
STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

Prisons

Conveyance of prohibited articles into or out of prison

77. For sections 34 and 35 of the Prison Act (Northern Ireland) 1953 (c. 18) substitute—

“34 Sections 34A and 34B: classification of articles

(1) This section defines the categories of articles which are referred to in sections 34A and 34B.

(2) A List A article is any article or substance in the following list (“List A”)—

- (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971 (c. 38));
- (b) an explosive;
- (c) any firearm or ammunition (as defined in Article 2(2) of the Firearms (Northern Ireland) Order 2004 (NI 3));
- (d) any other offensive weapon (as defined in Article 3(10) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12)).

(3) A List B article is any article or substance in the following list (“List B”)—

- (a) intoxicating liquor (as defined for the purposes of the Licensing (Northern Ireland) Order 1996 (NI 22));
- (b) a mobile or satellite telephone;
- (c) a camera;
- (d) a sound-recording device.

(4) In List B—

“camera” includes any device by means of which a photograph (as defined in section 34C) can be produced;

“sound-recording device” includes any device by means of which a sound-recording (as defined in section 34C) can be made.

(5) The reference in paragraph (b), (c) or (d) of list B to a device of any description includes a reference to —

- (a) a component part of a device of that description;

- (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).
- (6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.
- (7) The Secretary of State may by order amend this section for the purpose of
 - (a) adding an entry to List A or List B;
 - (b) repealing or modifying any entry for the time being included in List A or List B;
 - (c) adding, repealing or modifying any provision for the interpretation of any such entry.
- (8) An order made under subsection (7) is subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

34A Conveyance etc. of List A articles into or out of prison

- (1) A person who, without authorisation—
 - (a) brings, throws or otherwise conveys a List A article into or out of a prison,
 - (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
 - (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (d) knowing a person to be a prisoner, gives a List A article to him,
 is guilty of an offence.
- (2) In this section “authorisation” means authorisation given for the purposes of this section—
 - (a) in relation to all prisons or prisons of a specified description, by prison rules or the Secretary of State; or
 - (b) in relation to a particular prison, by the Secretary of State or by the governor of the prison.
- (3) Authorisation may be given to specified persons or persons of a specified description—
 - (a) in relation to specified articles or articles of a specified description;
 - (b) in relation to specified acts or acts of a specified description; or
 - (c) on such other terms as may be specified.
 In this subsection “specified” means specified in the authorisation.
- (4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.
- (5) Authorisation given by the governor of a prison shall—
 - (a) be given in writing; and
 - (b) specify the purpose for which it is given.
- (6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine (or both)

34B Conveyance etc. of List B or C articles into or out of prison

- (1) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List B article into or out of a prison,
 - (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
 - (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (d) knowing a person to be a prisoner, gives a List B article to him,

is guilty of an offence.

- (2) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
 - (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,
 - (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
 - (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
 - (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (f) while inside a prison, gives a List C article to a prisoner,

is guilty of an offence.

(3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.

(4) In proceedings for an offence under this section it is a defence for the accused to show that—

- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
- (b) in all the circumstances there was an overriding public interest which justified the doing of that act.

(5) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine (or both);
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum (or both).

(6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (6) to (8) of section 34C apply in relation to authorisations so given as they apply to authorisations given for the purposes of that section.”