
STATUTORY INSTRUMENTS

1989 No. 1341

**The Police and Criminal Evidence
(Northern Ireland) Order 1989**

PART IX

EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

Confessions

Confessions

74.—(1) In any criminal proceedings a confession made by an accused person may be given in evidence against him 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 this Article.

(2) If, in any criminal proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—

- (a) by oppression of the person who made it; or
- (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.

(3) In any criminal proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in paragraph (2).

(4) The fact that a confession is wholly or partly excluded in pursuance of this Article shall not affect the admissibility in evidence—

- (a) of any facts discovered as a result of the confession; or
- (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.

(5) Evidence that a fact to which this paragraph applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.

(6) Paragraph (5) applies—

- (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this Article; and

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Changes to legislation: The Police and Criminal Evidence (Northern Ireland) Order 1989, Cross Heading: Confessions is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(7) Nothing in Part VIII shall prejudice the admissibility of a confession made by an accused person.

(8) In this Article “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).

(9) ^{F1}

F1 Art. 74(9) repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\), s. 5\(2\)\(3\), Sch.](#)

[^{F2}Confessions may be given in evidence for co-accused

74A.—(1) In any criminal proceedings a confession made by an accused person may be given in evidence for another person charged in the same proceedings (a co-accused) 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 this Article.

(2) If, in any criminal proceedings where a co-accused proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—

- (a) by oppression of the person who made it; or
- (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence for the co-accused except in so far as it is proved to the court on the balance of probabilities that the confession (notwithstanding that it may be true) was not so obtained.

(3) Before allowing a confession made by an accused person to be given in evidence for a co-accused in any criminal proceedings, the court may of its own motion require the fact that the confession was not obtained as mentioned in paragraph (2) above to be proved in the proceedings on the balance of probabilities.

(4) The fact that a confession is wholly or partly excluded in pursuance of this Article shall not affect the admissibility in evidence—

- (a) of any facts discovered as a result of the confession; or
- (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.

(5) Evidence that a fact to which this paragraph applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.

(6) Paragraph (5) above applies—

- (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this Article; and
- (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(7) In this Article "oppression" includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).]

F2 2004 NI 10

Confessions by mentally handicapped persons

75.—(1) Without prejudice to the general duty of the court at a trial on indictment^[F3] with a jury] to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial—

- (a) the case against the accused depends wholly or substantially on a confession by him; and
- (b) the court is satisfied—
 - (i) that he is mentally handicapped; and
 - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in sub#paragraphs (a) and (b).

(2) In any case where a person is being tried summarily for an offence it appears to the court that a warning under paragraph (1) would be required if the trial were on indictment^[F4] with a jury], the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

^[F5](2A) In any case where at the trial on indictment without a jury of a person for an offence it appears to the court that a warning under paragraph (1) would be required if the trial were with a jury, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.]

(3) In this Article—

“independent person” does not include a constable or a person employed for, or engaged on, police purposes;

“mentally handicapped” in relation to a person means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

“police purposes” includes the purposes of ^[F6]police trainees, police reserve trainees and police cadets appointed under sections 39, 40 and 42 respectively of the Police (Northern Ireland) Act 2000 (c. 32) and of the police support staff].

F3 Words in art. 75(1) inserted (8.1.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), Sch. 36 para. 61(2); S.I. 2006/3422, art. 2(b)(c)

F4 Words in art. 75(2) inserted (8.1.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), Sch. 36 para. 61(3); S.I. 2006/3422, art. 2(b)(c)

F5 Art. 75(2A) inserted (8.1.2007) by Criminal Justice Act 2003 (c. 44), ss. 331, 336(3), Sch. 36 para. 61(4); S.I. 2006/3422, art. 2(b)(c)

F6 Art. 75(3): words in definition of "police purposes" substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 38(2)

Modifications etc. (not altering text)

C1 Art. 75 applied (with modifications) (1.12.2007) by Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 (S.R. 2007/464), arts. 3-15, Sch. 1, Sch. 2

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Changes to legislation:

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