

## SCHEDULES

### SCHEDULE 4

#### Amendments relating to prisons

##### *Prison Act (Northern Ireland) 1953*

### 3.—(1) After section 1 insert—

#### **“1A Powers of the Secretary of State**

(1) For purposes connected with any matter mentioned in subsection (2), the Secretary of State may continue to exercise the functions (except functions under prison rules) which the Secretary of State had by virtue of this Act immediately before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (notwithstanding the transfer of those functions to the Department by virtue of that Order).

(2) The matters are—

- (a) activities regulated by, or otherwise relating to the subject matter of, Parts 1 to 3 of the Regulation of Investigatory Powers Act 2000<sup>(1)</sup>, including (in particular) in relation to information obtained through any such activities—
  - (i) the taking of decisions on the basis of the information;
  - (ii) the controlling of access to the information;
  - (iii) the holding and use of the information (so far as not covered by subparagraphs (i) and (ii));
- (b) where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for, decisions about whether a prisoner is to be so accommodated or is to cease to be so accommodated, including (in particular) the setting of any criteria upon which such decisions are to be based;
- (c) national security, including (in particular)—
  - (i) the taking of decisions on the basis of protected information;
  - (ii) the controlling of access to protected information;
  - (iii) the holding and use of protected information (so far as not covered by subparagraphs (i) and (ii)).

“Protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.

(3) In particular, the Secretary of State may continue to make prison rules.

(4) The Department must exercise its functions subject to any thing done by the Secretary of State under subsection (1) and, in particular, prison rules made by the Department have effect subject to prison rules made by the Secretary of State.

---

(1) 2000 c. 23.

**Status:** This is the original version (as it was originally made).

(5) Before making prison rules the Secretary of State or the Department (as the case may be) must consult the other.

(6) Prison rules may, in particular, confer or impose functions on the Secretary of State.

(7) The Secretary of State may from time to time, for purposes connected with any matter mentioned in subsection (2) and after consultation with the Department, give a direction setting out arrangements under which officers of the Department (including persons appointed under section 2(2)) who have duties in relation to prisons or prisoners are (so far as provided by, and in accordance with, the arrangements) to be treated as officers of the Secretary of State (rather than of the Department) and subject to his direction and control accordingly; and the officers covered by the direction are to act accordingly.

(8) The arrangements may (in particular) provide for officers to exercise functions of the Secretary of State.”

(2) The Secretary of State need not consult the Department of Justice before giving his first direction under section 1A(7) (as inserted by sub-paragraph (1) above).

(3) But the first direction ceases to have effect at the end of the period of six months beginning with the day on which it is given (unless, before then, it is revoked by a further direction).