

JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Trials on indictment without a jury

Section 1: Issue of certificate

18. This section enables the Director of Public Prosecutions for Northern Ireland ('DPP(NI)') to issue a certificate in relation to any trial on indictment of a defendant (and anyone tried with that defendant). The effect of the certificate is that the trial is conducted in the Crown Court without a jury. The test that the DPP(NI) must apply in deciding whether or not to issue a certificate is set out in *subsection (2)*. He has the discretion to certify a case if it falls within one of the conditions set out in the section and the DPP(NI) assesses that there is a risk that trial by jury might impair the administration of justice (for example, that there might not be a fair trial).
19. Condition 1 is set out in *subsection (3)*. It covers circumstances where the defendant has a link to a proscribed organisation that is connected with the affairs of Northern Ireland. The defendant could be a present or former member of a proscribed organisation or be an associate of a member or former member. *Subsection (9)* defines who would be considered to be an associate of a member or former member of such an organisation and *subsection (10)* defines 'proscribed organisation'.
20. Condition 2 is set out in *subsection (4)*. This covers circumstances where an offence is committed on behalf of a proscribed organisation that is connected with the affairs of Northern Ireland, or such an organisation is otherwise involved with, or assists in, the carrying out of the offence.
21. Condition 3 is set out in *subsection (5)*. This covers circumstances where a proscribed organisation that is connected with the affairs of Northern Ireland interferes, or assists with interference, with the investigation or prosecution of an offence. This could include, for example, interference with a crime scene or the intimidation of witnesses not to give or to withdraw their evidence.
22. Condition 4 is set out in *subsection (6)*. This covers circumstances where the offence occurred as a result of, or in connection with, sectarianism (i.e. in connection with religious belief or political opinion). *Subsection (7)* clarifies that 'religious belief and political opinion' includes their absence and any assumptions made about religious beliefs or political opinions. *Subsection (8)* provides that the persons and groups of persons referred to in *subsection (6)* need not include the defendant or victim.
23. A case that falls within one of the conditions will not automatically be tried without a jury – non-jury trial will only happen if the DPP(NI) issues a certificate because he is satisfied that there is a risk that the administration of justice might be impaired.