5(2) for “section 5(9) of the Criminal Justice Act 1987” substitute “Article 4(7) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988”.

- (2) In section 5(3) for “paragraph 4 of Schedule 6 to the Criminal Justice Act 1991” substitute “paragraph 3 of Schedule 1 to the Children’s Evidence (Northern Ireland) Order 1995”.

- 6 In section 13 (1) for “the bill of indictment is preferred” substitute “the indictment is presented”.

- 7 After section 14 there shall be inserted—

“14A Public interest: review for scheduled offences

- (1) This section applies where this Part applies by virtue of section 1(2) and the offence charged is a scheduled offence within the meaning of section 1 of the Northern Ireland (Emergency Provisions) Act 1996.

(2) At any time—

- (a) after a court makes an order under section 3(6), 7(5), 8(5) or 9(8), and

- (b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,

the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.

- (3) In such a case the court must review that question, and if it concludes that it is in the public interest to disclose material to any extent—

- (a) it shall so order; and

- (b) it shall take such steps as are reasonable to inform the prosecutor of its order.

- (4) Where the prosecutor is informed of an order made under subsection (3) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).”

- 8 In section 15(1) at the end add “and section 14A does not apply”.

- 9 In section 16 after “14(2)” insert “, 14A(2)” and after “14(3)” insert “, 14A(3)”.

- 10 In section 17(1)(a) after “14” insert “, 14A”.

- 11 In section 18 at the end add—

“(11) In section 13 (legal aid) of the Contempt of Court Act 1981 (as set out in Schedule 4 to that Act) in subsection (1)(a) after sub-paragraph (ii) there shall be inserted—

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“(ia) by a magistrates' court or the Crown Court under section 18 of the Criminal Procedure and Investigations Act 1996; or”.

- 12 (1) In section 19(1) for the words from the beginning to “includes” substitute—
- “Without prejudice to the generality of—
- (a) Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' courts rules), and
 - (b) section 52 of the Judicature (Northern Ireland) Act 1978 (Crown Court rules),
- the power to make rules under each of those provisions includes”.
- (2) In section 19(2)(b) after “14(2)” insert “, 14A(2)”.
- (3) In section 19(2)(d) after “14(3)” insert “, 14A(3)”.
- (4) In section 19 omit subsection (3).
- 13 (1) In section 20(2) for “section 9 of the Criminal Justice Act 1987 or section 31 of this Act” substitute “Article 8 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988”.
- (2) In section 20(3) for the words from the beginning to “that section” substitute “Without prejudice to the generality of Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' courts rules) the power to make rules under that Article”.
- (3) In section 20(5) for paragraph (b) substitute—
- “(b) “enactment” includes a statutory instrument within the meaning of section 1(d) of the Interpretation Act (Northern Ireland) 1954.”
- 14 In section 21(3) for paragraph (e) substitute—
- “(e) the indictment is presented (where this Part applies by virtue of section 1(2)(e))”.

Part IV of this Act

- 15 In section 39 for subsections (2) and (3) substitute—
- “(2) For the purposes of this Part a hearing is also a pre-trial hearing if—
- (a) it relates to a trial on indictment to be held in pursuance of an indictment presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, and
 - (b) it takes place after the indictment has been presented and before the start of the trial.
- (3) For the purposes of this section the start of a trial on indictment occurs—
- (a) in the case of a trial to which section 11 of the Northern Ireland (Emergency Provisions) Act 1996 applies (trial by court without a jury), at the opening of the case for the prosecution or, if the court accepts a plea of guilty before that time, when that plea is accepted,

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(b) in any other case, when a jury is sworn to consider the issue of guilt or fitness to be tried or, if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted,
but this is subject to Article 7 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.”

16 In section 41(1) for “Great Britain” where it twice occurs substitute “Northern Ireland”.

17 In section 42(3) omit “in England and Wales”, and after “Attorney General” insert “for Northern Ireland”.

Part V of this Act

18 In section 45 for subsections (1) to (8) substitute—

“(1) Article 4 of the Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988 (notices of transfer in cases of serious or complex fraud) shall be amended as mentioned in subsections (2) and (3).

(2) In paragraph (7)(a) (regulations) for the words “a statement of the evidence” there shall be substituted “copies of the documents containing the evidence (including oral evidence)”.

(3) The following paragraph shall be inserted after paragraph (7)—

“(7A) Regulations under paragraph (7)(a) may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied.”

(4) In Schedule 1 to the Children’s Evidence (Northern Ireland) Order 1995 (notices of transfer in certain cases involving children) paragraph 3 (regulations) shall be amended as mentioned in subsections (5) and (6).

(5) In sub-paragraph (1)(a) for the words “a statement of the evidence” there shall be substituted “copies of the documents containing the evidence (including oral evidence)”.

(6) The following sub-paragraph shall be inserted after sub-paragraph (1)—

“(1A) Regulations under sub-paragraph (1)(a) may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied.”

(7) In paragraph 5 of Schedule 1 to the 1995 Order (reporting restrictions) in sub-paragraph (8) for the words “sub-paragraphs (5) and (6)” there shall be substituted “sub-paragraphs (5) and (7)”.

(8) This section applies where a notice of transfer is given under Article 3 of the 1988 Order or Article 4 of the 1995 Order (as the case may be) on or after the appointed day”.

19 In section 46 for subsections (1) and (2) substitute—

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“(1) Part II of the Schedule to the War Crimes Act 1991 and section 1(4) of that Act so far as relating thereto (transfer procedure in Northern Ireland in cases of war crimes) shall cease to have effect.

(2) In Article 29(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (free legal aid in Crown Court) sub-paragraph (d) (which relates to a notice of transfer under Part II of the Schedule to the War Crimes Act 1991) shall cease to have effect.”

Part VII of this Act

20 In section 54(6) omit paragraph (b) and in paragraph (c) for “section 1 of the Perjury Act 1911” substitute “Article 3 of the Perjury (Northern Ireland) Order 1979”.

21 In section 56(2) for paragraphs (a) to (c) substitute—

- “(a) section 5 of the Criminal Law Amendment Act 1885 (no prosecution for offence under that section more than 12 months after the commission of the offence);
- (b) Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' court not to hear and determine certain complaints unless made within 6 months of time when offence committed);
- (c) an enactment that imposes a time limit only in certain circumstances (as where proceedings are not instituted by or with the consent of the Director of Public Prosecutions for Northern Ireland).”

22 In section 57 omit subsection (1).

23 (1) In section 58(1) omit paragraph (b) and the word “or” immediately before it.

(2) In section 58(9) omit paragraph (b).

24 In section 59(1) for “Great Britain” where it twice occurs substitute “Northern Ireland”.

25 In section 62 for subsections (1) and (2) substitute—

“(1) In Article 81 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (evidence through television links) the following paragraphs shall be inserted after paragraph (3)—

“(3A) Where the court gives leave under paragraph (2) for a witness falling within paragraph (1)(b)(ii) to give evidence through a live television link, then, subject to paragraph (3B), the witness concerned may not give evidence otherwise than through a live television link.

(3B) In a case falling within paragraph (3A) the court may give permission for the witness to give evidence otherwise than through a live television link if it appears to the court to be in the interests of justice to give such permission.

(3C) Permission may be given under paragraph (3B)—

- (a) on an application by a party to the case, or
- (b) of the court's own motion;

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but no application may be made under sub-paragraph (a) unless there has been a material change of circumstances since the leave was given under paragraph (2).”

(2) In Article 81A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (video recordings of testimony from child witnesses) the following paragraphs shall be inserted after paragraph (6)—

“(6A) Where the court gives leave under paragraph (2) the child witness shall not give relevant evidence (within the meaning given by paragraph (6D)) otherwise than by means of the video recording; but this is subject to paragraph (6B).

(6B) In a case falling within paragraph (6A) the court may give permission for the child witness to give relevant evidence (within the meaning given by paragraph (6D)) otherwise than by means of the video recording if it appears to the court to be in the interests of justice to give such permission.

(6C) Permission may be given under paragraph (6B)—
 (a) on an application by a party to the case, or
 (b) of the court’s own motion;

but no application may be made under sub-paragraph (a) unless there has been a material change of circumstances since the leave was given under paragraph (2).

(6D) For the purposes of paragraphs (6A) and (6B) evidence is relevant evidence if—

- (a) it is evidence in chief on behalf of the party who tendered the video recording, and
- (b) it relates to matter which, in the opinion of the court, is dealt with in the recording and which the court has not directed to be excluded under paragraph (3).”.

26 For section 63 substitute—

“63 Road traffic: provision of specimens

(1) In Article 18(4) of the Road Traffic (Northern Ireland) Order 1995 (provision of blood or urine in course of investigating whether certain road traffic offences have been committed) after sub-paragraph (b) there shall be inserted—

“(bb) a device of the type mentioned in paragraph (1)(a) has been used in the circumstances described in paragraph (2) but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or”.

(2) This section applies where it is proposed to make a requirement mentioned in Article 18(4) of the 1995 Order after the appointed day.

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(3) The reference in subsection (2) to the appointed day is to such day as is appointed for the purposes of this section by the Department of the Environment for Northern Ireland by order.

(4) The power of the Department of the Environment for Northern Ireland to make an order under subsection (3) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

27 In section 64 for subsection (1) substitute—

“(1) In Article 63A of the Police and Criminal Evidence (Northern Ireland) Order 1989 the following paragraphs shall be substituted for paragraph (1) (checks against fingerprints etc. where a person has been arrested on suspicion of being involved in a recordable offence)—

“(1) Where a person has been arrested on suspicion of being involved in a recordable offence or has been charged with such an offence or has been informed that he will be reported for such an offence, fingerprints or samples or the information derived from samples taken under any power conferred by this Part from the person may be checked against—

- (a) other fingerprints or samples to which the person seeking to check has access and which are held by or on behalf of a police force (or police forces) falling within paragraph (1A) or are held in connection with or as the result of an investigation of an offence;
- (b) information derived from other samples if the information is contained in records to which the person seeking to check has access and which are held as mentioned in subparagraph (a).

(1A) Each of the following police forces falls within this paragraph—

- (a) the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve;
- (b) a police force within the meaning given by section 62 of the Police Act 1964;
- (c) a police force within the meaning given by section 50 of the Police (Scotland) Act 1967;
- (d) the States of Jersey Police Force;
- (e) the salaried police force of the Island of Guernsey;
- (f) the Isle of Man Constabulary.”.”

28 For section 66 substitute—

“66 (1) After section 51 of the Judicature (Northern Ireland) Act 1978 there shall be inserted—

“51A Issue of witness summons on application to Crown Court

(1) This section applies where the Crown Court is satisfied that—

- (a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely

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- to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and
- (b) the person will not voluntarily attend as a witness or will not voluntarily produce the document or thing.
- (2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—
- (a) attend before the Crown Court at the time and place stated in the summons, and
- (b) give the evidence or produce the document or thing.
- (3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.
- (4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.
- (5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.
- (6) Where the proceedings concerned relate to an offence in relation to which an indictment has been presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, an application must be made as soon as is reasonably practicable after the indictment is presented.
- (7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (8) Crown Court rules—
- (a) may, in such cases as the rules may specify, require an application to be made by a party to the case;
- (b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;
- (c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;
- (d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.
- (9) Provision contained in Crown Court rules by virtue of subsection (8)
- (c) may in particular require an affidavit to—
- (a) set out any charge on which the proceedings concerned are based;
- (b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;

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- (c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;
- (d) specify grounds for believing that any stipulated evidence is likely to be material evidence;
- (e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.

(10) In subsection (9)—

- (a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;
- (b) references to the directed person are to the person to whom the witness summons is proposed to be directed.

51B Power to require advance production

A witness summons which is issued under section 51A and which requires a person to produce a document or thing as mentioned in section 51A(2) may also require him to produce the document or thing—

- (a) at a place stated in the summons, and
- (b) at a time which is so stated and precedes that stated under section 51A(2),

for inspection by the person applying for the summons.

51C Summons no longer needed

(1) If—

- (a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 51B,
- (b) the person applying for the summons concludes that a requirement imposed by the summons under section 51A(2) is no longer needed, and
- (c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,

the court may direct accordingly.

- (2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

51D Application to make summons ineffective

- (1) If a witness summons issued under section 51A is directed to a person who—

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- (a) applies to the Crown Court,
 - (b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and
 - (c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,the court may direct that the summons shall be of no effect.
- (2) For the purposes of subsection (1) it is immaterial—
 - (a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;
 - (b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.
- (3) In subsection (1)(b) “served” means—
 - (a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;
 - (b) served in such way as appears reasonable to the Crown Court, in any other case.
- (4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.
- (7) Crown Court rules may, in such cases as the rules may specify, require that where—
 - (a) a person applying under this section can produce a particular document or thing, but
 - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,he must arrange for the document or thing to be available at the hearing of the application.
- (8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.
- (9) Any costs payable under an order made under subsection (8) shall be taxed by the Master (Taxing Office), and payment of those costs shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

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51E Issue of witness summons of Crown Court's own motion

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

- (a) attend before the court at the time and place stated in the summons; and
- (b) give evidence or produce any document or thing specified in the summons.

51F Application to make summons ineffective

- (1) If a witness summons issued under section 51E is directed to a person who—
 - (a) applies to the Crown Court, and
 - (b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,the court may direct that the summons shall be of no effect.
- (2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (4) Crown Court rules may, in such cases as the rules may specify, require that where—
 - (a) a person applying under this section can produce a particular document or thing, but
 - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,he must arrange for the document or thing to be available at the hearing of the application.

51G Punishment for disobedience to witness summons

- (1) Any person who without just excuse—
 - (a) disobeys a witness summons requiring him to attend before the Crown Court; or
 - (b) disobeys a requirement made by the Crown Court under section 51B,shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt were in the face of the court.
- (2) A person shall not be committed to prison by reason of any disobedience mentioned in subsection (1) for a period exceeding three months.

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51H Further process to secure attendance of witnesses

- (1) If the Crown Court is satisfied by evidence on oath that—
 - (a) a witness in respect of whom a witness summons is in force is unlikely to comply with the summons; and
 - (b) the witness is likely to be able to give evidence likely to be material evidence or produce any document or thing likely to be material evidence in the proceedings,
 the Crown Court may issue a warrant to arrest the witness and bring him before the court.
 - (2) Where a witness who is required to attend before the Crown Court by virtue of a witness summons fails to attend in compliance with the summons, the Crown Court may—
 - (a) in any case, cause to be served on him a notice requiring him to attend the court forthwith or at such time as may be specified in the notice;
 - (b) if the court is satisfied that there are reasonable grounds for believing that he has failed to attend without just excuse, or if he has failed to comply with a notice under paragraph (a), issue a warrant to arrest him and bring him before the court.
 - (3) A witness brought before the Crown Court in pursuance of a warrant under this section may be remanded by that court in custody or on bail (with or without sureties) until such time as the court may appoint for receiving his evidence or dealing with him under section 51G.
 - (4) Where a witness attends the Crown Court in pursuance of a notice under this section, the court may direct that the notice shall have effect as if it required him to attend at any later time appointed by the court for receiving his evidence or dealing with him under section 51G.”
- (2) No subpoena ad testificandum or subpoena duces tecum shall issue after the appointed day in respect of any criminal proceedings for the purposes of which—
 - (a) a witness summons may be issued under section 51A of the Judicature (Northern Ireland) Act 1978; or
 - (b) a summons may be issued under Article 118 of the Magistrates' Courts (Northern Ireland) Order 1981 (process for attendance of witnesses in magistrates' courts).
 - (3) In section 47(4) of the Judicature (Northern Ireland) Act 1978 after the words “Subject to” there shall be inserted the words “section 66(2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to”.
 - (4) This section applies in relation to any proceedings for the purposes of which no summons requiring the attendance of a witness has been issued before the appointed day.

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- (5) The references in subsections (2) and (4) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order.”
- 29 In section 69(1) for “section 9 of the Criminal Justice Act 1967” substitute “section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968” and for “subsection (3)(a)” substitute “subsection (4)(a)”.
- 30 In section 70 for subsection (1) substitute—
- “(1) In Article 10 of the Magistrates' Courts (Northern Ireland) Order 1981—
- (a) in paragraph (1) (power of Lord Chancellor to defray expenses in connection with proceedings) after the words “justice or clerk” (where they first occur) there shall be inserted “in relation to any matter other than a criminal matter”, and
- (b) after paragraph (1) there shall be inserted—
- “(1A) The Lord Chancellor shall defray any expenses reasonably incurred by a resident magistrate or other justice of the peace or by a clerk of petty sessions in, or in connection with, any proceedings or claim brought as a result of the execution, or purported execution, of the office of that magistrate, justice or clerk in relation to any criminal matter, unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith.””
- 31 (1) In section 74 for subsection (1) substitute—
- “(1) The Evidence of Alibi Act (Northern Ireland) 1972 shall cease to have effect.”
- (2) In section 74 omit subsections (2) and (3).
- (3) In section 74 for subsection (4) substitute—
- “(4) In Article 8(6) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (disclosure in cases involving fraud) in sub-paragraph (a) for the words “section 1 of the Evidence of Alibi Act (Northern Ireland) 1972” there shall be substituted the words “section 5(7) of the Criminal Procedure and Investigations Act 1996”.”
- 32 In section 75(1) for “sections 52(3) and 54(7)” substitute “section 54(7)”.
- 33 For section 76 substitute—

“76 Power of magistrates' courts

Anything authorised or required by this Act to be done by, to or before the magistrates' court by, to or before which any other thing was done, or is to be done, may be done by, to or before any magistrates' court acting for the same county court division as that court.”

- 34 In section 80 omit “(or revoked)”.
- 35 For Schedule 3 substitute—

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“SCHEDULE 3

FRAUD

Introduction

- 1 The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 shall be amended as provided by this Schedule.

Notice of transfer

- 2 In Article 3 (transfer of certain fraud cases to the Crown Court) in paragraph (1)(b)(ii) for the words “seriousness and complexity” there shall be substituted the words “seriousness or complexity”.

Preparatory hearings

- 3 (1) Article 6 (power to order preparatory hearing) shall be amended as follows.
- (2) In paragraph (1) for the words “seriousness and complexity” there shall be substituted the words “seriousness or complexity”.
- (3) Paragraphs (3) to (5) (power to make order that could be made at the hearing) shall be omitted.
- 4 (1) Article 8 (the preparatory hearing) shall be amended as follows.
- (2) In paragraph (7) (warning of possible consequence under Article 9(1)) the word “(1)” shall be omitted.
- (3) In paragraph (10) for the words “at or for the purposes of a preparatory hearing” there shall be substituted “under this Article”.
- 5 The following Article shall be inserted after Article 8—

Orders before preparatory hearing

- “8A (1) Paragraph (2) applies where—
- (a) a judge orders a preparatory hearing, and
 - (b) he decides that any order which could be made under Article 8(4) or (5) at the hearing should be made before the hearing.
- (2) In such a case—
- (a) he may make any such order before the hearing (or at the hearing), and
 - (b) paragraphs (4) to (10) of Article 8 shall apply accordingly.”

- 6 The following Article shall be substituted for Article 9 (later stages of trial)—

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Later stages of trial

- “9 (1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under Article 8.
- (2) Where—
- (a) a party departs from the case he disclosed in pursuance of a requirement imposed under Article 8, or
 - (b) a party fails to comply with such a requirement,
- the judge or, with the leave of the judge, any other party may make such comment as appears to the judge or the other party (as the case may be) to be appropriate and the jury may draw such inference as appears proper.
- (3) In deciding whether to give leave the judge shall have regard—
- (a) to the extent of the departure or failure, and
 - (b) to whether there is any justification for it.
- (4) Except as provided by this Article no part—
- (a) of a statement given under Article 8(5), or
 - (b) of any other information relating to the case for the accused or, if there is more than one, the case for any of them, which was given in pursuance of a requirement imposed under Article 8,
- may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.”

Reporting restrictions

- 7 The following Articles shall be substituted for Article 10 (reporting restrictions)—

Restrictions on reporting

- “10 (1) Except as provided by this Article—
- (a) no written report of proceedings falling within paragraph (2) shall be published in Northern Ireland;
 - (b) no report of proceedings falling within paragraph (2) shall be included in a relevant programme for reception in Northern Ireland.
- (2) The following proceedings fall within this paragraph—
- (a) an application under Article 5(1);
 - (b) a preparatory hearing;
 - (c) an application for leave to appeal in relation to such a hearing;
 - (d) an appeal in relation to such a hearing.
- (3) The judge dealing with an application under Article 5(1) may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of the application.

Status: This is the original version (as it was originally enacted).

- (4) The judge dealing with a preparatory hearing may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of—
- (a) the preparatory hearing, or
 - (b) an application to the judge for leave to appeal to the Court of Appeal under Article 8(11) in relation to the preparatory hearing.
- (5) The Court of Appeal may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of—
- (a) an appeal to the Court of Appeal under Article 8(11) in relation to a preparatory hearing,
 - (b) an application to that Court for leave to appeal to it under Article 8(11) in relation to a preparatory hearing, or
 - (c) an application to that Court for leave to appeal to the House of Lords under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing.
- (6) The House of Lords may order that paragraph (1) shall not apply, or shall not apply to a specified extent, to a report of—
- (a) an appeal to that House under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing, or
 - (b) an application to that House for leave to appeal to it under Part II of the Criminal Appeal (Northern Ireland) Act 1980 in relation to a preparatory hearing.
- (7) Where there is only one accused and he objects to the making of an order under paragraph (3), (4), (5) or (6) the judge or the Court of Appeal or the House of Lords shall make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.
- (8) Where there are two or more accused and one or more of them objects to the making of an order under paragraph (3), (4), (5) or (6) the judge or the Court of Appeal or the House of Lords shall make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.
- (9) Paragraph (1) does not apply to—
- (a) the publication of a report of an application under Article 5(1), or
 - (b) the inclusion in a relevant programme of a report of an application under Article 5(1),
- where the application is successful.

Status: This is the original version (as it was originally enacted).

(10) Where—

- (a) two or more persons are jointly charged, and
- (b) applications under Article 5(1) are made by more than one of them,

paragraph (9) shall have effect as if for the words “the application is” there were substituted “all the applications are”.

(11) Paragraph (1) does not apply to—

- (a) the publication of a report of an unsuccessful application made under Article 5(1),
- (b) the publication of a report of a preparatory hearing,
- (c) the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,
- (d) the inclusion in a relevant programme of a report of an unsuccessful application made under Article 5(1),
- (e) the inclusion in a relevant programme of a report of a preparatory hearing, or
- (f) the inclusion in a relevant programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,

at the conclusion of the trial of the accused or of the last of the accused to be tried.

(12) Paragraph (1) does not apply to a report which contains only one or more of the following matters—

- (a) the identity of the court and the name of the judge;
- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- (c) any relevant business information;
- (d) the offence or offences, or a summary of them, with which the accused is or are charged;
- (e) the names of counsel and solicitors in the proceedings;
- (f) where the proceedings are adjourned, the date and place to which they are adjourned;
- (g) any arrangements as to bail;
- (h) whether legal aid was granted to the accused or any of the accused.

(13) The addresses that may be published or included in a relevant programme under paragraph (12) are addresses—

- (a) at any relevant time, and
- (b) at the time of their publication or inclusion in a relevant programme;

and “relevant time” here means a time when events giving rise to the charges to which the proceedings relate occurred.

(14) The following is relevant business information for the purposes of paragraph (12)—

Status: This is the original version (as it was originally enacted).

- (a) any address used by the accused for carrying on a business on his own account;
- (b) the name of any business which he was carrying on on his own account at any relevant time;
- (c) the name of any firm in which he was a partner at any relevant time or by which he was engaged at any such time;
- (d) the address of any such firm;
- (e) the name of any company of which he was a director at any relevant time or by which he was otherwise engaged at any such time;
- (f) the address of the registered or principal office of any such company;
- (g) any working address of the accused in his capacity as a person engaged by any such company;

and here “engaged” means engaged under a contract of service or a contract for services, and “relevant time” has the same meaning as in paragraph (13).

(15) Nothing in this Article affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(16) In this Article—

- (a) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
- (b) expressions cognate with “publish” shall be construed accordingly;
- (c) “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

Offences in connection with reporting

10A(1) If a report is published or included in a relevant programme in contravention of Article 10 each of the following persons is guilty of an offence—

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

Status: This is the original version (as it was originally enacted).

- (2) A person guilty of an offence under this Article is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.
- (3) Proceedings for an offence under this Article shall not be instituted otherwise than by or with the consent of the Attorney General for Northern Ireland.
- (4) Paragraph (16) of Article 10 applies for the purposes of this Article as it applies for the purposes of that.”

General

- 8 (1) This Schedule applies in relation to an offence if—
 - (a) the accused is committed for trial on the charge concerned, or proceedings for the trial on the charge concerned are transferred to the Crown Court, on or after the appointed day, or
 - (b) an indictment relating to the offence is presented on or after the appointed day under the authority of section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.
- (2) References in this paragraph to the appointed day are to such day as is appointed for the purposes of this Schedule by the Secretary of State by order.”

36 For Schedule 5 substitute—

“SCHEDULE 5

REPEALS

1.

WAR CRIMES

<i>Chapter or Number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1981 NI 18.	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Article 29(2), subparagraph (d) and the word “or” immediately before it.
1991 c. 13.	The War Crimes Act 1991.	Section 1(4), so far as relating to Part II of the Schedule. Section 3(3). Part II of the Schedule.

Status: This is the original version (as it was originally enacted).

2.

SUMMONSES TO WITNESSES

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1831 c. 44.	The Tumultuous Risings (Ireland) Act 1831.	Section 8.

This repeal has effect in accordance with section 66 of this Act.

3.

ALIBI

<i>Chapter or Number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1972 c. 6 (N.I.).	The Evidence of Alibi Act (Northern Ireland) 1972.	The whole Act.
1980 NI 6.	The Criminal Justice (Northern Ireland) Order 1980.	In Schedule 1, paragraph 61.
1988 NI 16.	The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.	In the Schedule, paragraph 3.
1995 NI 3.	The Children's Evidence (Northern Ireland) Order 1995.	In Schedule 2, paragraph 6.

These repeals have effect in accordance with section 74 of this Act.

4.

FRAUD

<i>Chapter or Number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1988 NI 16.	The Criminal Justice (Serious Fraud)(Northern Ireland) Order 1988.	Article 6(3) to (5). In Article 8(7) the word "(1)".
1990 c. 42.	The Broadcasting Act 1990.	In Schedule 20, paragraph 50."

These repeals have effect in accordance with Schedule 3 to this Act.