

STATUTORY INSTRUMENTS

1983 No. 1120

The Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

PART IV CONSPIRACY

The offence of conspiracy

9.—(1) Subject to the following provisions of this Part, if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either—

- (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, or
- (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,

he is guilty of conspiracy to commit the offence or offences in question.

Paras. (1A), (1B) rep. by 1998 c.40

(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstances necessary for the commission of the offence, a person shall nevertheless not be guilty of conspiracy to commit that offence by virtue of paragraph (1) unless he and at least one other party to the agreement intend or know that the fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.

Para. (3) rep. by 1995 NI 12

(4) In this Part “offence” means an offence triable in Northern Ireland^{F1} . . .
Paras. (5), (6) rep. by 1998 c.40

F1 1998 c.40

[^{F2}Conspiracy to commit offences outside [^{F3}Northern Ireland]

9A.—(1) Where each of the following conditions is satisfied in the case of an agreement, this Part has effect in relation to the agreement as it has effect in relation to an agreement falling within Article 9(1).

(2) The first condition is that the pursuit of the agreed course of conduct would at some stage involve—

- (a) an act by one or more of the parties, or
- (b) the happening of some other event,

intended to take place in a country or territory outside [^{F4}Northern Ireland].

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(3) The second condition is that that act or other event constitutes an offence under the law in force in that country or territory.

(4) The third condition is that the agreement would fall within Article 9(1) as an agreement relating to the commission of an offence but for the fact that the offence would not be an offence triable in Northern Ireland if committed in accordance with the parties' intentions.

(5) The fourth condition is that—

- (a) a party to the agreement, or a party's agent, did anything in Northern Ireland in relation to the agreement before its formation, or
- (b) a party to the agreement became a party in Northern Ireland (by joining it either in person or through an agent), or
- (c) a party to the agreement, or a party's agent, did or omitted anything in Northern Ireland in pursuance of the agreement.

(6) In the application of this Part to an agreement in the case of which each of the above conditions is satisfied, a reference to an offence is to be read as a reference to what would be the offence in question but for the fact that it is not an offence triable in Northern Ireland.

(7) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of this article, however it is described in that law.

(8) Subject to paragraph (9), the second condition is to be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice—

- (a) stating that, on the facts as alleged with respect to the agreed course of conduct, the condition is not in their opinion satisfied,
- (b) showing their grounds for that opinion, and
- (c) requiring the prosecution to show that it is satisfied.

(9) The court may permit the defence to require the prosecution to show that the second condition is satisfied without the prior service of a notice under paragraph (8).

(10) In the Crown Court the question whether the second condition is satisfied shall be decided by the judge alone, and shall be treated as a question of law for the purposes of—

- (a) Article 8(3) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (preparatory hearing in fraud cases), and
- (b) section 31(3) of the Criminal Procedure and Investigations Act 1996 (preparatory hearing in other cases).

(11) Any act done by means of a message (however communicated) is to be treated for the purposes of the fourth condition as done in Northern Ireland if the message is sent or received in Northern Ireland.

(12) In any proceedings in respect of an offence triable by virtue of this article, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence.

(13) References in any enactment, instrument or document (except those in this Part) to an offence of conspiracy to commit an offence include an offence triable in Northern Ireland as such a conspiracy by virtue of this article (without prejudice to paragraph (6)).

[^{F5}(14) Nothing in this Article applies to an agreement entered into before 4 September 1998.

(15) In relation to an agreement entered into during the period beginning with that date and ending with the commencement of section 72(2) of the Coroners and Justice Act 2009, this Article applies as if in paragraph (2) for “Northern Ireland” there were substituted the United Kingdom.

(16) Nothing in this Article imposes criminal liability on any person acting on behalf of, or holding office under, the Crown.]]

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- F2** 1998 c.40
- F3** Words in [art. 9A](#) heading substituted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 72\(2\)\(a\)](#), [182\(5\)](#) (with savings in [s. 180](#)); [S.I. 2010/145](#), [art. 2\(2\)](#), [Sch. para. 5](#)
- F4** Words in [art. 9A\(2\)](#) substituted (1.2.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 72\(2\)\(a\)](#), [182\(5\)](#) (with savings in [s. 180](#)); [S.I. 2010/145](#), [art. 2\(2\)](#), [Sch. para. 5](#)
- F5** [Art. 9A\(14\)-\(16\)](#) substituted (1.2.2010) for [art. 9A\(14\)](#) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 72\(2\)\(b\)](#), [182\(5\)](#) (with savings in [s. 180](#)); [S.I. 2010/145](#), [art. 2\(2\)](#), [Sch. para. 5](#)

Exemptions from liability for conspiracy

10.—(1) A person shall not by virtue of Article 9 be guilty of conspiracy to commit any offence if he is an intended victim of that offence.

(2) A person shall not by virtue of Article 9 be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say—

- (a) his spouse^{F6} or civil partner];
- (b) a person under the age of criminal responsibility; and
- (c) an intended victim of that offence or of each of those offences.

(3) A person is under the age of criminal responsibility for the purposes of paragraph (2) (b) so long as it is conclusively presumed, by virtue of ^{F7}Article 3 of the Criminal Justice (Children) (Northern Ireland) Order 1998], that he cannot be guilty of any offence.

- F6** 2004 c. 33
- F7** 1998 NI 9

Penalties for conspiracy

11.—(1) A person guilty by virtue of Article 9 of conspiracy to commit any offence or offences shall be liable on conviction on indictment—

- (a) in a case falling within paragraph (2) or (3), to imprisonment for a term related in accordance with that paragraph to the gravity of the offence or offences in question (referred to in paragraphs (2) and (3) as the relevant offence or offences); and
- (b) in any other case, to a fine.

Sub-paragraph (b) shall not be taken as prejudicing the application of section 7 (3) of the Criminal Law Act (Northern Ireland) 1967 (general power of court to fine offender convicted on indictment) in a case falling within paragraph (2) or (3).

(2) Where the relevant offence or any of the relevant offences is an offence of any of the following descriptions, that is to say—

- (a) murder, or any other offence the sentence for which is fixed by law;
- (b) an offence for which a sentence extending to imprisonment for life is provided; or
- (c) an indictable offence punishable with imprisonment for which no maximum term of imprisonment is provided.

the person convicted shall be liable to imprisonment for life.

(3) Where in a case other than one to which paragraph (2) applies the relevant offence or any of the relevant offences is punishable with imprisonment, the person convicted shall be liable to

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imprisonment for a term not exceeding the maximum term provided for that offence or (where more than one such offence is in question) for any one of those offences (taking the longer or the longest term as the limit for the purposes of this Article where the terms provided differ).

In the case of an offence punishable either on conviction on indictment or on summary conviction, the references above in this paragraph to the maximum term provided for that offence are references to the maximum term so provided on conviction on indictment.

(4) A person guilty by virtue of Article 9 of conspiracy to commit any offence or offences punishable on summary conviction (whether or not also punishable on conviction on indictment) shall be liable on summary conviction to any penalty to which he would have been liable on summary conviction of that offence or (where more than one offence is in question) for any one of those offences (taking the greater or the greatest penalty as the limit for the purposes of this Article where the penalties provided differ).

Restrictions on the institution of proceedings for conspiracy

12.—(1) Subject to paragraph (2), proceedings under Article 9 for conspiracy to commit any offence or offences shall not be instituted against any person except by or with the consent of the Director of Public Prosecutions for Northern Ireland if the offence or (as the case may be) each of the offences in question is an offence punishable only on summary conviction.

(2) In relation to the institution of proceedings under Article 9 for conspiracy to commit—

- (a) an offence which is subject to a prohibition by or under any statutory provision on the institution of proceedings otherwise than by, or on behalf or with the consent of, the Attorney General for Northern Ireland, or
- (b) two or more offences of which at least one is subject to such a prohibition,

paragraph (1) shall have effect with the substitution of a reference to the Attorney General for Northern Ireland for the reference to the Director of Public Prosecutions for Northern Ireland.

(3) Any prohibition by or under any statutory provision on the institution of proceedings for any offence which is not an offence punishable only on summary conviction otherwise than by, or on behalf or with the consent of, the Director of Public Prosecutions for Northern Ireland or any other person shall apply also in relation to proceedings under Article 9 for conspiracy to commit that offence.

(4) Where—

- (a) an offence has been committed in pursuance of any agreement; and
- (b) proceedings may not be instituted for that offence because any time limit applicable to the institution of any such proceedings has expired,

proceedings under Article 9 for conspiracy to commit that offence shall not be instituted against any person on the basis of that agreement.

[^{F8}(5) Subject to paragraph (6), no proceedings for an offence triable by virtue of Article 9 above may be instituted except by or with the consent of the Attorney General for Northern Ireland.

(6) The Secretary of State may by order provide that paragraph (5) shall not apply, or shall not apply to any case of a description specified in the order.

(7) No order shall be made under paragraph (6) unless a draft has been laid before, and approved by resolution of, each House of Parliament.]

Abolitions, savings, transitional provisions and amendments

13.—(1) Subject to the following provisions of this Article, the offence of conspiracy at common law is hereby abolished.

(2) Paragraph (1) shall not affect the offence of conspiracy at common law so far as relates to conspiracy to defraud^{F9}. . . .

(3) Paragraph (1) shall not affect the offence of conspiracy at common law if and in so far as it may be committed by entering into an agreement to engage in conduct which—

- (a) tends to corrupt public morals or outrages public decency; but
- (b) would not amount to or involve the commission of an offence if carried out by a single person otherwise than in pursuance of an agreement.

(4) Paragraph (1) shall not affect—

- (a) any proceedings commenced before the time when this Order comes into operation;
- (b) any proceedings commenced after that time against a person charged with the same conspiracy as that charged in any proceedings commenced before that time.

(5) References in any statutory provision which fall to be construed as references to the offence of conspiracy at common law shall, in so far as they relate to an offence abolished by paragraph (1), be construed as references to the offence under Article 9.

(6) Articles 9 and 10 shall apply to things done before as well as to things done after the time when this Order comes into operation.

(7) The rules laid down by Articles 9 and 10 shall apply for determining whether a person is guilty of an offence of conspiracy under any statutory provision other than Article 9 but conduct which is an offence under any such other statutory provision shall not also be an offence under Article 9.

(8) ^{F10}

(9) The fact that the person or persons who, so far as appears from the indictment or complaint on which any person has been convicted of conspiracy, was or were the only other party or parties to the agreement on which his conviction was based has or have been acquitted of conspiracy by reference to that agreement (whether after being tried with the person convicted or separately) shall not be a ground for quashing his conviction unless under all the circumstances of the case his conviction is inconsistent with the acquittal of the other person or persons in question.

(10) Any rule of law or practice inconsistent with the provisions of paragraph (9) is hereby abolished.

(11) Nothing in Article 9 (4) affects the operation of section 6 of the Criminal Jurisdiction Act 1975.

(12) The following statutory provisions shall cease to have effect, namely—

- (a) in section 4 of the Offences against the Person Act 1861 the words preceding “whosoever”; and

Sub#para. (b) rep. by 1995 NI 12

F9 1988 NI 16

F10 [Art. 13\(8\)](#) repealed (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(2), 92, 94(1), [Sch. 6 para. 57](#), [Sch. 14](#) (with transitional and transitory provisions and savings in [s. 91\(1\)](#), [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)](#)

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Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 40 s.6](#)
- Instrument rev. in pt. by [1998 c. 40 s.9\(1\)\(2\)Sch.1 Pt.II para.5Sch.2 Pt.II](#)