



Northern Ireland (Emergency Provisions) Act 1996

CHAPTER 22

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Northern Ireland (Emergency Provisions) Act 1996

CHAPTER 22

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Northern Ireland (Emergency Provisions) Act 1996

1996 CHAPTER 22

An Act to re-enact, with omissions and amendments, the Northern Ireland (Emergency Provisions) Act 1991; and for connected purposes. [17th June 1996]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

SCHEDULED OFFENCES

The scheduled offences

1.—(1) In this Act “scheduled offence” means an offence specified in Part I or III of Schedule 1 to this Act but subject to any relevant note in Part I of that Schedule. The scheduled offences.

(2) Part II of that Schedule shall have effect with respect to offences related to those specified in Part I of that Schedule.

(3) The Secretary of State may by order amend Parts I and II of that Schedule whether by adding an offence to, or removing an offence from, either of those Parts or otherwise; and an order under this subsection may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient.

Preliminary inquiries, bail and young persons in custody

2.—(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 prosecution requests the court to conduct a preliminary inquiry into the offence under the Magistrates' Courts (Northern Ireland) Order 1981, the court shall, notwithstanding anything in Article 31 of that Order, conduct a Preliminary inquiry into scheduled offences.
1975 c. 59.
S.I. 1981/1675
(N.I. 26).

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preliminary inquiry 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 that Order.

(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 this section.

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

3.—(1) This section applies to any person who has attained the age of fourteen and is charged with a scheduled offence which is neither being tried summarily nor certified by the Director of Public Prosecutions for Northern Ireland as in his opinion suitable to be so tried.

(2) Subject to subsection (7), a person to whom this section applies shall not be admitted to bail except—

- (a) by a judge of the High Court or the Court of Appeal; or
- (b) by the judge of the court of trial on adjourning the trial of a person charged with a scheduled offence.

(3) A judge may, in his discretion, admit to bail in pursuance of subsection (2) a person to whom this section applies except where he is satisfied that there are substantial grounds for believing that that person, if released on bail (whether subject to conditions or not), would—

- (a) fail to surrender to custody, or
- (b) commit an offence while on bail, or
- (c) interfere with any witness, or
- (d) otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or in relation to any other person,

or, if released subject to conditions, would fail to comply with all or any of those conditions.

(4) In exercising his discretion in accordance with subsection (3) in relation to a person, a judge shall have regard to such of the following considerations as appear to him to be relevant, namely—

- (a) the nature and seriousness of the offence with which the person is charged,
- (b) the character, antecedents, associations and community ties of the person,
- (c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail, and
- (d) the strength of the evidence of his having committed the offence,

as well as to any others which appear to be relevant.

(5) 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.

(6) Where a person to whom this section applies is a serving member of—

- (a) any of Her Majesty's forces; or

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(b) the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve,

he may be admitted to bail on condition that he is held in military or (as the case may be) police custody if the judge is satisfied that suitable arrangements have been made for holding him in such custody; and where a person is admitted to bail on such a condition it shall be lawful for him to be held in such custody in accordance with the conditions of his bail.

(7) The power to admit a person to bail in accordance with subsection (6) shall, notwithstanding subsection (2), be exercisable by a resident magistrate as well as by a judge.

4.—(1) Where it appears to a judge of the High Court or the Court of Appeal—

- (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,

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

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) Articles 32, 36 and 40 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (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 III of that Order as if any legal aid under this section were given in pursuance of a criminal aid certificate under Article 29 of that Order.

S.I. 1981/228 (N.I. 8).

5. Notwithstanding Article 47(2) and (3) of the Magistrates' Courts (Northern Ireland) Order 1981, the period for which a person charged with a scheduled offence (or with a scheduled offence and another offence which is not a scheduled offence) may be remanded in custody by a magistrates' court shall be a period of not more than twenty-eight days beginning with the day following that on which he is so remanded.

Maximum period of remand in custody in case of scheduled offences.
S.I. 1981/1675 (N.I. 26).

6.—(1) Where a young person charged with a scheduled offence has been remanded or committed for trial as respects that 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,

Holding in custody of young persons charged with scheduled offences.

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.

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(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) In this section "young person" means a person who has attained the age of fourteen and is under the age of seventeen.

Directions under section 6.

7.—(1) A direction under section 6 shall, if it has not previously ceased to have effect, cease to have effect at the expiry 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 6) 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.

Time limits on preliminary proceedings

Power of Secretary of State to set time limits in relation to preliminary proceedings for scheduled offences.

8.—(1) The Secretary of State may by regulations make provision, with respect to any specified preliminary stage of proceedings for a scheduled offence, as to the maximum period—

- (a) to be allowed to the prosecution to complete that stage;
- (b) during which the accused may, while awaiting completion of that stage, be—
 - (i) in the custody of a magistrates' court; or
 - (ii) in the custody of the Crown Court,
 in relation to that offence.

(2) The regulations may, in particular—

- (a) provide for—
 - (i) the Magistrates' Courts (Northern Ireland) Order 1981,
 - (ii) section 3 above, or
 - (iii) any other enactment, or any rule of law, relating to bail,
 to apply in relation to cases to which custody or overall time limits apply subject to such modifications as may be specified (being modifications which the Secretary of State considers necessary in consequence of any provision made by the regulations);

S.I. 1981/1675
(N.I. 26).

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- (b) provide for time limits imposed by the regulations to cease to have effect in cases where, after the institution of proceedings for a scheduled offence, the Attorney General for Northern Ireland has certified that the offence in question is not to be treated as a scheduled offence;
- (c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of any other provision of the regulations; and
- (d) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations as the Secretary of State considers appropriate.

(3) Where separate counts of an indictment allege a scheduled offence and an offence which is not a scheduled offence, then (subject to, and in accordance with, the provisions of the regulations) the regulations shall have effect in relation to the latter offence as if it were a scheduled offence.

(4) The Crown Court may, in circumstances prescribed by the regulations, extend or further extend a time limit at any time before it expires.

(5) Where, in relation to any proceedings for a relevant offence, an overall time limit has expired before the completion of the stage of the proceedings to which the limit applies, the accused shall be treated, for all purposes, as having been acquitted of that offence.

9.—(1) Where—

- (a) a person escapes from the custody of a magistrates' court or of the Crown Court before the expiry of a custody time limit which applies in his case; or
- (b) a person who has been released on bail in consequence of the expiry of a custody time limit—
 - (i) fails to surrender himself into the custody of the court at the appointed time; or
 - (ii) is arrested by a constable in connection with any breach, or apprehended breach, of any condition of his bail,

the regulations under section 8 shall, so far as they provide for any custody time limit in relation to the preliminary stage in question, be disregarded.

(2) Where—

- (a) a person escapes from the custody of a magistrates' court or of the Crown Court; or
- (b) a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time,

the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time shall, so far as the relevant offence in question is concerned, cease to have effect.

(3) Where a person is convicted of a relevant offence in any proceedings, the exercise, in relation to any preliminary stage of those proceedings, of the power conferred by section 8(4) shall not be called into question on any appeal against that conviction.

Section 8:
supplementary
provisions.

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(4) In the application of section 8 in relation to proceedings on indictment, “preliminary stage” does not include any stage—

- (a) after the time when the case for the prosecution is opened; or
- (b) if the court accepts a plea of guilty before the case for the prosecution is opened, after that plea is accepted.

(5) In the application of section 8 in relation to summary proceedings, “preliminary stage” does not include any stage—

- (a) after the court begins to hear evidence for the prosecution at the trial;
- (b) if the court accepts a plea of guilty before it has begun to hear evidence for the prosecution, after that plea is accepted; or
- (c) after the court begins to consider whether to exercise its power under Article 44(4) of the Mental Health (Northern Ireland) Order 1986 (power to make hospital order without convicting the accused).

(6) In this section and section 8—

“custody of the Crown Court” includes custody to which a person is committed in pursuance of—

S.I. 1981/1675
(N.I. 26).

(a) Article 37 or 40(4) of the Magistrates’ Courts (Northern Ireland) Order 1981 (magistrates’ court committing accused for trial); or

1978 c. 23.

(b) section 51(8) of the Judicature (Northern Ireland) Act 1978 (magistrates’ court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court);

“custody of a magistrates’ court” means custody to which a person is committed in pursuance of Article 47 or 49 of the Magistrates’ Courts (Northern Ireland) Order 1981 (remand);

“custody time limit” means a time limit imposed by the regulations in pursuance of section 8(1)(b) or, where any such limit has been extended by the Crown Court under section 8(4), the limit as so extended;

“overall time limit” means a time limit imposed by the regulations in pursuance of section 8(1)(a) or, where any such limit has been extended by the Crown Court under section 8(4), the limit as so extended;

“relevant offence” means—

- (a) a scheduled offence, or
- (b) an offence in relation to which the regulations have effect in accordance with section 8(3); and

“specified” means specified in the regulations.

(7) For the purposes of the application of any custody time limit in relation to a person who is in the custody of a magistrates’ court or of the Crown Court—

- (a) all periods during which he is in the custody of a magistrates’ court in respect of the same offence shall be aggregated and treated as a single continuous period; and

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- (b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated similarly.

Court and mode of trial

10.—(1) A trial on indictment of a scheduled offence shall be held only at the Crown Court sitting in Belfast, unless— Court for trial of scheduled offences.

- (a) the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland directs that the trial, or a class of trials within which it falls, shall be held at the Crown Court sitting elsewhere; or
- (b) the Lord Chief Justice of Northern Ireland directs that the trial, or part of it, shall be held at the Crown Court sitting elsewhere.

(2) A person committed for trial for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, shall be committed—

- (a) to the Crown Court sitting in Belfast, or
- (b) where a direction has been given under subsection (1) which concerns the trial, to the Crown Court sitting at the place specified in the direction;

and section 48 of the Judicature (Northern Ireland) Act 1978 (committal for trial on indictment) shall have effect accordingly. 1978 c. 23.

(3) Where—

- (a) in accordance with subsection (2) any person is committed for trial to the Crown Court sitting in Belfast, and
- (b) a direction is subsequently given under subsection (1), before the commencement of the trial, altering the place of trial,

that person shall be treated as having been committed for trial to the Crown Court sitting at the place specified in the direction.

11.—(1) A trial on indictment of a scheduled offence shall be conducted by the court without a jury. Mode of trial on indictment of scheduled offences.

(2) The court trying a scheduled offence on indictment under this section shall have all the powers, authorities and jurisdiction which the court would have had if it had been sitting with a jury, including power to determine any question and to make any finding which would, apart from this section, be required to be determined or made by a jury, and references in any enactment to a jury or the verdict or finding of a jury shall be construed accordingly in relation to a trial under this section.

(3) Where separate counts of an indictment allege a scheduled offence and an offence which is not a scheduled offence, the trial on indictment shall, without prejudice to section 5 of the Indictments Act (Northern Ireland) 1945 (orders for amendment of indictment, separate trial and postponement of trial), be conducted as if all the offences alleged in the indictment were scheduled offences. 1945 c. 16 (N.I.)

(4) Without prejudice to subsection (2), where the court trying a scheduled offence on indictment—

- (a) is not satisfied that the accused is guilty of that offence, but

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- (b) is satisfied that he is guilty of some other offence which is not a scheduled offence, but of which a jury could have found him guilty on a trial for the scheduled offence,

the court may convict him of that other offence.

(5) Where the court trying a scheduled offence convicts the accused of that or some other offence, then, without prejudice to its power apart from this subsection to give a judgment, it shall, at the time of conviction or as soon as practicable thereafter, give a judgment stating the reasons for the conviction.

1980 c. 47.

(6) A person convicted of any offence on a trial under this section without a jury may, notwithstanding anything in sections 1 and 10(1) of the Criminal Appeal (Northern Ireland) Act 1980, appeal to the Court of Appeal under Part I of that Act—

- (a) against his conviction, on any ground, without the leave of the Court of Appeal or a certificate of the judge of the court of trial; and
- (b) against sentence passed on conviction, without that leave, unless the sentence is one fixed by law.

(7) Where a person is so convicted, the time for giving notice of appeal under subsection (1) of section 16 of that Act of 1980 shall run from the date of judgment if later than the date from which it would run under that subsection.

Evidence and onus of proof

Admissions by persons charged with scheduled offences.

12.—(1) In any criminal proceedings for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, a statement made by the accused may be given in evidence by the prosecution in so far as—

- (a) it is relevant to any matter in issue in the proceedings, and
- (b) it is not excluded by the court in pursuance of subsection (2) or in the exercise of its discretion referred to in subsection (3) (and has not been rendered inadmissible by virtue of such a direction as is mentioned in subsection (2)(iii)).

(2) Where in any such proceedings—

- (a) the prosecution proposes to give, or (as the case may be) has given, in evidence a statement made by the accused, and
- (b) prima facie evidence is adduced that the accused was subjected to torture, to inhuman or degrading treatment, or to any violence or threat of violence (whether or not amounting to torture), in order to induce him to make the statement,

then, unless the prosecution satisfies the court that the statement was not obtained by so subjecting the accused in the manner indicated by that evidence, the court shall do one of the following things, namely—

- (i) in the case of a statement proposed to be given in evidence, exclude the statement;
- (ii) in the case of a statement already received in evidence, continue the trial disregarding the statement; or
- (iii) in either case, direct that the trial shall be restarted before a differently constituted court (before which the statement in question shall be inadmissible).

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(3) It is hereby declared that, in the case of any statement made by the accused and not obtained by so subjecting him as mentioned in subsection (2)(b), the court in any such proceedings as are mentioned in subsection (1) has a discretion to do one of the things mentioned in subsection (2)(i) to (iii) if it appears to the court that it is appropriate to do so in order to avoid unfairness to the accused or otherwise in the interests of justice.

(4) This section does not apply to a summary trial.

13.—(1) Where a person is charged with possessing a proscribed article in such circumstances as to constitute an offence to which this section applies and it is proved that at the time of the alleged offence—

Onus of proof in relation to offences of possession.

(a) he and that article were both present in any premises; or

(b) the article was in premises of which he was the occupier or which he habitually used otherwise than as a member of the public,

the court may accept the fact proved as sufficient evidence of his possessing (and, if relevant, knowingly possessing) that article at that time unless it is further proved that he did not at that time know of its presence in the premises in question, or, if he did know, that he had no control over it.

(2) This section applies to vessels, aircraft and vehicles as it applies to premises.

(3) In this section “proscribed article” means an explosive, firearm, ammunition, substance or other thing (being a thing possession of which is an offence under one of the enactments mentioned in subsection (4)).

(4) This section applies to scheduled offences under the following enactments, that is to say—

The Explosive Substances Act 1883

1883 c. 3.

Section 3, so far as relating to subsection (1)(b) thereof (possessing explosive with intent to endanger life or cause serious damage to property).

Section 4 (possessing explosive in suspicious circumstances).

The Protection of the Person and Property Act (Northern Ireland) 1969

1969 c. 29 (N.I.).

Section 2 (possessing petrol bomb, etc, in suspicious circumstances).

The Firearms (Northern Ireland) Order 1981

S.I. 1981/155 (N.I. 2).

Article 6(1) (manufacturing, dealing in or possessing certain weapons, etc.).

Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property).

Article 18(2) (possessing firearm or imitation firearm at time of committing, or being arrested for, a specified offence).

Article 22(1), (2) or (4) (possession of a firearm or ammunition by a person who has been sentenced to imprisonment, etc.).

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Article 23 (possessing firearm or ammunition in suspicious circumstances).

(5) This section does not apply to a summary trial.

Treatment of offenders

Treatment of young persons convicted of scheduled offences.
1968 c. 34 (N.I.).

14.—(1) Section 73(2) of the Children and Young Persons Act (Northern Ireland) 1968 (under which a court may sentence a child or young person convicted on indictment of an offence punishable in the case of an adult with imprisonment for fourteen years or more to detention for a period specified in the sentence) shall have effect in relation to a young person convicted of a scheduled offence committed while this subsection is in force with the substitution of the word “five” for the word “fourteen”.

(2) Subsection (3) of section 74 of that Act (under which the maximum length of the term or the aggregate of the terms for which a person may be committed in custody to a remand home under section 74(1)(e) is one month) shall have effect in relation to a young person found guilty of a scheduled offence committed while this subsection is in force with the substitution of the words “six months” for the words “one month”.

Restricted remission for persons sentenced for scheduled offences.

15.—(1) The remission granted under prison rules in respect of a sentence of imprisonment passed in Northern Ireland for a scheduled offence shall not, where it is for a term of five years or more, exceed one-third of that term.

(2) Where a person is sentenced on the same occasion for two or more such offences to terms which are consecutive subsection (1) shall apply as if those terms were a single term.

(3) Where a person is serving two or more terms which are consecutive but not all subject to subsection (1), the maximum remission granted under prison rules in respect of those terms taken together shall be arrived at by calculating the maximum remission for each term separately and aggregating the result.

1953 c. 18 (N.I.). (4) In this section “prison rules” means rules made under section 13 of the Prison Act (Northern Ireland) 1953.

(5) The Secretary of State may by order substitute a different length of sentence and a different maximum period of remission for those mentioned in subsection (1).

(6) This section applies where—

1991 c. 24.

(a) the scheduled offence is committed while this section is in force;
(b) the offence (being a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1991) was committed while section 14 of that Act was in force; or

1978 c. 5.

1989 c. 4.

(c) the offence (being a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1978) was committed while section 22 of the Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

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16.—(1) This section applies where a person who has been sentenced to imprisonment or a term of detention in a young offenders centre for a period exceeding one year—

Conviction of scheduled offence during period of remission.

- (a) is discharged from prison or the centre in pursuance of prison rules; and
- (b) before that sentence or term of detention would (but for that discharge) have expired he commits, and is convicted on indictment of, a scheduled offence.

(2) If the court before which he is convicted of the scheduled offence sentences him to imprisonment or a term of detention it shall in addition order him to be returned to prison or, where appropriate, to a young offenders centre for the period between the date of the order and the date on which the sentence of imprisonment or term of detention mentioned in subsection (1) would have expired but for his discharge.

(3) No order shall be made under subsection (2) if the sentence imposed by the court is a suspended sentence or a sentence of life imprisonment or of detention during the Secretary of State's pleasure under section 73(1) of the Children and Young Persons Act (Northern Ireland) 1968; and any order made by a court under that subsection shall cease to have effect if an appeal results in the acquittal of the person concerned or in the substitution of a sentence other than one in respect of which the duty imposed by that subsection applies.

1968 c. 34 (N.I.).

(4) The period for which a person is ordered under this section to be returned to prison or a young offenders centre—

- (a) shall be taken to be a sentence of imprisonment or term of detention for the purposes of the Prison Act (Northern Ireland) 1953 and for the purposes of the Treatment of Offenders Act (Northern Ireland) 1968 other than section 26(2) (reduction for time spent in custody);
- (b) shall not be subject to any provision of prison rules for discharge before expiry; and
- (c) shall be served before, and be followed by, the sentence or term imposed for the scheduled offence and be disregarded in determining the appropriate length of that sentence or term.

1953 c. 18 (N.I.).

1968 c. 29 (N.I.).

(5) For the purposes of this section a certificate purporting to be signed by the governor or deputy governor of a prison or young offenders centre which specifies—

- (a) the date on which a person was discharged from prison or a young offenders centre;
- (b) the sentence or term which the person was serving at the time of his discharge, the offence in respect of which the sentence or term was imposed and the date on which he was convicted of that offence;
- (c) the date on which the person would, but for his discharge in pursuance of prison rules, have been discharged from prison or a young offenders centre,

shall be evidence of the matters so specified.

(6) In this section—

“prison rules” means rules made under section 13 of the Prison Act (Northern Ireland) 1953;

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“sentence of imprisonment” does not include a committal in default of payment of any sum of money or for want of sufficient distress to satisfy any sum of money or for failure to do or abstain from doing anything required to be done or left undone;

1968 c. 29 (N.I.). “young offenders centre” has the meaning assigned to it by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968.

(7) For the purposes of subsection (1) consecutive terms of imprisonment or of detention in a young offenders centre shall be treated as a single term and a sentence of imprisonment or detention in a young offenders centre includes—

(a) a sentence or term passed by a court in the United Kingdom, the Channel Islands or the Isle of Man;

(b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence within the meaning of the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.

1955 c. 18.
1955 c. 19.
1957 c. 53.

(8) The Secretary of State may by order substitute a different period for the period of one year mentioned in subsection (1).

(9) This section applies irrespective of when the discharge from prison or a young offenders centre took place but only if—

(a) the scheduled offence is committed while this section is in force;

(b) the offence (being a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1991) was committed while section 15 of that Act was in force; or

(c) the offence (being a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1978) was committed while section 23 of the Prevention of Terrorism (Temporary Provisions) Act 1989 was in force.

1991 c. 24.

1978 c. 5.
1989 c. 4.

PART II

POWERS OF ARREST, SEARCH AND SEIZURE, ETC.

Entry and search of premises for purpose of arresting terrorists.

17. For the purpose of arresting a person under section 14(1)(b) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (arrest of persons suspected of being concerned in acts of terrorism) a constable may enter and search any premises or other place where that person is or where the constable has reasonable grounds for suspecting him to be.

Constables' general power of arrest and seizure.

18.—(1) Any constable may arrest without warrant any person who he has reasonable grounds to suspect is committing, has committed or is about to commit a scheduled offence or an offence under this Act which is not a scheduled offence.

(2) For the purpose of arresting a person under this section a constable may enter and search any premises or other place where that person is or where the constable has reasonable grounds for suspecting him to be.

(3) A constable may seize anything which he has reasonable grounds to suspect is being, has been or is intended to be used in the commission of a scheduled offence or an offence under this Act which is not a scheduled offence.

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Powers of arrest and seizure by members of Her Majesty's forces.

19.—(1) Any member of Her Majesty's forces on duty may arrest without warrant, and detain for not more than four hours, a person who he has reasonable grounds to suspect is committing, has committed or is about to commit any offence.

(2) A person effecting an arrest under this section complies with any rule of law requiring him to state the ground of arrest if he states that he is effecting the arrest as a member of Her Majesty's forces.

(3) For the purpose of arresting a person under this section a member of Her Majesty's forces may enter and search any premises or other place—

- (a) where that person is, or
- (b) if there are reasonable grounds for suspecting that that person is a terrorist or has committed an offence involving the use or possession of an explosive substance or firearm, where there are reasonable grounds for suspecting him to be.

(4) Any member of Her Majesty's forces may seize, and detain for not more than four hours, anything which he has reasonable grounds to suspect is being, has been or is intended to be used in the commission of an offence under section 26 or 27.

20.—(1) Any member of Her Majesty's forces on duty or any constable may enter any premises or other place other than a dwelling-house for the purpose of ascertaining—

- (a) whether there are any munitions unlawfully at that place; or
- (b) whether there is a transmitter at that place;

Power to search for munitions, radio transmitters and scanning receivers.

and may search the place for any munitions or transmitter with a view to exercising the powers conferred by subsection (7).

(2) Any member of Her Majesty's forces on duty authorised by a commissioned officer of those forces or any constable authorised by an officer of the Royal Ulster Constabulary not below the rank of inspector may enter any dwelling-house in which there are reasonable grounds for suspecting that there are unlawfully any munitions or that there is a transmitter and may search it for any munitions or transmitter with a view to exercising the said powers.

(3) If it is necessary for the purpose of effectively carrying out a search—

- (a) a member of Her Majesty's forces or constable exercising the powers conferred by subsection (1) may be accompanied by other persons; and
- (b) any authority given under subsection (2) may authorise other persons to accompany the member of Her Majesty's forces or constable to whom the authority is given.

(4) If the member of Her Majesty's forces or constable carrying out a search under subsection (1) or (2) reasonably believes that it is necessary to do so for the purpose of effectively carrying out the search or of preventing the frustration of its object he may—

- (a) require any person who when the search begins is on, or during the search enters, the premises or other place where the search is carried out ("the place of search") to remain in, or in a

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specified part of, that place, to refrain from entering a specified part of it or to go from one specified part of it to another specified part;

- (b) require any person who is not resident in the place of search to refrain from entering it; and
- (c) use reasonable force to secure compliance with any such requirement.

(5) No requirement imposed under subsection (4) shall have effect after the conclusion of the search in relation to which it was imposed; and no such requirement shall be imposed or have effect after the end of the period of four hours beginning with the time when that or any other requirement was first imposed under that subsection in relation to the search in question but an officer of the Royal Ulster Constabulary not below the rank of superintendent may extend that period by a further period of four hours if he reasonably believes that it is necessary to do so for the purpose mentioned in that subsection.

(6) Any member of Her Majesty's forces on duty or any constable may—

- (a) stop any person in any public place and, with a view to exercising the powers conferred by subsection (7), search him for the purpose of ascertaining whether he has any munitions unlawfully with him or any transmitter with him; and
- (b) with a view to exercising the said powers—
 - (i) search any person not in a public place who he has reasonable grounds to suspect has any munitions unlawfully with him or any transmitter with him; and
 - (ii) search any person entering or found in a dwelling-house entered under subsection (2).

(7) Where a member of Her Majesty's forces or a constable is empowered by virtue of any provision of this Act to search any premises or other place or any person—

- (a) he may seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully) and may retain and, if necessary, destroy them; and
- (b) he may seize any transmitter found in the course of the search (unless it appears to him that the transmitter has been, is being and is likely to be used only lawfully) and may retain it.

(8) The preceding provisions of this section shall have effect in relation to scanning receivers as they have effect in relation to transmitters.

(9) In this section—

“munitions” means—

- (a) explosives, explosive substances, firearms and ammunition; and
- (b) anything used or capable of being used in the manufacture of any explosive, explosive substance, firearm or ammunition;

“scanning receiver” means—

PART II

(a) any apparatus for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted; or

(b) part of any such apparatus;

“transmitter” means any apparatus for wireless telegraphy designed or adapted for emission, as opposed to reception, or part of any such apparatus;

“wireless telegraphy” has the same meaning as in section 19(1) of the Wireless Telegraphy Act 1949.

1949 c. 54.

21.—(1) Where a member of Her Majesty’s forces or a constable carries out a search under section 20(1) or (2) he shall, unless it is not practicable to do so, make a written record of the search which shall specify—

Section 20:
supplementary
provisions.

- (a) the address of the premises, or a description of the place, which is searched;
- (b) the date and time of the search;
- (c) any damage caused in the course of the search; and
- (d) anything seized in the course of the search.

(2) Such a record shall also include the name (if known) of any person appearing to the person making the record to be the occupier of the premises or other place searched; but—

- (a) a person may not be detained to find out his name; and
- (b) if the person making the record does not know the name of a person appearing to him to be the occupier of the premises or other place searched, he shall include in the record a note otherwise describing him.

(3) Such a record shall identify the person by whom the search is carried out—

- (a) in the case of a constable, by reference to his police number; and
- (b) in the case of a member of Her Majesty’s forces, by reference to his service number, rank and regiment.

(4) Where a record of a search is made under this section a copy of the record shall be supplied at once or, where that is not practicable, as soon as is practicable to any person appearing to the person making the record to be the occupier of the premises or other place searched.

(5) A person who wilfully fails to comply with a requirement imposed under section 20(4) or wilfully obstructs, or seeks to frustrate the object of, a search in relation to which such a requirement has been or could be imposed is guilty of an offence and liable—

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

(6) A person who fails to stop when required to do so under subsection (6) of section 20 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART II

Powers of
explosives
inspectors.
1875 c. 17.

22.—(1) An inspector appointed under section 53 of the Explosives Act 1875 may, for the purpose of ascertaining whether there is unlawfully in any premises or other place other than a dwelling-house any explosive or explosive substance, enter that place and search it with a view to exercising the powers conferred by subsection (3).

(2) Any such inspector may, with a view to exercising those powers, stop any person in a public place and search him for the purpose of ascertaining whether he has any explosive or explosive substance unlawfully with him.

(3) Any such inspector may seize any explosive or explosive substance found in the course of a search under this section unless it appears to him that it is being, has been and will be used only for a lawful purpose and may retain and, if necessary, destroy it.

Entry to search
for persons
unlawfully
detained.

23.—(1) Where any person is believed to be unlawfully detained in such circumstances that his life is in danger, any member of Her Majesty's forces on duty or any constable may, subject to subsection (2), enter any premises or other place for the purpose of ascertaining whether that person is so detained there.

(2) A dwelling-house may be entered in pursuance of subsection (1)—

- (a) by a member of Her Majesty's forces, only when authorised to do so by a commissioned officer of those forces; and
- (b) by a constable, only when authorised to do so by an officer of the Royal Ulster Constabulary not below the rank of inspector.

Examination of
documents.

24.—(1) Where a member of Her Majesty's forces or a constable is empowered by virtue of any provision of this Act to search any premises or other place or any person he may examine any document or record found in the course of the search so far as reasonably required for ascertaining whether it contains any such information as is mentioned in section 33(1)(a) or (b).

(2) A document or record which cannot be conveniently or thoroughly examined at the place where it is found may be removed for examination to another place and retained there until the examination has been completed.

(3) This section shall not be taken to authorise the examination, removal or retention of a document or record by a person at a time when he has reasonable cause for believing it to be an item subject to legal privilege (within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989).

S.I. 1989/1341
(N.I. 12).

(4) Where a document or record is examined under this section it shall not be photographed or copied.

(5) Where a document or record is examined under this section the person who examines it shall make a written record of the examination at once or, where it is not practicable to make one at once, as soon as is practicable.

(6) A record of an examination of a document or record which is made under this section shall specify—

- (a) a description of the document or record;
- (b) the object of the examination;

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- (c) the address of the premises, or a description of the place, where the document or record was found;
- (d) where the document or record was found in the course of a search of a person, the name of that person;
- (e) where the document or record was found in the course of a search of any premises or other place, the name of any person appearing to the person making the record to be the occupier of the premises or other place or to have had custody or control of the document or record when it was found;
- (f) where the document or record was removed for examination from the place where it was found, the date and time when it was removed from that place; and
- (g) where the document or record was examined at the place where it was found, the date and time when it was examined.

(7) Such a record shall identify the person by whom the examination was carried out—

- (a) in the case of a constable, by reference to his police number; and
- (b) in the case of a member of Her Majesty's forces, by reference to his service number, rank and regiment.

(8) Where a record of an examination of a document or record is made under this section a copy of the record shall be supplied at once or, if that is not practicable, as soon as is practicable—

- (a) in a case where the document or record was found in the course of a search of a person, to that person; and
- (b) in a case where the document or record was found in the course of a search of any premises or other place, to any person appearing to the person making the record to be the occupier of the premises or other place or to have had custody or control of the document or record when it was found.

(9) Subject to subsection (10), a document or record may not be retained by virtue of subsection (2) for more than forty-eight hours.

(10) An officer of the Royal Ulster Constabulary not below the rank of chief inspector may authorise the retention of a document or record by a constable for a further period or periods; but no such authorisation shall permit the retention of a document or record beyond the end of the period of ninety-six hours from the time when it was removed for examination from the place where it was found.

(11) Any person who wilfully obstructs a member of Her Majesty's forces or a constable in the exercise of the powers conferred by this section is guilty of an offence and liable—

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

25.—(1) Any member of Her Majesty's forces on duty or any constable may stop any person for so long as is necessary in order to question him for the purpose of ascertaining—

- (a) that person's identity and movements;

Power to stop and question.

PART II

(b) what he knows concerning any recent explosion or any other recent incident endangering life or concerning any person killed or injured in any such explosion or incident; or

(c) any one or more of the matters referred to in paragraphs (a) and (b).

(2) Any person who—

(a) fails to stop when required to do so under this section, or

(b) refuses to answer, or fails to answer to the best of his knowledge and ability, any question addressed to him under this section,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

General powers of entry and interference with rights of property and with highways.

26.—(1) Any member of Her Majesty's forces on duty or any constable may enter any premises or other place—

(a) if he considers it necessary to do so in the course of operations for the preservation of the peace or the maintenance of order; or

(b) if authorised to do so by or on behalf of the Secretary of State.

(2) Any member of Her Majesty's forces on duty, any constable or any person specifically authorised to do so by or on behalf of the Secretary of State may, if authorised to do so by or on behalf of the Secretary of State—

(a) take possession of any land or other property;

(b) take steps to place buildings or other structures in a state of defence;

(c) detain any property or cause it to be destroyed or moved;

(d) do any other act interfering with any public right or with any private rights of property, including carrying out any works on any land of which possession has been taken under this subsection.

(3) Any member of Her Majesty's forces on duty, any constable or any person specifically authorised to do so by or on behalf of the Secretary of State may, so far as he considers it immediately necessary for the preservation of the peace or the maintenance of order—

(a) wholly or partly close a highway or divert or otherwise interfere with a highway or the use of a highway; or

(b) prohibit or restrict the exercise of any right of way or the use of any waterway.

(4) Any person who, without lawful authority or reasonable excuse (the proof of which lies on him), interferes with works executed, or any apparatus, equipment or any other thing used, in or in connection with the exercise of powers conferred by this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(5) Any authorisation to exercise any powers under any provision of this section may authorise the exercise of all those powers, or powers of any class or a particular power specified, either by all persons by whom they are capable of being exercised or by persons of any class or a particular person specified.

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Power of Secretary of State to direct the closure, etc. of roads.

27.—(1) If the Secretary of State considers it necessary to do so for the preservation of the peace or the maintenance of order he may by order direct—

- (a) that any highway specified in the order shall either be wholly closed or be closed to such extent, or diverted in such manner, as may be so specified;
- (b) that any highway specified in the order, being a highway which has already been wholly or partly closed or diverted—
 - (i) under this section; or
 - (ii) in the exercise or purported exercise of any power conferred by or under a relevant enactment,
 shall continue to be so closed or diverted by virtue of the order.

(2) A person is guilty of an offence if, without lawful authority or reasonable excuse (the proof of which lies on him), he interferes with—

- (a) works executed in connection with the closure or diversion of any highway specified in an order under this section (whether executed in pursuance of any such order or in pursuance of the exercise or purported exercise of any such power as is mentioned in subsection (1)(b)(ii)); or
- (b) apparatus, equipment or any other thing used in pursuance of any such order in connection with the closure or diversion of any such highway.

(3) A person is guilty of an offence if—

- (a) within 200 metres of any road closure works—
 - (i) he executes any bypass works; or
 - (ii) without lawful authority or reasonable excuse (the proof of which lies on him) he has in his possession or under his control any materials or equipment suitable for executing bypass works; or
- (b) he knowingly permits on land occupied by him the doing or occurrence of anything which is an offence under paragraph (a).

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(5) In this section—

“bypass works” means works that would facilitate the bypassing by vehicles of the road closure works in question;

“relevant enactment” means section 26(2) or (3) above, section 17(2) or (3) of the Northern Ireland (Emergency Provisions) Act 1973, section 19(2) or (3) of the Northern Ireland (Emergency Provisions) Act 1978, section 24(2) or (3) of the Northern Ireland (Emergency Provisions) Act 1991 or the Civil Authorities (Special Powers) Act (Northern Ireland) 1922;

1973 c. 53.
1978 c. 5.
1991 c. 24.
1922 c. 5 (N.I.).

“road closure works” means works which have been executed in connection with the closure of a highway specified in an order under this section or with the closure of a highway in pursuance of the exercise or purported exercise of any power conferred by or under a relevant enactment.

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(6) Nothing in this section prejudices the operation of section 26(2) or (3).

Supplementary provisions.

28.—(1) Any power conferred by this Part of this Act—

- (a) to enter any premises or other place includes power to enter any vessel, aircraft or vehicle;
- (b) to search any premises or other place includes power to stop and search any vehicle or vessel or any aircraft which is not airborne and search any container;

and in this Part of this Act references to any premises or place shall be construed accordingly.

(2) Where a document or record examined under section 24 was found in the course of a search of a vehicle, vessel or aircraft—

- (a) the reference in subsection (6) of that section to the address of the premises, or a description of the place, where the document or record was found shall be construed as a reference to the location of the vehicle, vessel or aircraft where it was found together (in the case of a vehicle) with its registration number; and
- (b) the references in that section to the occupier of the premises or place where it was found shall be construed as references to the person in charge of the vehicle, vessel or aircraft.

(3) In this Part of this Act references to a dwelling-house include references to a vessel or vehicle which is habitually stationary and used as a dwelling.

(4) Any power conferred by this Part of this Act to enter any place, vessel, aircraft or vehicle shall be exercisable, if need be, by force.

(5) Any power conferred by virtue of this section to search a vehicle or vessel shall, in the case of a vehicle or vessel which cannot be conveniently or thoroughly searched at the place where it is, include power to take it or cause it to be taken to any place for the purpose of carrying out the search.

(6) Where by virtue of this section a search under section 20(1) or (2) is carried out in relation to a vessel, aircraft or vehicle, the person carrying out the search may, if he reasonably believes that it is necessary to do so for the purpose mentioned in subsection (4) of that section—

- (a) require any person in or on the vessel, aircraft or vehicle to remain with it or, in the case of a vessel or vehicle which by virtue of subsection (5) above is removed for the purpose of the search, to go to and remain at the place to which it is removed; and
- (b) use reasonable force to secure compliance with any such requirement;

and sections 20(5) and 21(5) shall apply to a requirement imposed under this subsection as they apply to a requirement imposed under section 20(4).

(7) The requirement to make a record of a search under subsection (1) or (2) of section 20 shall apply in the case of a vehicle, vessel or aircraft (other than one which is habitually stationary) searched by virtue of this

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section only where the search takes place after the vehicle, vessel or aircraft is removed for the purpose of the search by virtue of subsection (5) above; and in the case of such a search—

- (a) the reference in section 21(1) to the address of the premises, or a description of the place, which is searched shall be construed as a reference to the location where the vehicle, vessel or aircraft is searched together (in the case of a vehicle) with its registration number; and
- (b) the references in section 21 to the occupier of the premises or place searched shall be construed as references to the person in charge of the vehicle, vessel or aircraft.

(8) Any power conferred by virtue of this section to search any vessel, aircraft, vehicle or container includes power to examine it.

(9) Any power conferred by this Part of this Act to stop any person includes power to stop a vessel or vehicle or an aircraft which is not airborne.

(10) Any person who, when required by virtue of this section to stop a vessel or vehicle or any aircraft which is not airborne, fails to do so is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(11) A member of Her Majesty's forces exercising any power conferred by this Part of this Act when he is not in uniform shall, if so requested by any person at or about the time of exercising that power, produce to that person documentary evidence that he is such a member.

(12) The Documentary Evidence Act 1868 shall apply to any authorisation given in writing under this Part of this Act by or on behalf of the Secretary of State as it applies to any order made by him. 1868 c. 37.

PART III

OFFENCES AGAINST PUBLIC SECURITY AND PUBLIC ORDER

29. Any person who directs, at any level, the activities of an organisation which is concerned in the commission of acts of terrorism is guilty of an offence and liable on conviction on indictment to imprisonment for life. Directing terrorist organisation.

30.—(1) Subject to subsection (6), any person who— Proscribed organisations.

- (a) belongs or professes to belong to a proscribed organisation; or
- (b) solicits or invites support for a proscribed organisation other than support with money or other property; or
- (c) solicits or invites any person to become a member of a proscribed organisation or to carry out on behalf of a proscribed organisation orders or directions given, or requests made, by a member of that organisation; or
- (d) arranges or assists in the arrangement or management of, or addresses, any meeting of three or more persons (whether or not it is a meeting to which the public are admitted) knowing that the meeting—
 - (i) is to support a proscribed organisation;

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- (ii) is to further the activities of such an organisation; or
- (iii) is to be addressed by a person belonging or professing to belong to such an organisation,

is guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years or a fine or both and on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(2) The organisations specified in Schedule 2 to this Act are proscribed organisations for the purposes of this Act; and any organisation which passes under a name mentioned in that Schedule shall be treated as proscribed, whatever relationship (if any) it has to any other organisation of the same name.

(3) The Secretary of State may by order add to Schedule 2 to this Act any organisation that appears to him to be concerned in terrorism or in promoting or encouraging it.

(4) The Secretary of State may also by order remove an organisation from Schedule 2 to this Act.

(5) The possession by a person of a document—

- (a) addressed to him as a member of a proscribed organisation; or
- (b) relating or purporting to relate to the affairs of a proscribed organisation; or
- (c) emanating or purporting to emanate from a proscribed organisation or officer of a proscribed organisation,

shall be evidence of that person belonging to the organisation at the time when he had the document in his possession.

(6) A person belonging to a proscribed organisation shall—

- (a) if the organisation is a proscribed organisation by virtue of an order under subsection (3); or
- (b) if this section has ceased to be in force but has been subsequently brought into force by an order under section 62(3),

not be guilty of an offence under this section by reason of belonging to the organisation if he has not, after the coming into force of the order under subsection (3) or the coming into force again of this section, as the case may be, taken part in any activities of the organisation.

(7) Subsection (6) shall apply in relation to a person belonging to the Red Hand Commando, the Ulster Freedom Fighters, the Ulster Volunteer Force, the Irish National Liberation Army, the Irish People's Liberation Organisation or the Ulster Defence Association as if the organisation were proscribed by virtue of an order under subsection (3) with the substitution in subsection (6) for the reference to the coming into force of such an order of a reference—

- (a) as respects a person belonging to the Red Hand Commando or the Ulster Freedom Fighters, to 12th November 1973;
- (b) as respects a person belonging to the Ulster Volunteer Force, to 4th October 1975;
- (c) as respects a person belonging to the Irish National Liberation Army, to 3rd July 1979;
- (d) as respects a person belonging to the Irish People's Liberation Organisation, to 29th March 1990;

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- (e) as respects a person belonging to the Ulster Defence Association, to 11th August 1992.

31. Any person who in a public place—

- (a) wears any item of dress; or
 (b) wears, carries or displays any article,

in such a way or in such circumstances as to arouse reasonable apprehension that he is a member or supporter of a proscribed organisation is guilty of an offence and liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding one year or a fine or both;
 (ii) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Display of support in public for a proscribed organisation.

32.—(1) A person is guilty of an offence if he has any article in his possession in circumstances giving rise to a reasonable suspicion that the item is in his possession for a purpose connected with the commission, preparation or instigation of acts of terrorism connected with the affairs of Northern Ireland.

Possession of items intended for terrorist purposes.

(2) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence the article in question was not in his possession for such a purpose as is mentioned in subsection (1).

(3) A person guilty of an offence under this section is liable—

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

(4) Subsections (1), (2) and (5) of section 13 shall apply where a person is charged with possessing an article in such circumstances as to constitute an offence under this section as they apply where a person is charged with possessing a proscribed article in such circumstances as are there mentioned.

33.—(1) No person shall, without lawful authority or reasonable excuse (the proof of which lies on him)—

- (a) collect, record, publish, communicate or attempt to elicit any information with respect to any person to whom this paragraph applies which is of such a nature as is likely to be useful to terrorists;
 (b) collect or record any information which is of such a nature as is likely to be useful to terrorists in planning or carrying out any act of violence; or
 (c) have in his possession any record or document containing any such information as is mentioned in paragraph (a) or (b).

Unlawful collection, etc. of information.

(2) Subsection (1)(a) applies to any of the following persons, that is to say—

- (a) any constable or member of Her Majesty's forces;

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- (b) any person holding judicial office;
- (c) any officer of any court;
- (d) any person employed for the whole of his time in the prison service in Northern Ireland; and
- (e) any person who has at any time been a person falling within any of the preceding paragraphs.

(3) In subsection (1) any reference to recording information includes a reference to recording it by means of photography or by any other means.

(4) Any person who contravenes this section is guilty of an offence and liable—

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

(5) The court by or before which a person is convicted of an offence under this section may order the forfeiture of any record or document mentioned in subsection (1) which is found in his possession.

(6) Subsections (1), (2) and (5) of section 13 shall apply where a person is charged with an offence under subsection (1)(c) above as they apply where a person is charged with possessing a proscribed article in such circumstances as are mentioned in section 13.

1978 c. 30.

(7) Without prejudice to section 18 of the Interpretation Act 1978 (offences under two or more laws), nothing in this section shall derogate from the operation of the Official Secrets Acts 1911 to 1989.

Training in making or use of firearms, explosives or explosive substances.

34.—(1) Subject to subsection (2), any person who instructs or trains another or receives instruction or training in the making or use of firearms, explosives or explosive substances is guilty of an offence and liable—

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

(2) In any prosecution for an offence under this section it shall be a defence for the person charged to prove that the instruction or training was given or received with lawful authority or for industrial, agricultural or sporting purposes only or otherwise with good reason.

(3) The court by or before which a person is convicted of an offence under this section may order the forfeiture of any thing which appears to the court to have been in his possession for purposes connected with the offence.

(4) Without prejudice to section 18 of the Interpretation Act 1978 (offences under two or more laws), nothing in this section shall derogate from the operation of the Unlawful Drilling Act 1819.

1819 c. 1.

Wearing of hoods, etc. in public places.

35. Any person who, without lawful authority or reasonable excuse (the proof of which lies on him), wears in a public place or in the curtilage of

PART III

a dwelling-house (other than one in which he is residing) any hood, mask or other article whatsoever made, adapted or used for concealing the identity or features is guilty of an offence and liable—

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

PART IV

DETENTION ORDERS

36. Schedule 3 to this Act shall have effect with respect to the detention of terrorists and persons suspected of being terrorists. Detention orders.

PART V

REGULATION OF THE PROVISION OF PRIVATE SECURITY SERVICES

37.—(1) A person shall not provide, or offer to provide, security services for reward, unless he is, or is acting on behalf of, the holder of a certificate in force under this Part of this Act. Prohibition on provision of security services without a certificate.

(2) A person shall not publish, or cause to be published, any advertisement for the provision of such services by a person who is not the holder of such a certificate.

(3) Any person who contravenes subsection (1) or (2) is guilty of an offence and liable—

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

(4) Where a person is charged with an offence under this section in respect of an advertisement it shall be a defence for him to prove—

- (a) that he is a person whose business it is to publish or arrange for the publication of advertisements; and
- (b) that he received the advertisement for publication in the ordinary course of business; and
- (c) that he had reasonable grounds for believing that the person advertised as the provider of the security services in question was the holder of a certificate in force under this Part of this Act.

(5) In this Part of this Act “security services” means the services of one or more individuals as security guards (whether with or without any other services relating to the protection of property or persons).

38.—(1) An application for a certificate under this Part of this Act— Applications for certificates.

- (a) shall be made to the Secretary of State in such manner and form as he may specify, and
- (b) shall be accompanied by such information as he may specify concerning—
 - (i) the applicant;

PART V

(ii) any business carried on or proposed to be carried on by the applicant and involving the provision of security services for reward;

(iii) any persons whom the applicant employs, or proposes to employ, as security guards;

(iv) any partners or proposed partners of the applicant or (if the applicant is a partnership) the members, and any proposed members, of the partnership; and

(v) if the applicant is a body corporate, the officers, and any proposed officers, of that body.

(2) Any person who, in connection with any such application, knowingly or recklessly furnishes the Secretary of State with information which is false or misleading in a material respect is guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(3) In this section—

(a) “officer” includes a director, manager or secretary; and

(b) any reference to the employment or proposed employment of any person or persons by an applicant for a certificate under this Part of this Act shall, in relation to an applicant who is, or is a member of, a partnership, be construed as a reference to the employment or proposed employment of any person or persons by the partnership or any of the partners.

(4) For the purposes of this section a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act shall be treated as an officer of that body, except that a person shall not be so treated by reason only that the directors act on advice given by him in a professional capacity.

Issue, duration
and revocation of
certificates.

39.—(1) Where an application for a certificate under this Part of this Act has been made to the Secretary of State in accordance with section 38, the Secretary of State may only refuse to issue such a certificate to the applicant in a case where he is satisfied that an organisation falling within subsection (8) below would be likely to benefit from the issue of the certificate or that the applicant has persistently failed to comply with the requirements of this Part of this Act or of Part V of the Northern Ireland (Emergency Provisions) Act 1991; and if the Secretary of State refuses to issue a certificate he shall notify the applicant of the refusal.

(2) A certificate under this Part of this Act shall come into force at the beginning of the day on which it is issued and, subject to subsection (3), shall expire at the end of the period of twelve months beginning with that day.

(3) Where the certificate is issued to a person who already holds a certificate in force under this Part of this Act, the new certificate shall expire at the end of the period of twelve months beginning with the day following that on which that person’s current certificate expires.

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(4) The Secretary of State may from time to time by order substitute for the period specified in each of subsections (2) and (3) such period exceeding twelve months as is specified in the order.

(5) Subject to subsection (6), the Secretary of State may revoke a certificate in force under this Part of this Act if he is satisfied that an organisation falling within subsection (8) would be likely to benefit from the certificate remaining in force or that the holder of the certificate has persistently failed to comply with the requirements of this Part of this Act or of Part V of the Northern Ireland (Emergency Provisions) Act 1991.

(6) The Secretary of State shall not revoke a certificate under subsection (5) unless the holder of the certificate—

- (a) has been notified of the Secretary of State's intention to revoke it, and
- (b) has been given a reasonable opportunity of making representations to the Secretary of State.

(7) If the Secretary of State revokes a certificate under subsection (5), he shall forthwith notify the holder of the certificate of its revocation.

(8) An organisation falls within this subsection if—

- (a) it is for the time being a proscribed organisation; or
- (b) it appears to the Secretary of State to be closely associated with an organisation which is for the time being a proscribed organisation.

(9) In this section "benefit" means benefit whether directly or indirectly and whether financially or in any other way.

40.—(1) Where—

- (a) an application has been made by any person under section 38, and
- (b) that person proposes to employ a person as a security guard as from a relevant time, and
- (c) information concerning the proposed employee was not furnished to the Secretary of State in pursuance of section 38(1)(b)(iii) at the time when the application was made,

the person who made the application shall, not later than fourteen days before that relevant time, notify to the Secretary of State such information concerning the proposed employee as the Secretary of State may specify.

(2) Where an application has been made by any person under section 38, that person shall notify to the Secretary of State such information concerning any change to which this subsection applies as the Secretary of State may specify, and shall so notify any such information—

- (a) not later than fourteen days before the change occurs; or
- (b) if that is not reasonably practicable, as soon as is reasonably practicable.

(3) Subsection (2) applies—

- (a) in relation to an application made by a partnership or by a member of a partnership, to any change occurring at a relevant time in the members of the partnership, and

Duty to notify Secretary of State of changes of personnel.

PART V

(b) in relation to an application made by a body corporate, to any change occurring at a relevant time in the officers of that body, unless the change involves a person becoming a partner or officer and information relating to that change was furnished to the Secretary of State in pursuance of section 38(1)(b)(iv) or (v) at the time when the application was made.

(4) Any person who contravenes subsection (1) or (2) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(5) In this section “relevant time”, in relation to an application made under section 38, means a time when—

(a) the application has been neither granted nor refused by the Secretary of State; or

(b) a certificate issued in pursuance of the application is in force under this Part of this Act;

and subsections (3) and (4) of that section apply also for the purposes of this section.

Records of employees.

41.—(1) A constable may enter any premises where a business involving the provision of security services is carried on and require to be produced for his inspection any records kept there of persons employed as security guards.

(2) A constable exercising the powers conferred by subsection (1) shall identify himself to the person appearing to be in charge of the premises in question and, if not in uniform, shall produce to that person documentary evidence that he is a constable.

(3) Any person who without reasonable excuse fails to produce for inspection any records required to be produced under subsection (1) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

(4) Any person providing security services for reward who makes or keeps records of persons employed by him as security guards which he knows to be false or misleading in a material respect is guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

Payments in respect of the provision of security services.

42.—(1) Any person who, in respect of the provision of security services, pays any sum of money to a person who is neither—

(a) the holder of a certificate in force under this Part of this Act, nor

(b) a person acting on behalf of the holder of such a certificate, is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

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(3) It shall be a defence for a person charged with an offence under subsection (1) to prove that, at the time when he paid the money in question, he had reasonable grounds for believing that the person to whom he paid it was, or was acting on behalf of, the holder of a certificate in force under this Part of this Act.

43.—(1) Where an offence under this Part of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Liability of directors, etc.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

44.—(1) Any notification given under this Part of this Act shall be in writing.

Notifications.

(2) Any notification required by this Part of this Act to be given by any person to the Secretary of State may be sent to him by post.

(3) Any notification required by this Part of this Act to be given by the Secretary of State to any person may—

- (a) if that person is an individual, be sent to him by post addressed to him at his usual or last-known place of residence or business;
- (b) if that person is a partnership, be sent to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership; or
- (c) if that person is a body corporate, be sent to the secretary or clerk of that body at its registered or principal office.

(4) This section is without prejudice to any other lawful method of giving a notification.

PART VI

PERSONS IN POLICE CUSTODY UNDER TERRORISM PROVISIONS

45.—(1) In this Part of this Act “the terrorism provisions” means section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 and any provision of Schedule 2 or 5 to that Act conferring a power of arrest or detention.

The terrorism provisions and police custody. 1989 c. 4.

(2) A person is held in police custody for the purposes of this Part of this Act if he is detained at a police station or is detained elsewhere in the charge of a constable except that a person who is at a court after being charged with an offence is not held in police custody for the purposes of section 46 below.

46.—(1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to have

Right to have someone informed of detention under terrorism provisions.

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one friend or relative or other person who is known to him or is likely to take an interest in his welfare told that he is being detained under those provisions and where he is being held in police custody.

(2) A person shall be informed of the right conferred on him by subsection (1) as soon as practicable after he has become a person to whom that subsection applies.

(3) A request made by a person under subsection (1), and the time at which it is made, shall be recorded in writing.

(4) If a person makes such a request, it must be complied with as soon as is practicable except to the extent that any delay is permitted by this section.

(5) Any delay in complying with such a request is only permitted if—

- (a) it is authorised by an officer of at least the rank of superintendent; and
- (b) it does not extend beyond the end of the period referred to in subsection (6).

(6) That period is—

- (a) except where paragraph (b) applies, the period of forty-eight hours beginning with the time when the detained person was first detained under the terrorism provisions;
- (b) where the detained person was, prior to the time when he was first so detained, being examined in accordance with paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989, the period of forty-eight hours beginning with the time when he was first so examined.

1989 c. 4.

(7) An officer may give an authorisation under subsection (5) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) An officer may only authorise a delay in complying with a request under subsection (1) where he has reasonable grounds for believing that telling the person named in the request of the detention of the detained person—

- (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or
- (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence; or
- (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
- (e) by alerting any person, will make it more difficult—
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.

(9) If any delay is authorised, then, as soon as is practicable—

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- (a) the detained person shall be told the reason for authorising it; and
- (b) the reason shall be recorded in writing.

(10) Any authorisation under subsection (5) shall cease to have effect once the reason for giving it ceases to subsist.

(11) The right conferred by subsection (1) may be exercised by a person to whom that subsection applies on each occasion when he is transferred from one place to another; and this section applies to each subsequent occasion on which that right is so exercised as it applies to the first such occasion.

(12) Subsection (11) shall not be construed as prejudicing the operation of a request by a person to whom subsection (1) applies which was made, but not complied with, before he was transferred.

47.—(1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to consult a solicitor privately. Right of access to legal advice.

(2) A person shall be informed of the right conferred on him by subsection (1) as soon as practicable after he has become a person to whom that subsection applies.

(3) A request made by a person under subsection (1), and the time at which it is made, shall be recorded in writing unless it is made by him while at a court after being charged with an offence.

(4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that any delay is permitted by this section.

(5) Any delay in complying with a request under subsection (1) is only permitted if—

- (a) it is authorised by an officer of at least the rank of superintendent; and
- (b) it does not extend beyond the relevant time.

(6) In subsection (5) “the relevant time” means—

- (a) where the request is the first request made by the detained person under subsection (1), the end of the period referred to in section 46(6); or
- (b) where the request follows an earlier request made by the detained person under that subsection in pursuance of which he has consulted a solicitor, the end of the period of forty-eight hours beginning with the time when that consultation began.

(7) An officer may give an authorisation under subsection (5) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) An officer may only authorise a delay in complying with a request under subsection (1) where he has reasonable grounds for believing that the exercise of the right conferred by that subsection at the time when the detained person desires to exercise it—

- (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or

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- (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence; or
- (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
- (e) by alerting any person, will make it more difficult—
 - (i) to prevent an act of terrorism; or
 - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.

- (9) If any delay is authorised, then, as soon as is practicable—
- (a) the detained person shall be told the reason for authorising it; and
 - (b) the reason shall be recorded in writing.

(10) If an officer of at least the rank of Assistant Chief Constable has reasonable grounds for believing that, unless he gives a direction under subsection (11), the exercise by a person of the right conferred by subsection (1) will have any of the consequences specified in subsection (8), he may give a direction under subsection (11).

(11) A direction under this subsection is a direction that a person desiring to exercise the right conferred by subsection (1) may only consult a solicitor in the sight and hearing of a qualified officer of the uniformed branch of the Royal Ulster Constabulary.

- (12) An officer is qualified for the purposes of subsection (11) if—
- (a) he is of at least the rank of inspector; and
 - (b) in the opinion of the officer giving the direction, he has no connection with the case.

(13) Any authorisation under subsection (5) or direction under subsection (11) shall cease to have effect once the reason for giving it ceases to subsist.

Fingerprinting.
S.I. 1989/1341
(N.I. 12).
1989 c. 4.

48. Article 61(1) to (8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (fingerprinting) shall apply to the taking of a person's fingerprints by a constable under section 15(9) of the Prevention of Terrorism (Temporary Provisions) Act 1989 as if for Article 61(4) there were substituted—

- “(4) An officer may only give an authorisation if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or
 - (b) whether he is subject to an exclusion order under that Act; or if the officer has reasonable grounds for suspecting that person's involvement in an offence under any of the provisions mentioned in subsection (1)(a) of that section and for believing that his fingerprints will tend to confirm or disprove his involvement.”

PART VII

MISCELLANEOUS

49.—(1) The Secretary of State may by regulations make provision additional to the foregoing provisions of this Act for promoting the preservation of the peace and the maintenance of order.

Supplementary regulations for preserving the peace, etc.

(2) Regulations under this section may authorise the Secretary of State to make orders for such purposes as may be specified in the regulations.

(3) Any person contravening or failing to comply with the provisions of any regulations under this section or any instrument or directions under any such regulations is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

50.—(1) The grounds on which the Secretary of State may reject an application for a licence under section 6 of the Explosives Act 1875 (new explosives factories and magazines) shall include the ground that the establishment of the factory or magazine in question is undesirable in the interests of safeguarding national security or protecting public safety; and a licence granted under that section may be withdrawn by him on that ground at any time before it comes into force.

Explosives factories, magazines and stores.
1875 c. 17.

(2) The Secretary of State may also refuse a licence under section 15 or registration under section 21 of that Act (explosives stores and other premises for keeping explosives) on the ground that the establishment of the store or, as the case may be, the keeping of explosives on the premises in question is undesirable in the interests of safeguarding national security or protecting public safety.

51.—(1) The Secretary of State may appoint a person to be known as the Independent Assessor of Military Complaints Procedures in Northern Ireland (in this Act referred to as “the Independent Assessor”).

Independent Assessor of Military Complaints Procedures in Northern Ireland.

(2) A person shall not be eligible for appointment as the Independent Assessor if he is, or at any time during the period of twenty years ending with the date of the appointment has been, a serving member of Her Majesty’s forces.

(3) Schedule 4 to this Act shall have effect with respect to the Independent Assessor.

(4) The Independent Assessor—

- (a) shall keep under review the procedures adopted by the General Officer Commanding Northern Ireland (“the GOC”) for receiving, investigating and responding to relevant complaints;
- (b) shall receive and investigate any representations concerning those procedures;
- (c) may investigate the operation of those procedures in relation to any particular complaint or group of complaints;
- (d) may require the GOC to review any particular case or group of cases in which the Independent Assessor considers any of those procedures to have operated inadequately; and

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- (e) may make to the GOC recommendations concerning any inadequacies in those procedures, including inadequacies in the way in which they operate in relation to any particular complaint, group of complaints or description of complaints.

(5) In this section “relevant complaint” means a complaint relating to the behaviour of any member of Her Majesty’s forces under the command of the GOC, other than—

- (a) any complaint which has been referred by the GOC to the Royal Ulster Constabulary and not remitted by the Royal Ulster Constabulary to the GOC to be dealt with by him; and
- (b) any complaint relating to a matter in respect of which a claim for compensation has been made under section 55 below or which is the subject of proceedings involving a claim for compensation which have been instituted in any court.

(6) The GOC shall—

- (a) furnish such information;
- (b) disclose such documents; and
- (c) provide such assistance,

as the Independent Assessor may reasonably require for the purpose of the performance of his functions.

Codes of practice:
police powers.
1989 c. 4.

52.—(1) The Secretary of State shall make codes of practice in connection with the detention, treatment, questioning and identification of persons detained under the Prevention of Terrorism (Temporary Provisions) Act 1989.

(2) The Secretary of State may make codes of practice in connection with—

- (a) the exercise by police officers of any power conferred by Part II of this Act or by that Act; and
- (b) the seizure and retention of property found by police officers when exercising powers of search conferred by any provision of this Act or that Act.

(3) The Secretary of State may make codes of practice in connection with the exercise by members of Her Majesty’s forces of any of their powers under Part II of this Act.

(4) In this section “police officer” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

Video recording.

53.—(1) The Secretary of State shall—

- (a) make a code of practice in connection with the silent video recording of interviews to which this section applies; and
- (b) make an order requiring the silent video recording of interviews to which this section applies in accordance with the code as it has effect for the time being.

(2) This section applies to interviews held by police officers of persons detained under section 14(1)(a) or (b) of the Prevention of Terrorism (Temporary Provisions) Act 1989 (arrest and detention of suspected persons).

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(3) In this section “police officer” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

54.—(1) This section applies to a code of practice under section 52 or 53.

Codes of practice: supplementary.

(2) When the Secretary of State proposes to issue a code of practice he shall prepare and publish a draft of the code, shall consider any representations made to him about the draft and may modify the draft accordingly.

(3) The Secretary of State shall lay before both Houses of Parliament a draft of any code of practice prepared by him; and when he has laid the draft of the code before both Houses he may by order bring the code into operation.

(4) An order bringing a code of practice into operation may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient.

(5) The Secretary of State may from time to time revise the whole or any part of a code of practice issued by him and issue the code as revised; and subsections (2) to (4) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.

(6) A failure on the part of a police officer to comply with any provision of a code shall not of itself render him liable to any criminal or civil proceedings.

(7) A failure on the part of a member of Her Majesty’s forces to comply with any provision of a code shall not of itself render him liable to any criminal or civil proceedings other than—

- (a) proceedings under any provision of the Army Act 1955 or the Air Force Act 1955 other than section 70 (civil offences); and
- (b) proceedings under any provision of the Naval Discipline Act 1957 other than section 42 (civil offences).

1955 c. 18.
1955 c. 19.
1957 c. 53.

(8) In all criminal and civil proceedings any code shall be admissible in evidence; and if any provision of a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(9) In this section—

“criminal proceedings” includes proceedings in Northern Ireland before a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the 1957 Act and proceedings in Northern Ireland before the Courts-Martial Appeal Court;

“police officer” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve.

55.—(1) Where under this Act any real or personal property is taken, occupied, destroyed or damaged, or any other act is done interfering with private rights of property, compensation shall, subject to the provisions of this section, be payable by the Secretary of State to any person who—

Right to compensation.

- (a) has an estate or interest in that property or (as the case may be) is entitled to those rights of property, and

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(b) suffers loss or damage as a result of the act.

(2) No compensation shall be payable under this section in respect of any act falling within subsection (1) unless an application for such compensation is made to the Secretary of State, in such manner as he may specify, within—

- (a) the period of four months beginning with the date when the act was done, or
- (b) such longer period beginning with that date and not exceeding twelve months as—
 - (i) the Secretary of State on a request being made to him in writing, or
 - (ii) the county court on an appeal under subsection (3), may in a particular case allow.

(3) Where the Secretary of State refuses any request made to him for the purposes of subsection (2)(b), he shall serve a notice of his refusal on the person who made the request, and that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against that refusal.

(4) Where the Secretary of State has determined any application for compensation made in accordance with subsection (2), he shall serve on the applicant either—

- (a) a notice stating that he has decided to award the applicant compensation in pursuance of his application and specifying the amount of the award, or
- (b) a notice stating that he has decided to refuse the application;

and the applicant may within the period of six weeks beginning with the date of service of the notice appeal to the county court against the decision of the Secretary of State to pay the amount of compensation specified in the notice or (as the case may be) to refuse the application and unless he so appeals within that period that decision shall become in all respects final and binding.

(5) Any notice served under subsection (3) or (4) shall contain particulars of the right of appeal under that subsection and, in the case of a notice served under subsection (4), of the consequences of a failure to exercise that right.

(6) Where—

- (a) a person having a right to compensation under this section has made an application in accordance with subsection (2), and
- (b) by virtue of any assignment or operation of law that right has passed to any other person,

that other person (or, if he is subject to any legal disability, the person appearing to the Secretary of State to be entitled to act on his behalf) may be treated by the Secretary of State as the applicant for the purposes of any provision of this section.

(7) Where—

- (a) a person has a right to compensation in respect of any act falling within subsection (1), and
- (b) the act was done in connection with, or revealed evidence of the commission of—

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- (i) a scheduled offence, or
 - (ii) an offence under this Act other than a scheduled offence, and
- (c) proceedings for that offence are brought against that person, his right to such compensation shall not be enforceable at any time when any such proceedings have not been concluded or if he is convicted of the offence.

56. Any notice required by section 55 to be served on any person by the Secretary of State may— Compensation: notices.

- (a) if that person is an individual, be served on him—
 - (i) by delivering it to him, or
 - (ii) by sending it by post addressed to him at his usual or last-known place of residence or business, or
 - (iii) by leaving it for him there;
- (b) if that person is a partnership, be served on the partnership—
 - (i) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
 - (ii) by addressing it to a partner or any such person and leaving it at that office;
- (c) if that person is a body corporate, be served on the body—
 - (i) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
 - (ii) by addressing it to the secretary or clerk of the body and leaving it at that office; or
- (d) in any case, be served on that person's solicitor by delivering it to the solicitor, or by sending it by post to him at his office, or by leaving it for him there.

PART VIII

SUPPLEMENTARY

57. A prosecution in respect of an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland. Restriction of prosecutions.

58. In this Act, except so far as the context otherwise requires— General interpretation.

“dwelling-house” means any building or part of a building used as a dwelling;

“explosive” means any article or substance manufactured for the purpose of producing a practical effect by explosion;

“explosive substance” means any substance for the time being specified in regulations made under section 3 of the Explosives Act (Northern Ireland) 1970; 1970 c. 10 (N.I.).

“firearm” includes an air gun or air pistol;

“proscribed organisation” means an organisation for the time being specified in Schedule 2 to this Act, including an organisation which is to be treated as a proscribed organisation by virtue of section 30(2);

PART VIII

“public place” means a place to which for the time being members of the public have or are permitted to have access, whether on payment or otherwise;

“scheduled offence” has the meaning given by section 1;

“terrorism” means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear;

“terrorist” means a person who is or has been concerned in the commission or attempted commission of any act of terrorism or in directing, organising or training persons for the purpose of terrorism;

“vehicle” includes a hovercraft.

Repeal of
Northern Ireland
(Emergency
Provisions) Act
1991.

1991 c. 24.

59. The Northern Ireland (Emergency Provisions) Act 1991 shall cease to have effect.

Orders and
regulations.

60.—(1) Subject to subsection (4), any power to make orders or regulations conferred by this Act shall be exercisable by statutory instrument.

(2) No order under section 1, 30 or 62(3) and no regulations under section 49 shall be made unless—

- (a) a draft of the order or regulations has been approved by resolution of each House of Parliament; or
- (b) it is declared in the order or regulations that it appears to the Secretary of State that by reason of urgency it is necessary to make the order or regulations without a draft having been so approved.

1946 c. 36.

(3) Orders and regulations under the provisions mentioned in subsection (2) shall, if not so approved in draft, be laid before Parliament after being made and, if at the end of the period of forty days (computed in accordance with section 7(1) of the Statutory Instruments Act 1946) after the day on which the Secretary of State made such an order or regulations a resolution has not been passed by each House approving the order or regulations in question, the order or regulations shall then cease to have effect (but without prejudice to anything previously done or to the making of a new order or new regulations).

(4) Subsection (1) does not apply to any order under section 27 or Schedule 3 or any order under regulations made by virtue of section 49.

(5) Any regulations under section 8 and any order under section 15(5), 16(8), 53 or 54 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Any order under section 39(4) shall be laid before Parliament after being made.

Expenses.

61. Any expenses of the Secretary of State under this Act shall be defrayed out of money provided by Parliament.

PART VIII

Commencement, duration, expiry and revival of provisions of this Act.

- 62.—(1) This Act shall come into force on 25th August 1996.
- (2) The temporary provisions of this Act, that is to say, Parts I to VII except—
- (a) section 7, Part III of Schedule 1 and, so far as they relate to offences which are scheduled offences by virtue of that Part, sections 3, 10 and 11; and
 - (b) sections 55 and 56,
- shall (subject and without prejudice to subsection (3)) expire with 15th June 1997.
- (3) The Secretary of State may by order provide—
- (a) that all or any of the temporary provisions of this Act which are for the time being in force (including any in force by virtue of an order under this section) shall continue in force for a period not exceeding twelve months from the coming into operation of the order;
 - (b) that all or any of those provisions which are for the time being in force shall cease to be in force; or
 - (c) that all or any of those provisions which are not for the time being in force shall come into force again and remain in force for a period not exceeding twelve months from the coming into operation of the order.
- (4) An order under subsection (3) which relates to section 20, 23, 24, 25 or 26 may provide for the continuance, cessation or revival of that section—
- (a) generally,
 - (b) only in so far as it concerns powers of members of Her Majesty's Forces, or
 - (c) except in so far as it concerns powers of members of Her Majesty's Forces.
- (5) The Secretary of State shall be deemed to have made an order under subsection (3)(b) above in respect of the provisions of section 36 and Schedule 3 with effect immediately after the coming into force of those provisions on 25th August 1996.
- (6) The coming into force of any provision of sections 10 to 13 by virtue of an order made under subsection (3)(c) above shall not affect any trial on indictment where the indictment has been presented before the coming into force of that provision, and any such trial shall be conducted as if the provision had not come into force.
- (7) Where before the coming into force of subsection (1) of section 10 by virtue of such an order a person has been committed for trial for a scheduled offence and the indictment has not been presented, then, on the coming into force of that subsection, he shall, if he was committed to the Crown Court sitting elsewhere than in Belfast, be treated as having been committed—
- (a) to the Crown Court sitting in Belfast; or
 - (b) where a direction has been given under that subsection which concerns the trial, to the Crown Court sitting at the place specified in the direction.

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(8) The expiry or cesser of any provision mentioned in subsection (6) shall not affect the application of that provision to any trial on indictment where the indictment has been presented before the expiry or cesser; and the expiry or cesser of section 15 or 16 shall not affect the operation of that section in relation to an offence committed while it, or a corresponding earlier enactment, was in force.

(9) It is hereby declared that the expiry or cesser of any provision of section 10 shall not affect—

- (a) any committal of a person for trial in accordance with that provision to the Crown Court sitting either in Belfast or elsewhere, or
- (b) any committal of a person for trial which, in accordance with that provision, has taken effect as a committal for trial to the Crown Court sitting elsewhere than in Belfast,

in a case where the indictment has not been presented.

(10) This Act shall, by virtue of this subsection, be repealed as from the end of 24th August 1998.

Savings,
amendments and
repeals.

63.—(1) Neither any rule of law nor any enactment other than this Act shall be construed as limiting or otherwise affecting the operation of any provision of this Act for the time being in force, but—

- (a) subject to the foregoing, any power conferred by this Act shall not derogate from Her Majesty's prerogative or any powers exercisable apart from this Act by virtue of any rule of law or enactment; and
- (b) subject to the foregoing and to section 62(8) above, a provision of this Act shall not affect the operation of any rule of law or enactment at a time when the provision is not in force.

(2) Schedule 5 (which makes transitional provisions in relation to scheduled offences) shall have effect.

1991 c. 24.

(3) Where this Act repeals and re-enacts provisions of the Northern Ireland (Emergency Provisions) Act 1991, the repeal and re-enactment shall not, unless the contrary intention appears, affect the continuity of the law.

(4) Any document made, served or issued after the commencement of this Act which contains a reference to an enactment repealed by this Act shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of this Act.

(5) Any document made, served or issued after the commencement of this Act which contains a reference to a provision of this Act shall, so far as the context permits, be construed as referring to or (as the context may require) including a reference to the corresponding provision of the Northern Ireland (Emergency Provisions) Act 1991.

(6) The enactments mentioned in Schedule 6 to this Act shall be amended in accordance with that Schedule.

(7) The enactments mentioned in Part I of Schedule 7 to this Act are hereby repealed, and the instruments mentioned in Part II of that Schedule are hereby revoked, to the extent there specified.

PART VIII

Short title and
extent.

64.—(1) This Act may be cited as the Northern Ireland (Emergency Provisions) Act 1996.

(2) This Act extends to Northern Ireland only, except that the amendments and repeals in Schedules 6 and 7 have the same extent as the enactments to which they relate.

SCHEDULES

Section 1.

SCHEDULE 1

THE SCHEDULED OFFENCES

PART I

SUBSTANTIVE OFFENCES

Common law offences

1. Murder subject to note 1 below.
2. Manslaughter subject to note 1 below.
3. Riot.
4. Kidnapping subject to note 1 below.
5. False imprisonment subject to note 1 below.

Malicious Damage Act 1861 (c. 97)

6. Offences under section 35 of the Malicious Damage Act 1861 (interference with railway) subject to note 1 below.

Offences against the Person Act 1861 (c. 100)

7. Offences under the following provisions of the Offences against the Person Act 1861—
 - (a) section 4 (offences relating to murder) subject to note 1 below;
 - (b) section 16 (threats to kill) subject to note 1 below;
 - (c) section 18 (wounding with intent to cause grievous bodily harm) subject to note 1 below;
 - (d) section 20 (causing grievous bodily harm) subject to note 1 below;
 - (e) section 29 (causing explosion or sending explosive substance or throwing corrosive liquid with intent to cause grievous bodily harm);
 - (f) section 47 (assault occasioning actual bodily harm) subject to note 1 below.

Explosive Substances Act 1883 (c. 3)

8. Offences under the following provisions of the Explosive Substances Act 1883—
 - (a) section 2 (causing explosion likely to endanger life or damage property);
 - (b) section 3 (intending or conspiring to cause any such explosion, and making or possessing explosive with intent to endanger life or cause serious damage to property);
 - (c) section 4 (making or possessing explosives in suspicious circumstances).

Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))

9. Offences under the following provisions of the Prison Act (Northern Ireland) 1953 subject to note 1 below—
 - (a) section 25 (being unlawfully at large while under sentence);
 - (b) section 26 (escaping from lawful custody and failing to surrender to bail);

- (c) section 27 (attempting to break prison);
- (d) section 28 (breaking prison by force or violence);
- (e) section 29 (rescuing or assisting or permitting to escape from lawful custody persons under sentence of death or life imprisonment);
- (f) section 30 (rescuing or assisting or permitting to escape from lawful custody persons other than persons under sentence of death or life imprisonment);
- (g) section 32 (causing discharge of prisoner under pretended authority);
- (h) section 33 (assisting prisoners to escape by conveying things into prisons).

Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))

10. Offences under the following provisions of the Theft Act (Northern Ireland) 1969—

- (a) section 1 (theft) subject to note 2 below;
- (b) section 8 (robbery) subject to notes 1 and 3 below;
- (c) section 9 (burglary) subject to note 2 below;
- (d) section 10 (aggravated burglary) subject to notes 1 and 3 below;
- (e) section 15 (obtaining property by deception) subject to note 2 below;
- (f) section 20 (blackmail) subject to notes 1 and 2 below.

Protection of the Person and Property Act (Northern Ireland) 1969 (c. 29 (N.I.))

11. Offences under the following provisions of the Protection of the Person and Property Act (Northern Ireland) 1969—

- (a) section 1 (intimidation) subject to note 1 below;
- (b) section 2 (making or possessing petrol bomb, etc. in suspicious circumstances);
- (c) section 3 (throwing or using petrol bomb, etc).

Hijacking

12. Offences under section 1 of the Aviation Security Act 1982 (aircraft). 1982 c. 36.

13. Offences in Northern Ireland under section 2 of the Criminal Jurisdiction Act 1975 (vehicles or ships). 1975 c. 59.

Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))

14. Offences under the following provisions of the Criminal Damage (Northern Ireland) Order 1977 subject to note 1 below—

- (a) Article 3(1) and (3) or Article 3(2) and (3) (arson);
- (b) Article 3(2) (destroying or damaging property with intent to endanger life);
- (c) Article 4 (threats to destroy or damage property);
- (d) Article 5 (possessing anything with intent to destroy or damage property).

Criminal Law (Amendment) (Northern Ireland) Order 1977 (S.I. 1977/1249 (N.I. 16))

15. Offences under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977 (bomb hoaxes) subject to note 1 below.

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Firearms (Northern Ireland) Order 1981 (S.I. 1981/155 (N.I. 2))

16. Offences under the following provisions of the Firearms (Northern Ireland) Order 1981—

- (a) Article 4(1), (2), (3) or (4) (manufacturing, dealing in, repairing, etc, firearm or ammunition without being registered) subject to note 1 below;
- (b) Article 5 (shortening barrel of shot gun or converting imitation firearm into firearm) subject to note 1 below;
- (c) Article 6(1) (manufacturing, dealing in or possessing certain weapons, etc.) subject to note 1 below;
- (d) Article 17 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property);
- (e) Article 18 (use or attempted use of firearm or imitation firearm to prevent arrest of self or another etc.);
- (f) Article 19 (carrying firearm or imitation firearm with intent to commit indictable offence or prevent arrest of self or another);
- (g) Article 20 (carrying firearm, etc, in public place) subject to notes 1 and 4 below;
- (h) Article 22 (possession of firearm or ammunition by person who has been sentenced to imprisonment, etc, and sale of firearm or ammunition to such a person) subject to note 1 below;
- (i) Article 23 (possessing firearm or ammunition in suspicious circumstances).

Taking of Hostages Act 1982 (c. 28)

17. Offences under the Taking of Hostages Act 1982.

Nuclear Material (Offences) Act 1983 (c. 18)

18. Offences under section 2 of the Nuclear Material (Offences) Act 1983 (offences involving nuclear material: preparatory acts and threats).

Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)

19. Offences under the following provisions of the Prevention of Terrorism (Temporary Provisions) Act 1989—

- (a) section 8 (breach of exclusion order);
- (b) sections 9, 10 and 11 (financial assistance for terrorism);
- (c) section 17 and Schedule 7 (terrorist investigations);
- (d) section 18 (information about acts of terrorism);
- (e) section 18A (failure to disclose knowledge or suspicion of financial assistance for terrorism);
- (f) paragraph 25B of Schedule 4 (contravention of restraint orders).

Aviation and Maritime Security Act 1990 (c. 31)

20. Offences under the following provisions of the Aviation and Maritime Security Act 1990—

- (a) section 1 (endangering safety at aerodromes);
- (b) section 9 (hijacking of ships);
- (c) section 10 (seizing or exercising control of fixed platforms).

Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

21. Offences under the following provisions of the Channel Tunnel (Security) Order 1994—

- (a) Article 4 (hijacking of Channel Tunnel trains);
- (b) Article 5 (seizing or exercising control of the tunnel system).

This Act

22. Offences under the following provisions of this Act—

- (a) section 21(5);
- (b) section 29;
- (c) section 30;
- (d) section 31;
- (e) section 32;
- (f) section 33;
- (g) section 34;
- (h) section 35;
- (i) section 37;
- (j) paragraph 13 of Schedule 3.

Notes

1. Any offence specified in this Part of this Schedule which is stated to be subject to this note is not a scheduled offence in any particular case in which the Attorney General for Northern Ireland certifies that it is not to be treated as a scheduled offence.

2. An offence specified in paragraph 10(a), (c) or (e) is a scheduled offence only where it is charged that the offence was committed in relation to or by means of nuclear material within the meaning of the Nuclear Material (Offences) Act 1983; and the Attorney General for Northern Ireland shall not certify that the offence specified in paragraph 10(f) is not to be treated as a scheduled offence in a case where it is charged that the offence was so committed.

1983 c. 18.

3. An offence specified in paragraph 10(b) or (d) is a scheduled offence only where it is charged—

- (a) that an explosive, firearm, imitation firearm or weapon of offence was used to commit the offence; or
- (b) that the offence was committed in relation to or by means of nuclear material within the meaning of the Nuclear Material (Offences) Act 1983;

and expressions defined in section 10 of the Theft Act (Northern Ireland) 1969 have the same meaning when used in this note.

1969 c. 16 (N.I.).

4. The offence specified in paragraph 16(g) is a scheduled offence only where it is charged that the offence relates to a weapon other than an air weapon.

PART II

INCHOATE AND RELATED OFFENCES

Each of the following offences, that is to say—

- (a) aiding, abetting, counselling, procuring or inciting the commission of an offence specified in Part I of this Schedule (hereafter in this paragraph referred to as a “substantive offence”);

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1967 c. 18 (N.I.).

- (b) attempting or conspiring to commit a substantive offence;
- (c) an offence under section 4 of the Criminal Law Act (Northern Ireland) 1967 of doing any act with intent to impede the arrest or prosecution of a person who has committed a substantive offence;
- (d) an offence under section 5(1) of the Criminal Law Act (Northern Ireland) 1967 of failing to give information to a constable which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of a person for a substantive offence,

shall be treated for the purposes of this Act as if it were the substantive offence.

PART III

EXTRA-TERRITORIAL OFFENCES

1975 c. 59.

Any extra-territorial offence as defined in section 1(3) of the Criminal Jurisdiction Act 1975.

Section 30(2).

SCHEDULE 2

PROSCRIBED ORGANISATIONS

The Irish Republican Army.
 Cumann na mBan.
 Fianna na hEireann.
 The Red Hand Commando.
 Saor Eire.
 The Ulster Freedom Fighters.
 The Ulster Volunteer Force.
 The Irish National Liberation Army.
 The Irish People's Liberation Organisation.
 The Ulster Defence Association.

Section 36.

SCHEDULE 3

DETENTION OF TERRORISTS

Advisers

1. The Secretary of State shall for the purposes of this Schedule appoint such number of Advisers as he may determine to advise him on matters concerning the detention and release of terrorists.

2. An Adviser shall be a person who holds or has held judicial office in any part of the United Kingdom or who is—

1990 c. 41.

- (a) a person who has a ten year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990; or
- (b) an advocate or solicitor in Scotland of at least ten years' standing; or
- (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least ten years' standing.

3.—(1) An Adviser shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for reappointment.

(2) An Adviser may at any time by notice in writing to the Secretary of State resign his office.

(3) The Secretary of State may pay to the Advisers such remuneration and allowances as he may determine.

Interim custody orders

4.—(1) Where it appears to the Secretary of State that there are grounds for suspecting that a person has been concerned—

(a) in the commission or attempted commission of any act of terrorism, or

(b) in directing, organising or training persons for the purpose of terrorism,
the Secretary of State may make an interim custody order for the temporary detention of that person.

(2) An interim custody order shall be signed by the Secretary of State or a Minister of State or Under Secretary of State.

5.—(1) The Secretary of State may, at any time before the expiry of the period of fourteen days following the date of an interim custody order, refer the case to an Adviser and, unless the case is so referred, the order shall cease to have effect at the expiry of that period.

(2) A reference to an Adviser under this paragraph shall be by notice in writing signed on behalf of the Secretary of State and a copy of the notice shall be sent to the person detained.

Reference to an Adviser

6.—(1) As soon as possible after a case is referred to an Adviser under paragraph 5, the person detained shall be served with a statement in writing as to the nature of the terrorist activities of which he is suspected.

(2) A person detained may, within seven days following the date on which he receives any such statement as is mentioned in sub-paragraph (1), send to the Secretary of State—

(a) written representations concerning his case; and

(b) a written request that he be seen personally by an Adviser;

and the Secretary of State shall send a copy of such representations or request to the Adviser concerned.

(3) The Secretary of State may pay any reasonable costs or expenses incurred by a person detained in obtaining legal advice or legal assistance in connection with the preparation of any representations he may make concerning his case.

7.—(1) Where the case of a person detained under an interim custody order is referred to an Adviser, he shall consider it and report to the Secretary of State whether or not in his opinion—

(a) the person detained has been concerned in terrorist activities; and

(b) the detention of that person is necessary for the protection of the public.

(2) In considering any case referred to him an Adviser shall have regard to any information (whether oral or in writing) which is made available to, or obtained by, him and to any representations (whether oral or in writing) made by the person detained.

(3) No person shall be present during the consideration by an Adviser of the case of any person referred to him, except—

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- (a) any person who for the time being is being seen by the Adviser;
- (b) any assistant to the Adviser; and
- (c) any person who is present in the interests of security.

(4) The Secretary of State may, at the request of an Adviser, pay any reasonable expenses incurred by any person in connection with a reference to the Adviser.

Detention orders

8.—(1) After receiving a report made by an Adviser under paragraph 7(1), the Secretary of State shall consider the case of the person to whom it relates and, if he is satisfied—

- (a) that the person has been concerned in the commission or attempted commission of any act of terrorism, or in directing, organising or training persons for the purpose of terrorism, and
- (b) that the detention of that person is necessary for the protection of the public,

the Secretary of State may make a detention order for the detention of that person.

(2) If, on considering any case under sub-paragraph (1), the Secretary of State is not satisfied as mentioned in that sub-paragraph, he shall direct the release of the person concerned.

(3) Subject to sub-paragraphs (4) and (5), where—

- (a) a person is detained under an interim custody order; and
- (b) a detention order is not made in respect of that person within the period of seven weeks following the date of the interim custody order,

the interim custody order shall cease to have effect.

(4) The Secretary of State may, where a person is required to be detained under an interim custody order, give a direction in writing extending the period of seven weeks mentioned in sub-paragraph (3) (or that period as extended under this sub-paragraph) for a further period of one week if it is stated in the direction that the report of the Adviser in relation to that person's case has not been received before the sixth day immediately preceding the day on which the interim custody order would, but for the direction, cease to have effect.

(5) Not more than three directions under sub-paragraph (4) shall be given in respect of any one interim custody order.

(6) A detention order shall be signed by the Secretary of State, and a direction under sub-paragraph (4) shall be signed by the Secretary of State or a Minister of State or Under Secretary of State.

Supplemental

9.—(1) The Secretary of State may at any time refer the case of a person detained under a detention order to an Adviser and, if so requested in writing in accordance with sub-paragraph (2) by a person so detained, shall do so within fourteen days beginning with the receipt of the request.

(2) A person detained under a detention order shall not be entitled to make a request for the purposes of sub-paragraph (1)—

- (a) before the expiry of the period of one year beginning with the date of the detention order; or
- (b) within a period of six months from the date of the last notification under sub-paragraph (5) below.

(3) On any reference under this paragraph, an Adviser shall consider the case and report to the Secretary of State whether or not the person's continued detention is necessary for the protection of the public.

(4) Paragraphs 6(3) and 7(2) to (4) shall apply for the purposes of a reference under this paragraph as they apply for the purposes of a reference under paragraph 5.

(5) Where a case is referred to an Adviser in consequence of a request made in accordance with this paragraph, the Secretary of State shall, after receiving the report of the Adviser, reconsider the case of the person to whom it relates and, if he decides not to release that person, shall notify him of his decision.

(6) A notification under sub-paragraph (5) shall be by notice in writing and signed by the Secretary of State.

10.—(1) The Secretary of State may, as respects a person detained under an interim custody order—

- (a) direct his discharge unconditionally; or
- (b) direct his release (whether or not subject to conditions) for a specified period.

(2) The Secretary of State may, as respects a person detained under a detention order—

- (a) direct his discharge unconditionally; or
- (b) direct his release subject to conditions or for a specified period, or both.

(3) The Secretary of State may recall to detention a person released under sub-paragraph (1)(b) or (2)(b) and a person so recalled may be detained under the original interim custody or detention order, as the case may be.

(4) Where a person is released under sub-paragraph (1)(b), any period during which he is not in detention shall be left out of account for the purposes of paragraphs 5(1), 6(2) and 8(3).

11.—(1) A person required to be detained under an interim custody order or a detention order may be detained in a prison or in some other place approved for the purposes of this paragraph by the Secretary of State.

(2) A person for the time being having custody of a person required to be detained as aforesaid shall have all the powers, authorities, protection and privileges of a constable.

(3) Subject to any directions of the Secretary of State, a person required to be detained as aforesaid shall be treated as nearly as may be as if he were a prisoner detained in a prison on remand and any power of temporary removal for judicial, medical or other purposes shall apply accordingly.

(4) A person required to be detained as aforesaid who is unlawfully at large may be arrested without warrant by any constable or any member of Her Majesty's forces on duty.

12. Where a person required to be detained under an interim custody order is unlawfully at large, the interim custody order shall not cease to have effect under paragraph 5 or 8 while he remains at large; and, upon his being taken again into custody, those paragraphs shall have effect as if the date of the interim custody order were that of his being taken again into custody.

13. Any person who—

- (a) being detained under an interim custody order or detention order, escapes;

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- (b) rescues any person detained as aforesaid, or assists a person so detained in escaping or attempting to escape;
- (c) fails to return to detention at the expiry of a period for which he was released under paragraph 10(1)(b) or (2)(b); or
- (d) knowingly harbours any person required to be detained under an interim custody order or detention order, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody,

is guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding five years or a fine or both.

14.—(1) Any document purporting to be an order, notice or direction made or given by the Secretary of State for the purposes of this Schedule and to be signed in accordance with this Schedule shall be received in evidence and shall, until the contrary is proved, be deemed to be duly made or given and signed.

(2) Prima facie evidence of any such order, notice or direction may, in any legal proceedings, be given by the production of a document bearing a certificate purporting to be signed by or on behalf of the Secretary of State stating that the document is a true copy of the order, notice or direction; and the certificate shall be received in evidence, and shall, until the contrary is proved, be deemed to be duly made and signed.

15. The Secretary of State may make such payments to persons released or about to be released from detention under this Schedule as he may, with the consent of the Treasury, determine.

Section 51.

SCHEDULE 4

INDEPENDENT ASSESSOR OF MILITARY COMPLAINTS PROCEDURES IN NORTHERN IRELAND

Tenure of office

1.—(1) Subject to the following provisions of this paragraph, the Independent Assessor shall hold and vacate office in accordance with the terms of his appointment.

(2) The Independent Assessor shall be appointed for a term not exceeding three years.

(3) The Independent Assessor may at any time resign his office by notice in writing addressed to the Secretary of State.

(4) The Secretary of State may remove the Independent Assessor from office—

- (a) if he has without reasonable excuse failed to carry out his duties for a continuous period of six months or more;
- (b) if he has been convicted of a criminal offence;
- (c) if a bankruptcy order has been made against him, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
- (d) if the Secretary of State is satisfied that he is otherwise unable or unfit to perform his functions.

(5) At the end of a term of appointment the Independent Assessor shall be eligible for re-appointment.

Remuneration etc.

2.—(1) There shall be paid to the Independent Assessor such remuneration and such travelling and other allowances as the Secretary of State may determine.

(2) In the case of any such holder of the office of Independent Assessor as may be determined by the Secretary of State, there shall be paid such pension, allowances or gratuities to or in respect of him, or such payments towards the provision of a pension to or in respect of him, as may be so determined.

Staff

3.—(1) The Independent Assessor may appoint such number of employees as he may determine.

(2) The remuneration and other terms and conditions of service of persons employed by the Independent Assessor shall be such as he may determine.

(3) The approval of the Secretary of State shall be required for the making of a determination under this paragraph.

Reports

4.—(1) The Independent Assessor shall prepare an annual report on the performance of his functions which he shall submit to the Secretary of State who shall cause it to be published and lay copies of it before each House of Parliament.

(2) The Independent Assessor may make a report to the Secretary of State about any matter which comes to his attention in the course of the performance of his functions.

Disqualification

5. In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices), the following entry shall be inserted at the appropriate place—

“Independent Assessor of Military Complaints Procedures in Northern Ireland.”

SCHEDULE 5

Section 63(2).

SCHEDULED OFFENCES: TRANSITIONAL PROVISIONS

1. In this Schedule “commencement” means the time when this Act comes into force.

2.—(1) This Schedule applies to offences which—

- (a) were immediately before commencement specified in Part I of Schedule 1 to the Northern Ireland (Emergency Provisions) Act 1991, but
- (b) are not immediately after commencement specified in Part I of Schedule 1 to this Act.

(2) In relation to offences committed (or alleged to have been committed) before commencement, this Act shall apply as if offences to which this Schedule applies were specified in Part I of Schedule 1.

(3) Sub-paragraph (2) is subject to the following provisions.

SCH. 5

3. Paragraph 2(2) shall not apply in relation to section 2 (preliminary inquiry) unless a request that a preliminary inquiry be held has been granted under section 2 of the 1991 Act.

4. Paragraph 2(2) shall not apply in relation to section 3 (limitation of power to grant bail).

5. Paragraph 2(2) shall not apply in relation to section 4 (legal aid to applicants for bail) except for the purposes of assignments made before commencement.

6. Paragraph 2(2) shall not apply in relation to section 5 (maximum period of remand in custody) except for the purposes of orders for remand made before commencement.

7. Paragraph 2(2) shall not apply in relation to section 6 (custody of young persons).

8. Paragraph 2(2) shall not apply in relation to section 8 (time limits for preliminary proceedings).

9. Paragraph 2(2) shall not apply in relation to sections 10 to 13 (court, mode of trial, evidence and onus of proof) except in cases where the case for the prosecution was opened, or a plea of guilty was accepted, before commencement.

10. Paragraph 2(2) shall not apply in relation to sections 14 to 16 (treatment of offenders) except where the conviction of the offence in question occurred before commencement.

11. Paragraph 2(2) shall not apply in relation to section 18 (constable's general power of arrest and seizure) except where the arrest, entry, search or seizure occurred before commencement.

12. Paragraph 2(2) shall not apply in relation to section 46(8)(a) to (c) (right to have someone informed of detention: delay related to scheduled offence) except for the purposes of authorisations given before commencement.

13. Paragraph 2(2) shall not apply in relation to section 47(8)(a) to (c) (right of access to legal advice: delay related to scheduled offence) except for the purposes of authorisations given before commencement.

14. Paragraph 2(2) shall not apply in relation to section 53(7) (compensation: restriction) except where the act in question was done before commencement.

15. Note 1 of Part I of Schedule 1 shall apply to any offence to which the corresponding note in the Northern Ireland (Emergency Provisions) Act 1991 applied.

Section 63(6).

SCHEDULE 6

CONSEQUENTIAL AMENDMENTS

The Elected Authorities (Northern Ireland) Act 1989 (c. 3)

1. The Elected Authorities (Northern Ireland) Act 1989 shall be amended as follows.

2. In section 6(5) (breach of terms of declaration), in the definition of "proscribed organisation" for the words "section 28 of the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "section 30 of the Northern Ireland (Emergency Provisions) Act 1996".

3. In Schedule 2 (declaration against terrorism), for the words "Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1996".

The Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)

4. The Prevention of Terrorism (Temporary Provisions) Act 1989 shall be amended as follows.

5. In section 10(3) (contributions to resources of proscribed organisations), for the words "section 28 of the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "section 30 of the Northern Ireland (Emergency Provisions) Act 1996".

6.—(1) Section 17 (investigation of terrorist activities) shall be amended as follows.

(2) In subsection (1)(a)(ii) for the words "section 27, 28, 53, 54 or 54A of the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "section 29 or 30 of the Northern Ireland (Emergency Provisions) Act 1996".

(3) In subsection (1)(a)(iii) for the words "section 28 of the said Act of 1991" there shall be substituted the words "section 30 of the said Act of 1996".

(4) In subsection (1)(b) for the words "section 28(3) of that Act" there shall be substituted the words "section 30(3) of the Act of 1996".

(5) In subsection (2A) the words "or section 53, 54 or 54A of the Northern Ireland (Emergency Provisions) Act 1991" shall be omitted.

(6) In subsection (2B) the words "or section 53(4A), 54(5D) or 54A(5) of the Act of 1991" shall be omitted.

(7) In subsection (6) the words "or section 54A of the Act of 1991" shall be omitted.

7.—(1) Section 27 (commencement and duration) shall be amended as follows.

(2) In subsection (10) for the words "section 28 of the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "section 30 of the Northern Ireland (Emergency Provisions) Act 1996".

(3) For subsection (11) there shall be substituted—

"(11) The provisions excluded by subsection (10) above from subsection (5) shall remain in force until 15th June 1997 and then expire but shall be—

(a) included in the provisions to which subsection (3) of section 62 of the said Act of 1996 applies (provisions that can be continued in force, repealed or revived by order); and

(b) treated as part of that Act for the purposes of subsection (10) of that section (repeal at end of two years)."

8. In paragraph 7(4) of Schedule 3 (supervision of detention and examination powers), for the words "sections 44 and 45 of the Northern Ireland (Emergency Provisions) Act 1991" there shall be substituted the words "sections 46 and 47 of the Northern Ireland (Emergency Provisions) Act 1996".

SCH. 6

9.—(1) Schedule 4 (forfeiture orders) shall be amended as follows.

(2) In paragraph 8(1), in the definition of “a Northern Ireland order” for paragraph (b) there shall be substituted—

“(b) an order made under paragraph 23 or 25A below (“a Northern Ireland restraint order”); or”.

(3) In paragraph 18(1), in the definition of “a Northern Ireland order” for paragraph (b) there shall be substituted—

“(b) an order made under paragraph 23 or 25A below (“a Northern Ireland restraint order”); or”.

(4) After paragraph 25 there shall be inserted—

“25A.—(1) The power to make a restraint order under the provisions of paragraphs 23 and 24 above shall be exercisable by the Secretary of State in any case in which it appears to him that the information which it would be necessary to provide in support of an application to the High Court or a judge under those provisions would, if disclosed, be likely to place any person in danger or prejudice the capability of members of the Royal Ulster Constabulary to investigate an offence under Part III of this Act.

(2) In their application by virtue of sub-paragraph (1) above paragraphs 23 to 25 above shall have effect with the necessary modifications and as if references to the High Court were references to the Secretary of State.

(3) An order made by the Secretary of State by virtue of this paragraph may be varied or discharged by the High Court under paragraph 23(5) or 24(2) above.

25B.—(1) A person who, without lawful authority or reasonable excuse (the proof of which lies on him), contravenes a restraint order is guilty of an offence and liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(2) Nothing in sub-paragraph (1) above shall be taken to prejudice any power of the High Court to deal with the contravention of a restraint order as a contempt of court.”

10. In paragraph 8(1) of Schedule 7 (terrorist investigations), for the words “or an offence under section 27 of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “or an offence under section 29 of the Northern Ireland (Emergency Provisions) Act 1996”.

The Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

11.—(1) The Police and Criminal Evidence (Northern Ireland) Order 1989 shall be amended as follows.

12. In Article 4(3) (provisions relating to powers to stop and search), for sub-paragraph (b) there shall be substituted—

“(b) sections 20, 22 and 28 of the Northern Ireland (Emergency Provisions) Act 1996, and”.

13. In Article 30(3) (information to be given on arrest), for the words “section 18(2) of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “section 19(2) of the Northern Ireland (Emergency Provisions) Act 1996”.

14. In Article 54(2) (abolition of certain powers of constables to search persons), the words “section 19(6)(b) of the Northern Ireland (Emergency Provisions) Act 1991 or” shall cease to have effect.

15. At the beginning of Article 61(9)(b) (fingerprinting), there shall be inserted the words “except as provided by section 48 of the Northern Ireland (Emergency Provisions) Act 1996.”.

16. In Article 74(9) (confessions), for the words “section 11 of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “section 12 of the Northern Ireland (Emergency Provisions) Act 1996”.

17. In Article 76(2)(b) (exclusion of unfair evidence), for the words “subsection (1) of section 11 of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “subsection (1) of section 12 of the Northern Ireland (Emergency Provisions) Act 1996”.

The Northern Ireland (Remission of Sentences) Act 1995 (c. 47)

18.—(1) Section 1 of the Northern Ireland (Remission of Sentences) Act 1995 (release on licence of persons subject to restricted remission) shall be amended as follows.

(2) In subsection (1) for the words “section 14 of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “section 15 of the Northern Ireland (Emergency Provisions) Act 1996”.

(3) In subsection (2) for the words “section 14” there shall be substituted the words “section 15 of that Act”.

(4) In subsection (6) for the words “Section 15 of the Northern Ireland (Emergency Provisions) Act 1991” there shall be substituted the words “Section 16 of the Northern Ireland (Emergency Provisions) Act 1996”.

Section 63(7).

SCHEDULE 7
REPEALS AND REVOCATIONS
PART I
ENACTMENTS

Chapter	Short title	Extent of repeal
1980 c. 47.	The Criminal Appeal (Northern Ireland) Act 1980.	Section 30(2).
1989 c. 4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In section 17(2A), the words "or section 53, 54 or 54A of the Northern Ireland (Emergency Provisions) Act 1991". In section 17(2B), the words "or section 53(4A), 54(5D) or 54A(5) of the Act of 1991". In section 17(6), the words "or section 54A of the Act of 1991".
1991 c. 24.	The Northern Ireland (Emergency Provisions) Act 1991.	The whole Act.
1993 c. 36.	The Criminal Justice Act 1993.	Sections 36 to 48. Section 50(2)(b). Section 78(8) and (12). Section 79(6). Paragraph 6 of Schedule 4. Paragraphs 3 and 17 of Schedule 5.
1994 c. 33.	The Criminal Justice and Public Order Act 1994.	Section 83(1)(c), (3) and (5). Paragraph 51 of Schedule 9. Paragraph 63(2) of Schedule 10.
1995 c. 35.	The Criminal Appeal Act 1995.	Section 22(5)(b), and the word "and" immediately before it.
1995 c. 40.	The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.	Paragraph 79 of Schedule 4.

PART II
ORDERS AND REGULATIONS

Number	Title	Extent of revocation
S.I. 1989/1341 (N. I. 12).	The Police and Criminal Evidence (Northern Ireland) Order 1989.	In Article 54(2), the words "section 19(6)(b) of the Northern Ireland (Emergency Provisions) Act 1991 or".
S.I. 1992/1958.	The Northern Ireland (Emergency Provisions) Act 1991 (Amendment) Order 1992.	The whole Order.
S.I. 1994/570.	The Channel Tunnel (Security) Order 1994.	Paragraph 1 of Schedule 3.
S.I. 1994/764.	The Northern Ireland (Emergency Provisions) Act 1991 (Guernsey) Order 1994.	The whole Order.
S.I. 1994/1696.	The Insurance Companies (Third Insurance Directives) Regulations 1994.	Paragraph 21 of Schedule 8.
S.I. 1995/2993 (N.I. 17).	The Police (Amendment) (Northern Ireland) Order 1995.	Article 9(4).

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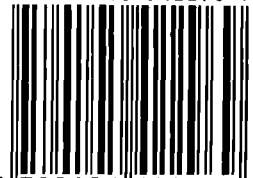
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