



Northern Ireland (Emergency Provisions) Act 1973

1973 CHAPTER 53

PART I

TRIAL AND PUNISHMENT OF CERTAIN OFFENCES

1 Punishment for murder

- (1) No person shall suffer death for murder and a person convicted of murder shall, subject to section 73(1) of the Children and Young Persons Act (Northern Ireland) 1968 (detention of young persons during pleasure), be sentenced to imprisonment for life.
- (2) On sentencing any person convicted of murder to imprisonment for life the court may at the same time declare the period which they recommend to the Minister of Home Affairs for Northern Ireland as the minimum period which in their view should elapse before the Minister orders the release of that person on licence under section 23 of the Prison Act (Northern Ireland) 1953.
- (3) The Minister of Home Affairs for Northern Ireland shall not release or discharge on licence a person convicted of murder and serving a sentence of imprisonment for life or detained under the said section 73(1), except after consultation with the Lord Chief Justice of Northern Ireland together with the trial judge, if available.
- (4) For the purpose of any proceedings on or subsequent to a person's trial on a charge of capital murder, that charge and any plea or finding of guilty of capital murder shall be treated as being or having been a charge, or a plea or finding of guilty, of murder only; and if at the commencement of this Act a person is under a sentence of death for capital murder, the sentence shall have effect as a sentence of imprisonment for life.
- (5) In this section " capital murder " means a murder which immediately before the commencement of this Act is a capital murder within the meaning of section 10 of the Criminal Justice Act (Northern Ireland) 1966.

2 Mode of trial on indictment of scheduled offences

- (1) A trial on indictment of a scheduled offence shall be conducted by the court without a jury.
- (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 they 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 an indictment contains a count alleging a scheduled offence and another count alleging an offence which at the time the indictment is presented is not a scheduled offence, the other count shall be disregarded.
- (4) Without prejudice to subsection (2) above, where the court trying a scheduled offence on indictment are not satisfied that the accused is guilty of that offence, but are 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 convict the accused of that or some other offence, then, without prejudice to their power apart from this subsection to give a judgment, they shall, at the time of conviction or as soon as practicable thereafter, give a judgement stating the reasons for the conviction.
- (6) A person convicted of any offence on a trial under this section without a jury may, notwithstanding anything in section 8 of the Criminal Appeal (Northern Ireland) Act 1968, appeal to the Court of Criminal Appeal under that section—
 - (a) against his conviction, on any ground, without the leave of the Court of Criminal Appeal or a certificate of the judge of the court of trial; and
 - (b) against sentence passed on conviction, without such leave, unless the sentence is one fixed by law.
- (7) Where a person is so convicted, the time for giving notice of appeal under section 20(1) of the said Act of 1968 shall run from the date of judgement, if later than the date from which it would run under that subsection.

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

- (1) Subject to the provisions of this section, a person to whom this section applies and who is charged with a scheduled offence shall not be admitted to bail except by a judge of the High Court acting in that capacity and, if he is convicted of such an offence, shall not be admitted to bail pending any appeal.
- (2) A judge shall not admit any such person to bail unless he is satisfied that the applicant—
 - (a) will comply with the conditions on which he is admitted to bail; and
 - (b) will not interfere with any witness; and
 - (c) will not commit any offence while he is on bail.
- (3) 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.

- (4) Nothing in this section shall prejudice any right of appeal against the refusal of a judge of the High Court to grant bail.
- (5) This section applies to persons who have attained the age of 14 and are not serving members of any of Her Majesty's regular naval, military or air forces.

4 Court for trial of scheduled offences

- (1) A trial on indictment of a scheduled offence shall be held only at the Belfast City Commission or the Belfast Recorder's Court.
- (2) A magistrates' court who commit a person for trial on indictment for a scheduled offence shall commit him for trial to the Belfast City Commission or to the Belfast Recorder's Court, and section 47 of the Magistrates' Courts Act (Northern Ireland) 1964 (committal to assize or county court) shall have effect accordingly.
- (3) A county court judge may at any time, at the request of the Lord Chief Justice of Northern Ireland, sit and act as a judge at the Belfast City Commission for the trial on indictment of a scheduled offence, or for two or more such trials, and while so sitting and acting shall have all the jurisdiction, powers and privileges of a High Court judge included in the Commission, so far as concerns any such trial, except the power to admit to bail.
- (4) A county court judge requested to sit and act as aforesaid for a period of time may, notwithstanding the expiry of that period, attend at the Belfast City Commission for the purpose of continuing to deal with, giving judgment in or dealing with any ancillary matter relating to, any case which may have begun before him when sitting as a judge at the Commission and shall have the same jurisdiction, powers and privileges as under subsection (3) above.

5 Admissibility of written statements in proceedings relating to scheduled offences

In any criminal proceedings for a scheduled offence a written statement made and signed by any person in the presence of a constable shall be admissible as evidence of any fact stated therein of which direct oral evidence by him would be admissible, if it is shown that—

- (a) the maker of the statement is dead, or is unfit by reason of his bodily condition to attend as a witness or is unfit to attend as a witness, by reason of a mental condition which has arisen since he made the statement ; or
- (b) he is outside Northern Ireland and it is not reasonably practicable to secure his attendance ; or
- (c) all reasonable steps have been taken to find him, but he cannot be found.

6 Admissions by persons charged with scheduled offences

- (1) In any criminal proceedings for a scheduled offence a statement made by the accused may be given in evidence by the prosecution in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of subsection (2) below.

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- (2) If, in any such proceedings where the prosecution proposes to give in evidence a statement made by the accused, prima facie evidence is adduced that the accused was subjected to torture or to inhuman or degrading treatment in order to induce him to make the statement, the court shall, unless the prosecution satisfies them that the statement was not so obtained, exclude the statement or, if it has been received in evidence, shall either continue the trial disregarding the statement or direct that the trial shall be restarted before a differently constituted court (before whom the statement in question shall be inadmissible).

7 **Onus of proof in relation to offences of possession**

- (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—
- (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) below).
- (4) This section applies to scheduled offences Under the following enactments, that is to say—

The Explosive Substances Act 1883

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

Section 4 (possessing explosive in suspicious circumstances).

The Firearms Act (Northern Ireland) 1969

Section 1 (possessing firearm or ammunition without, or otherwise than as authorised by, a firearm certificate).

Section 4 (possessing machine gun or machine pistol or weapon discharging, or ammunition containing, noxious substance).

Section 14 (possessing firearm or ammunition with intent to endanger life or cause serious damage to property).

Section 15(2) (possessing firearm or imitation firearm at time of committing, or being arrested for, a specified offence).

Section 19(1) to (3) (possession of a firearm or ammunition by a person who has been sentenced to imprisonment, etc.).

Section 19A (possessing firearm or ammunition in suspicious circumstances).

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

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

8 Treatment of young persons convicted of scheduled offences

- (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 paragraph (e) of subsection (1) of that section 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 ".

9 Remand homes and training schools

- (1) Neither an order under section 51(1)(a) of the Children and Young Persons Act (Northern Ireland) 1968 (order for committal of a child or young person to a remand home) nor a training school order within the meaning of that Act shall specify the remand home or training school to which the person to whom it relates is to be sent.
- (2) After the said section 51(1) there shall be inserted the following subsection:—
 - “(1A) An order for committal under subsection (1)(a) shall be authority for the detention of the person to whom it relates in any remand home and the remand home in which he is to be detained at any time shall be determined by the Ministry”.
- (3) In section 53(2) of the said Act of 1968 (report as to circumstances of child or young person and as to available training schools) for the word " available ", in the second place where it occurs, there shall be substituted the words " the availability of accommodation at ".
- (4) After section 85(1) of that Act (training school orders) there shall be inserted the following subsections:—
 - “(1A) A training school order shall be authority for the detention of the person to whom it relates in any training school and the school in which he is to be detained at any time shall be determined by the Ministry.
 - (1B) In the selection of a training school to which a child or young person is to be sent, the Ministry shall have regard of his religious persuasion.
 - (1C) If the parent, guardian or nearest adult relative of a person in respect of whom a training school order has been made applies to the court for an order under this subsection and proves to the court that the religious persuasion of that person is not as declared under subsection (1)(6) by the training school order, the court shall by order declare the religious persuasion of that person to be that so proved and send a copy of its order to the Ministry; but no such application shall be made with respect to any person later than thirty days after the training school order relating to him was made.
 - (1D) The court to which an application under subsection (1C) is to be made is—

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- (a) if the training school order was made by a juvenile court or other court of summary jurisdiction, a juvenile court acting for the same petty sessions district as that court;
 - (b) in any other case, a juvenile court acting for the petty sessions district in which the applicant resides.”
- (5) After section 132(4) of the said Act of 1968 (power to make rules about remand homes) there shall be inserted the following subsections:—
 - “(4A) Rules under subsection (4) may also make provision whereby a person in custody in a remand home may be temporarily released or may on the ground of his industry and good conduct be granted such remission as may be prescribed by the rules.
 - (4B) On the discharge of a person from a remand home in pursuance of remission granted under any such rules, the order for his committal to the remand home shall cease to have effect”.