
STATUTORY INSTRUMENTS

1986 No. 1883 (N.I. 15)
NORTHERN IRELAND
The Criminal Justice
(Northern Ireland) Order 1986

Laid before Parliament in draft

Made 5th November 1986

Coming into Operation 6th January 1987

ARRANGEMENT OF ORDER

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At the Court at Buckingham Palace, the 5th day of November 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

1974 c. 28

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 1986.

(2) This Order shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

1954 c. 33 (N.I.)

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Mode of trial

Indictable offences which may be dealt with summarily upon consent of the accused

3.—(1) Articles 45 and 46 of the Magistrates' Courts (Northern Ireland) Order 1981 (summary trial of certain indictable offences) shall apply to the offences specified in Schedule 1 to this Order as

they apply to the offences specified in Schedule 2 to that Order of 1981.

(2) The Schedule set out in Schedule 2 to this Order shall be substituted for Schedule 2 to that Order of 1981.

Offences made punishable on summary conviction only

4.—(1) The offences punishable on conviction on indictment or on summary conviction specified in column 1 of Schedule 3 shall be punishable on summary conviction only and the statutory provisions specified in column 2 of that Schedule shall have effect subject to the amendments specified in column 3.

(2) The amendments mentioned in paragraph (1) have the effect of altering the maximum penalties available on summary conviction of the offences specified in column 1 of Schedule 3 as well as making alterations consequential on their becoming offences punishable on summary conviction only; and in that Schedule column 4 shows the present maximum penalties by way of fine or imprisonment on summary conviction and on conviction on indictment and column 5 shows the new maximum penalties resulting from the amendments.

Training school orders

Duration of training school orders

5. In section 87 of the Children and Young Persons Act (Northern Ireland) 1968 (duration of training school orders)—

1968 c. 34 (N.I.)

(a) in subsection (3) for “cease to have effect” there shall be substituted “be suspended during the term of detention in the centre”;

(b) after subsection (3) there shall be inserted—

“(4) Subject to subsection (5), where a person liable to be detained in a training school under a training school or other order made under section 74(1)(a) or 140(2)(a) or paragraph 11(1)(a) of Schedule 5 serves a term of detention in a young offenders centre and is discharged from custody in the centre, the training school or other order shall cease to have effect.

(5) Subsection (4) shall not apply in the case where—

(a) a term of detention in a young offenders centre is served for default in payment of a sum adjudged to be paid on conviction; or

(b) a person is discharged from custody in the young offenders centre by order of a court.”.

Compensation

Compensation orders

6. In Article 3 of the Criminal Justice (Northern Ireland) Order

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1980 (which gives a court power to make a compensation order in addition to dealing with an offender in any other way)—

(a) the following paragraphs shall be substituted for paragraph (1)—

“(1) Subject to the provisions of this Article, a court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Order referred to as “a compensation order”) requiring him to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence.

(1A) Compensation under paragraph (1) shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecution.”; and

(b) the following paragraph shall be inserted after paragraph (4)—

“(4A) Where the court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order; but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).”.

Miscellaneous

Remands

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7. In Article 47(3) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody on consent) for the word “fourteen” there shall be substituted the words “twenty-eight”.

Removal of prisoners to hospital for medical investigation, etc.

1953 c. 18 (N.I.)

8. In section 16 of the Prison Act (Northern Ireland) 1953 (removal of prisoners for judicial and other purposes)—

(a) in subsection (2)—

(i) after the word “requires” there shall be inserted the words “medical investigation or observation or”;

(ii) after the words “of the” there shall be inserted the words “investigation, observation or”;

(b) in subsection (4) after the words “prison for” there shall be inserted the words “medical investigation or observation or”.

Forgery and counterfeiting

9. In Article 31(1)(m) of the Health and Safety at Work (Northern Ireland) Order 1978 (using a document with intent to deceive) the words “forges or” shall cease to have effect. 1978 NI 9

Wrongful taking possession, or use, of premises

10.—(1) Any person who enters any premises with intent wrongfully to take possession of, or use, those premises shall be guilty of an offence.

(2) Any person who is on any premises after having entered the premises with intent wrongfully to take possession of, or use, the premises is guilty of an offence if he fails to leave the premises on being required to do so by or on behalf of the person lawfully entitled to possession of the premises.

(3) In any proceedings for an offence under this Article it shall be a defence for the person charged to prove that he acted under a bona fide and reasonable belief that by virtue of an estate vested in him or by virtue of a contract or licence he was lawfully entitled to enter, or continue in possession of, or use the premises, as the case may require, in respect of which the offence is alleged to have been committed.

(4) Where a person found guilty of an offence under this Article continues in possession of the premises in respect of which the offence has been committed, the court by which he is convicted shall order the issue of a warrant directing that the person appearing to it to be lawfully entitled to possession of the premises be put into such possession.

(5) A court which makes an order under paragraph (4) may stay or suspend the issue of the warrant for such period or periods as it thinks fit; so, however, that the court shall not stay or suspend for more than 3 months the issue of a warrant for possession of premises which are required for the execution of the functions of—

- (a) a Minister of the Crown or a Northern Ireland department;
- (b) a district council or a joint committee appointed by 2 or more district councils;
- (c) a body established under any statutory provision;
- (d) a housing association registered under Article 124 of the Housing (Northern Ireland) Order 1981.

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(6) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.

(7) Nothing in this Article or in any warrant issued under this Article shall prejudice or affect the right of any person to take any civil proceedings or other action in respect of any premises or

otherwise prejudice or affect the lawful title of any person to any premises or, without prejudice to the generality of the foregoing provisions of this paragraph, the right of any person in whom a right to possession of premises exists to resume the possession of the premises peaceably and without process of law.

(8) In this Article—

“premises” means any building or structure designed or adapted for residential purposes, any part of a building or structure being a part so designed or adapted or any land adjacent to such a building, structure or part which is used (or intended for use) in connection with that building, structure or part and includes any such building, structure or part in the course of construction;

“structure” includes any moveable structure or vehicle.

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(9) In Article 4(b) of the Judgments Enforcement (Northern Ireland) Order 1981 (judgments to which that Order applies) for the words “section 1(2) of the Summary Jurisdiction (Miscellaneous Provisions) Act (Northern Ireland) 1946” there shall be substituted the words “Article 10(4) of the Criminal Justice (Northern Ireland) Order 1986”.

Food and drugs

1958 c. 27 (N.I.)

11.—(1) The Food and Drugs Act (Northern Ireland) 1958 shall have effect subject to the amendments specified in Schedule 4.

(2) Notwithstanding anything in Article 12, where a person is convicted of an offence under that Act of 1958 committed before the coming into operation of the provisions of this Article and Schedule 4, if a court is precluded from imposing a sentence of imprisonment for such an offence committed after those provisions come into operation, the court by which he is convicted shall not have power to sentence him to imprisonment in respect of that offence.

(3) Nothing in this Article or in Schedule 4 shall render a person liable to be prosecuted for an offence which was committed before this Article comes into operation after the end of the period during which he could have been prosecuted for the offence if this Article or that Schedule had not been made.

Restriction on application of this Order

12. Nothing in any provision of this Order shall affect the mode of trial or, subject to Article 11(2), the punishment for an offence committed before that provision comes into operation.

Amendments and repeals

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13.—(1) In the Magistrates’ Courts (Northern Ireland) Order 1981—

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- (a) in Article 31(2) for “of it” there shall be substituted “or if”;
 - (b) in Article 42(3) for “Article 40” there shall be substituted “Article 33”; and
 - (c) in Article 59 for “or” in the second place where it occurs there shall be substituted “of”.
- (2) In the Fines and Penalties (Northern Ireland) Order 1984— 1984 NI 3
- (a) in Article 17(2)(a) for “Article 4(7)” there shall be substituted “Article 4(8)”; and
 - (b) in paragraph 2 of Schedule 1 for “Article 4(8)” there shall be substituted “Article 4(9)”.
- (3) The statutory provisions specified in Schedule 5 (which include certain spent provisions) are hereby repealed to the extent specified in column 3 of that Schedule.

G. I. de Deney,
Clerk of the Privy Council.

SCHEDULES

Article 3(1).

SCHEDULE 1

**INDICTABLE OFFENCES WHICH MAY BE DEALT WITH SUMMARILY UPON
CONSENT OF THE ACCUSED**

1. Offences at common law of public nuisance.
- 1835 c. 62 2. Offences consisting in contravention of section 13 of the Statutory Declarations Act 1835 (administration by a person of an oath etc., on matters in which he has no jurisdiction).
- 1861 c. 97 3. Offences under section 36 of the Malicious Damage Act 1861 (obstructing engines or carriages on railways).
- 1861 c. 100 4. Offences under the following provisions of the Offences against the Person Act 1861—
 - (a) section 16 (threats to kill);
 - (b) section 26 (not providing apprentices or servants with food etc.);
 - (c) section 34 (doing or omitting to do anything so as to endanger railway passengers);
 - (d) section 36 (assaulting a clergyman at a place of worship etc.);
 - (e) section 57 (bigamy).
- 1875 c. 25 5. Offences under section 5 of the Public Stores Act 1875 (obliteration of marks with intent to conceal).
- 1885 c. 49 6. Offences under section 3 of the Submarine Telegraph Act 1885 (damaging submarine cables).
- 1885 c. 69 7. Offences under the following provisions of the Criminal Law Amendment Act 1885—
 - (a) section 5 (unlawful carnal knowledge of a girl under 17);
 - (b) section 6 (permitting girl under 17 to resort to premises for purposes of unlawful carnal knowledge).
- 1919 c. 51 8. Offences under section 3(4) of the Checkweighing in Various Industries Act 1919 (false statements).
- 1964 c. 87 9. Offences under section 3(1) of the Shipping Contracts and Commercial Documents Act 1964 (offences), in so far as it relates to the contravention of any direction under that Act given before 20th March 1980.
- 1969 c. 16 (N.I.) 10. The following offences under the Theft Act (Northern Ireland) 1969—
 - (a) burglary in a dwelling if entry to the dwelling or the part of it in which the burglary was committed, or to any building or part of a building containing the dwelling, was obtained by force or deception or by the use of any tool, key or appliance, except where any person in the dwelling was subjected to violence or the threat of violence;
 - (b) handling stolen goods the subject of an offence committed outside the United Kingdom or outside the Republic of Ireland.

SCHEDULE 2

Article 3(2).

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 2 TO THE
MAGISTRATES' COURTS (NORTHERN IRELAND) ORDER 1981

SCHEDULE 2

INDICTABLE OFFENCES WHICH MAY BE DEALT WITH SUMMARILY UPON
CONSENT OF THE ACCUSED

1. Offences at common law of public nuisance.
2. Offences at common law of assault occasioning actual bodily harm.
3. Offences consisting in contravention of section 13 of the Statutory Declarations Act 1835 (administration by a person of an oath etc., on matters in which he has no jurisdiction). 1835 c. 62
4. Offences under section 36 of the Malicious Damage Act 1861 (obstructing engines or carriages on railways). 1861 c. 97
5. The following offences under the Offences against the Person Act 1861— 1861 c. 100
 - (a) offences under—
 - (i) section 16 (threats to kill);
 - (ii) section 20 (inflicting bodily injury, with or without a weapon);
 - (iii) section 26 (not providing apprentices or servants with food etc.);
 - (iv) section 27 (abandoning or exposing child);
 - (v) section 34 (doing or omitting to do anything so as to endanger railway passengers);
 - (vi) section 36 (assaulting a clergyman at a place of worship etc.);
 - (vii) section 52 (indecent assault on a female);
 - (viii) section 57 (bigamy);
 - (b) offences of concealing the birth of a child under section 60 (but only where it is not alleged that the child died other than from natural causes);
 - (c) offences of indecent assault on a male person under section 62.
6. Offences under section 20 of the Telegraph Act 1868 (disclosing or intercepting messages). 1868 c. 110
7. Offences under Part II of the Debtors Act (Ireland) 1872 (punishment of fraudulent debtors, absconding with property, fraudulently obtaining credit). 1872 c. 57
8. Offences under section 5 of the Public Stores Act 1875 (obliteration of marks with intent to conceal). 1875 c. 25
9. Offences under section 3 of the Submarine Telegraph Act 1885 (damaging submarine cables). 1885 c. 49
10. Offences under the following provisions of the Criminal Law Amendment Act 1885— 1885 c. 69
 - (a) section 5 (unlawful carnal knowledge of a girl under 17);
 - (b) section 6 (permitting girl under 17 to resort to premises for purposes of unlawful carnal knowledge);
 - (c) section 11 (gross indecency between men).
11. Offences under section 13 of the Stamp Duties Management Act 1891 (offences in relation to dies and stamps). 1891 c. 38

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12. Offences under section 3(4) of the Checkweighing in Various Industries Act 1919 (false statements).
- 1929 c. 1 (N.I.) 13. Offences under Part IV of the Bankruptcy Amendment Act (Northern Ireland) 1929 (bankrupt or arranging debtor gambling or failing to keep proper accounts).
- 1953 c. 36 14. Offences under the following provisions of the Post Office Act 1953—
(a) section 53 (unlawfully taking away or opening mail bag);
(b) section 55 (fraudulent retention of mail bag or postal packet);
(c) section 57 (stealing, embezzlement, destruction etc., by officer of Post Office of postal packet);
(d) section 58 (opening or delaying of postal packets by officers of the Post Office).
- 1962 c. 14 (N.I.) 15. Any offence which under section 105(1) and (2) (corrupt practice except where there may be occasion for the court to exercise a power to mitigate or remit incapacities under section 113(2) or (3)) of the Electoral Law Act (Northern Ireland) 1962 may be tried summarily.
- 1964 c. 87 16. Offences under section 3(1) of the Shipping Contracts and Commercial Documents Act 1964 (offences), in so far as it relates to the contravention of any direction given under that Act before 20th March 1980.
- 1967 c. 18 (N.I.) 17. Offences of publishing, exhibiting or selling any indecent or obscene book, writing, picture, or model, or any other indecent or obscene article or thing whatever, whether similar to the things mentioned or not.
18. Offences under the following provisions of the Criminal Law Act (Northern Ireland) 1967—
(a) section 4(1) (assisting offenders);
(b) section 5(1) (concealing arrestable offences and giving false information);
where the offence to which they relate is punishable on summary conviction (whether it is also punishable on conviction on indictment) or may be dealt with summarily (either under the provisions of this Order or otherwise).
- 1969 c. 16 (N.I.) 19. Offences to which section 9 of the Criminal Law Act (Northern Ireland) 1967 applies (aiding, abetting etc., attempting, conspiring, inciting).
20. Any indictable offence under the Theft Act (Northern Ireland) 1969 except—
(a) robbery, aggravated burglary, blackmail and assault with intent to rob;
(b) burglary comprising the commission of, or an intention to commit, an offence which is punishable only on conviction on indictment;
(c) burglary in a dwelling if any person in the dwelling was subjected to violence or the threat of violence.
- 1979 NI 19 21. Offences under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).
- 1982 NI 19 22. Offences under Article 7(1) of the Homosexual Offences (Northern Ireland) Order 1982 (procuring another to commit buggery with a third man).

Article 4.

SCHEDULE 3
OFFENCES MADE PUNISHABLE ON SUMMARY CONVICTION ONLY AND
NEW MAXIMUM PENALTIES FOR THOSE OFFENCES

Offence	Statutory provision	Amendment	Old penalty	New penalty
TRUCK ACT 1831 (c. 37) 1. (entering into illegal contracts or making illegal payments).	Section 9	For the words from "for the first" onwards substitute "be liable on summary conviction to a fine not exceeding level 3 on the standard scale".	A fine of any amount.	Level 3 on the standard scale.
POST OFFICE ACT 1953 (c. 36) 2. (criminal diversion of letters from addressee).	Section 56(1)	For the words from "guilty" onwards substitute "liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding six months or to both".	A fine of any amount or imprisonment for a term not exceeding 6 months.	Level 4 on the standard scale or imprisonment for 6 months or both.

Offence	Statutory provision	Amendment	Old penalty	New penalty
<p>OPTICIANS ACT 1958 (c. 32)</p> <p>3. (restriction on testing of sight).</p>	<p>Section 20(5)</p>	<p>For the words from "one hundred pounds" onwards substitute "level 4 on the standard scale".</p>	<p>(a) on conviction on indictment, a fine of any amount.</p> <p>(b) on summary conviction, the statutory maximum.</p>	<p>Level 4 on the standard scale.</p>
<p>4. (restriction on sale and supply of optical appliances).</p>	<p>Section 21(5)</p>	<p>For the words from "one hundred pounds" onwards substitute "level 4 on the standard scale".</p>	<p>(a) on conviction on indictment, a fine of any amount.</p> <p>(b) on summary conviction, the statutory maximum.</p>	<p>Level 4 on the standard scale.</p>
<p>5. (pretending to be registered, etc.).</p>	<p>Section 22(1) and (2)</p>	<p>For the words from "one hundred pounds" onwards substitute "level 4 on the standard scale".</p>	<p>(a) on conviction on indictment, a fine of any amount.</p> <p>(b) on summary conviction, the statutory maximum.</p>	<p>Level 4 on the standard scale.</p>

SCHEDULE 4

Article 11.

AMENDMENTS OF THE FOOD AND DRUGS ACT
(NORTHERN IRELAND) 1958 (c. 27)

1. For section 45 (penalties) substitute—

“Offences

45.—(1) A person guilty of an offence under section 5(4) shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both.

(2) A person guilty of an offence under section 17(12) shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) A person guilty of an offence under section 41(6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

(4) A person guilty of an offence under section 28(2), 44(1) or 44(4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person guilty of an offence under this Act, other than the offences mentioned in subsections (1) to (4), shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(6) An offence under—

- (a) a regulation made under this Act, other than an offence which by virtue of the regulations is punishable on conviction on indictment or on summary conviction; and
- (b) an order made under section 5;

shall be punishable on summary conviction only.”

2. For section 46(1) to (3) (time limits for prosecutions) substitute—

“46.—(1) A prosecution for an offence under this Act or regulations made under it which is punishable on conviction on indictment or on summary conviction shall not be begun after the expiration of 3 years from the commission of the offence or 1 year from its discovery by the complainant, whichever is the earlier.

(2) Where a sample has been procured under this Act, a prosecution in respect of the article or substance sampled shall not be begun—

- (a) where the sample was of milk, after the expiration of the period of 28 days beginning with the date on which the sample was procured;
- (b) where the sample was not of milk, after the expiration of the period of 2 months beginning with the date on which the sample was procured;

unless the justice of the peace before whom the complaint is made, on being satisfied on oath that having regard to the circumstances of the particular case it was not practicable to make the complaint at an earlier date, gives a certificate to that effect.

(3) Where a certificate issued under subsection (2) relates to a prosecution in respect of a sample of milk, that prosecution shall not in any case be begun after the expiration of 42 days beginning with the date on which the sample was procured.”.

3. In section 68 (orders and regulations)—

(a) in subsection (4) for paragraph (e) substitute—

“(e) provide that an offence under the regulations shall be punishable on conviction on indictment or on summary conviction;

(ea) include provisions under which a person guilty of an offence under the regulations punishable on conviction on indictment or on summary conviction is liable on summary conviction to a fine not exceeding the statutory maximum or such less amount as may be specified in the regulations and on conviction on indictment to either or both of the following—

(i) a fine not exceeding an amount specified in the regulations, or of an indefinite amount;

(ii) imprisonment for a term not exceeding 2 years or such shorter term as may be specified in the regulations;

(eb) include provisions under which a person guilty of an offence under the regulations which is punishable on summary conviction only is liable to a fine not exceeding level 5 on the standard scale or such other level as may be specified in the regulations;”;

(b) in subsection (5) after “(4)” insert “, other than paragraphs (e) and (ea),”.

SCHEDULE 5

Article 13(3).

REPEALS

Chapter or number	Short title	Extent of repeal
1946 c. 5 (N.I.).	The Summary Jurisdiction (Miscellaneous Provisions) Act (Northern Ireland) 1946.	The whole Act.
1949 c. 54.	The Wireless Telegraphy Act 1949.	In section 14, in subsection 8(b) the words from "in relation to England and Wales" onwards and subsection (9).
1978 NI 9.	The Health and Safety at Work (Northern Ireland) Order 1978.	In Article 31(1)(m) the words "forges or".
1982 NI 19.	The Homosexual Offences (Northern Ireland) Order 1982.	Article 12(2). In the Schedule, paragraph 8.
1984 c. 5.	The Merchant Shipping Act 1984.	In section 6, in subsection (1)(a) the words "or, as respects Northern Ireland, £1,000" and in subsection (2)(a) the words "or, as respects Northern Ireland, £1,000".
1984 c. 8.	The Prevention of Terrorism (Temporary Provisions) Act 1984.	In section 14, in subsection (2) the words from "and for the purposes" onwards and in subsection (3) the words from "and for the purposes" onwards.
1984 c. 12.	The Telecommunications Act 1984.	In section 106, in subsection (2) the words from "and for the purposes" onwards and in subsection (3) the words from "and for the purposes" onwards. In Schedule 3, in paragraph 2 the words from "in relation to England and Wales" onwards.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order—

- (a) alters the mode of trial for certain offences;
- (b) clarifies the duration of training school orders;
- (c) enables a court to make a compensation order against an offender instead of dealing with him in any other way;
- (d) increases the period for which an accused may be remanded in custody with his consent;
- (e) provides for prisoners to be removed to hospital for medical investigation or observation;
- (f) provides a continuing offence for wrongful possession or use of premises;
- (g) makes amendments to the Food and Drugs Act (Northern Ireland) 1958 in relation to the mode of trial for, punishment of, and time limits for prosecution of, offences; and
- (h) makes a repeal in the Health and Safety at Work (Northern Ireland) Order 1978 consequential on the Forgery and Counterfeiting Act 1981 (c. 45).

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