



# Northern Ireland (Emergency Provisions) Act 1987

## 1987 CHAPTER 30

An Act to amend the Northern Ireland (Emergency Provisions) Act 1978; to confer certain rights on persons detained in police custody in Northern Ireland under or by virtue of Part IV of the Prevention of Terrorism (Temporary Provisions) Act 1984; to regulate the provision of security services there; and for connected purposes. [15th May 1987]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### AMENDMENTS OF THE NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1978

##### **1 Limitation of power to grant bail in case of scheduled offences.**

The following section shall be substituted for section 2 of the Northern Ireland (Emergency Provisions) Act 1978 (in this Act referred to as "the 1978 Act")—

##### **"2 Limitation of power to grant bail in case of scheduled offences.**

- (1) Subject to subsection (7) below, a person to whom this section applies shall not be admitted to bail except—
- (a) by a judge of the High Court or the Court of Appeal; or
  - (b) by the judge of the court of trial, on adjourning the trial of a person charged with a scheduled offence.

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- (2) A judge may, in his discretion, admit to bail in pursuance of subsection (1) above a person to whom this section applies except where he is satisfied that there are substantial grounds for believing that that person, if released on bail (whether subject to conditions or not), would—
- (a) fail to surrender to custody, or
  - (b) commit an offence while on bail, or
  - (c) interfere with any witness, or
  - (d) otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or in relation to any other person,
- or, if released subject to conditions, would fail to comply with all or any of those conditions.
- (3) In exercising his discretion in accordance with subsection (2) above in relation to a person, a judge shall have regard to such of the following considerations as appear to him to be relevant, namely—
- (a) the nature and seriousness of the offence with which the person is charged,
  - (b) the character, antecedents, associations and community ties of the person,
  - (c) the time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail, and
  - (d) the strength of the evidence of his having committed the offence,
- as well as to any others which appear to be relevant.
- (4) 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.
- (5) This section applies, subject to subsection (6) below, to any person—
- (a) who is charged with a scheduled offence; and
  - (b) who has attained the age of fourteen.
- (6) This section does not apply to a person charged with a scheduled offence—
- (a) which is being tried summarily, or
  - (b) which the Director of Public Prosecutions for Northern Ireland certifies is in his opinion suitable to be tried summarily.
- (7) Subsection (1) above shall not preclude a resident magistrate from admitting to bail a person to whom this section applies if—
- (a) the person is a serving member of any of Her Majesty's forces or a serving member of the Royal Ulster Constabulary or of the Royal Ulster Constabulary Reserve, and
  - (b) the resident magistrate is satisfied that suitable arrangements have been made for the person to be held in military or (as the case may be) police custody, and imposes a condition on admitting him to bail that he is to be held in such custody.”

**2 Maximum period of remand in custody in case of scheduled offences.**

The following section shall be inserted after section 3 of the 1978 Act—

**“3A Maximum period of remand in custody in case of scheduled offences.**

Notwithstanding Article 47(2) and (3) of the Magistrates' Courts (Northern Ireland) Order 1981, the period for which a person charged with a scheduled offence may be remanded in custody by a magistrates' court shall be a period of not more than 28 days beginning with the day following that on which he is so remanded.”

**3 Power of Secretary of State to set time limits in relation to preliminary proceedings for scheduled offences.**

The following section shall be inserted after section 5 of the 1978 Act—

*“Time limits on preliminary proceedings*

**5A Power of Secretary of State to set time limits in relation to preliminary proceedings for scheduled offences.**

- (1) The Secretary of State may by regulations make provision, with respect to any specified preliminary stage of proceedings for a scheduled offence, as to the maximum period—
  - (a) to be allowed to the prosecution to complete that stage;
  - (b) during which the accused may, while awaiting completion of that stage, be—
    - (i) in the custody of a magistrates' court; or
    - (ii) in the custody of the Crown Court,in relation to that offence.
- (2) The regulations may, in particular—
  - (a) provide for—
    - (i) the Magistrates' Courts (Northern Ireland) Order 1981,
    - (ii) section 2 above, or
    - (iii) any other enactment, or any rule of law, relating to bail,to apply in relation to cases to which custody or overall time limits apply subject to such modifications as may be specified (being modifications which the Secretary of State considers necessary in consequence of any provision made by the regulations);
  - (b) provide for time limits imposed by the regulations to cease to have effect in cases where, after the institution of proceedings for a scheduled offence, the Attorney General for Northern Ireland has certified that the offence in question is not to be treated as a scheduled offence;
  - (c) make such provision with respect to the procedure to be followed in criminal proceedings as the Secretary of State considers appropriate in consequence of any other provision of the regulations; and

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- (d) make such transitional provision in relation to proceedings instituted before the commencement of any provision of the regulations as the Secretary of State considers appropriate.
- (3) Where separate counts of an indictment allege a scheduled offence and an offence which is not a scheduled offence, then (subject to, and in accordance with, the provisions of the regulations) the regulations shall have effect in relation to the latter offence as if it were a scheduled offence.
- (4) The Crown Court may, at any time before the expiry of a time limit imposed by the regulations, extend, or further extend, that limit if it is satisfied—
  - (a) that there is good and sufficient cause for doing so; and
  - (b) that the prosecution has acted with all due expedition.
- (5) Where, in relation to any proceedings for a relevant offence, an overall time limit has expired before the completion of the stage of the proceedings to which the limit applies, the accused shall be treated, for all purposes, as having been acquitted of that offence.
- (6) Where—
  - (a) a person escapes from the custody of a magistrates' court or of the Crown Court before the expiry of a custody time limit which applies in his case; or
  - (b) a person who has been released on bail in consequence of the expiry of a custody time limit—
    - (i) fails to surrender himself into the custody of the court at the appointed time; or
    - (ii) is arrested by a constable in connection with any breach, or apprehended breach, of any condition of his bail,

the regulations shall, so far as they provide for any custody time limit in relation to the preliminary stage in question, be disregarded.
- (7) Where—
  - (a) a person escapes from the custody of a magistrates' court or of the Crown Court; or
  - (b) a person who has been released on bail fails to surrender himself into the custody of the court at the appointed time,

the overall time limit which applies in his case in relation to the stage which the proceedings have reached at the time of the escape or, as the case may be, at the appointed time shall, so far as the relevant offence in question is concerned, cease to have effect.
- (8) Where a person is convicted of a relevant offence in any proceedings, the exercise, in relation to any preliminary stage of those proceedings, of the power conferred by subsection (4) above shall not be called into question on any appeal against that conviction.
- (9) In this section—
  - “custody of the Crown Court” includes custody to which a person is committed in pursuance of—
    - (a) Article 37 or 40(4) of the Magistrates' Courts (Northern Ireland) Order 1981 (magistrates' court committing accused for trial); or

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(b) section 51(8) of the Judicature (Northern Ireland) Act 1978 (magistrates' court dealing with a person brought before it following his arrest in pursuance of a warrant issued by the Crown Court);

“custody of a magistrates' court” means custody to which a person is committed in pursuance of Article 47 or 49 of the Magistrates' Courts (Northern Ireland) Order 1981 (remand);

“custody time limit” means a time limit imposed by the regulations in pursuance of subsection (1)(b) above or, where any such limit has been extended by the Crown Court under subsection (4) above, the limit as so extended;

“preliminary stage”, in relation to any proceedings, does not include any stage of the proceedings after the accused has been arraigned in the Crown Court or, in the case of a summary trial, the magistrates' court has begun to hear evidence for the prosecution at the trial;

“overall time limit” means a time limit imposed by the regulations in pursuance of subsection (1)(a) above or, where any such limit has been extended by the Crown Court under subsection (4) above, the limit as so extended;

“relevant offence” means—

- (a) a scheduled offence, or
- (b) an offence in relation to which the regulations have effect in accordance with subsection (3) above; and

“specified” means specified in the regulations.

- (10) For the purposes of the application of any custody time limit in relation to a person who is in the custody of a magistrates' court or of the Crown Court—
- (a) all periods during which he is in the custody of a magistrates' court in respect of the same offence shall be aggregated and treated as a single continuous period; and
  - (b) all periods during which he is in the custody of the Crown Court in respect of the same offence shall be aggregated and treated similarly.”

#### **4 Court for trial of scheduled offences.**

The following section shall be substituted for section 6 of the 1978 Act—

##### **“6 Court for trial of scheduled offences.**

- (1) A trial on indictment of a scheduled offence shall be held only at the Crown Court sitting in Belfast, unless the Lord Chancellor after consultation with the Lord Chief Justice of Northern Ireland directs in any particular case that such a trial shall be held at the Crown Court sitting elsewhere.
- (2) A person committed for trial for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, shall be committed—
  - (a) to the Crown Court sitting in Belfast, or
  - (b) where the Lord Chancellor has given a direction under subsection (1) above with respect to the trial, to the Crown Court sitting at the place specified in the direction;

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and section 48 of the Judicature (Northern Ireland) Act 1978 (committal for trial on indictment) shall have effect accordingly.

(3) Where—

- (a) in accordance with subsection (2) above any person is committed for trial to the Crown Court sitting in Belfast, and
- (b) a direction is subsequently given by the Lord Chancellor under subsection (1) above altering the place of trial,

that person shall be treated as having been committed for trial to the Crown Court sitting at the place specified in the direction.”

## 5 Admissions by persons charged with scheduled offences.

The following section shall be substituted for section 8 of the 1978 Act—

### “8 Admissions by persons charged with scheduled offences.

(1) In any criminal proceedings for a scheduled offence, or for two or more offences at least one of which is a scheduled offence, a statement made by the accused may be given in evidence by the prosecution in so far as—

- (a) it is relevant to any matter in issue in the proceedings, and
- (b) it is not excluded by the court in pursuance of subsection (2) below or in the exercise of its discretion referred to in subsection (3) below (and has not been rendered inadmissible by virtue of such a direction as is mentioned in subsection (2)(iii) below).

(2) Where in any such proceedings—

- (a) the prosecution proposes to give, or (as the case may be) has given, in evidence a statement made by the accused, and
- (b) prima facie evidence is adduced that the accused was subjected to torture, to inhuman or degrading treatment, or to any violence or threat of violence (whether or not amounting to torture), in order to induce him to make the statement,

then, unless the prosecution satisfies the court that the statement was not obtained by so subjecting the accused in the manner indicated by that evidence, the court shall do one of the following things, namely—

- (i) in the case of a statement proposed to be given in evidence, exclude the statement;
- (ii) in the case of a statement already received in evidence, continue the trial disregarding the statement; or
- (iii) in either case, direct that the trial shall be restarted before a differently constituted court (before which the statement in question shall be inadmissible).

(3) It is hereby declared that, in the case of any statement made by the accused and not obtained by so subjecting him as mentioned in subsection (2)(b) above, the court in any such proceedings as are mentioned in subsection (1) above has a discretion to do one of the things mentioned in subsection (2)(i) to (iii) above if it appears to the court that it is appropriate to do so in order to avoid unfairness to the accused or otherwise in the interests of justice.

(4) This section does not apply to a summary trial.”

## **6 Entry and search of premises for purpose of arresting terrorists.**

The following section shall be substituted for section 11 of the 1978 Act—

### **“11 Entry and search of premises for purpose of arresting terrorists.**

For the purpose of arresting a person under section 12(1)(b) of the Prevention of Terrorism (Temporary Provisions) Act 1984 (arrest of persons suspected of being concerned in acts of terrorism) a constable may enter and search any premises or other place where that person is or where the constable has reasonable grounds for suspecting him to be.”

## **7 Power to search for scanning receivers.**

(1) Section 15 of the 1978 Act (power to search for munitions and radio transmitters) shall be amended as follows.

(2) The following subsection shall be inserted after subsection (4)—

“(4A) The preceding provisions of this section shall have effect in relation to scanning receivers as they have effect in relation to transmitters.”

(3) In subsection (5), after the definition of “munitions” there shall be inserted—

““scanning receiver” means—

- (a) any apparatus for wireless telegraphy designed or adapted for the purpose of automatically monitoring selected frequencies, or automatically scanning a selected range of frequencies, so as to enable transmissions on any of those frequencies to be detected or intercepted;
- or
- (b) part of any such apparatus;”.

## **8 Power of Secretary of State to direct the closure etc. of roads.**

The following section shall be inserted after section 19 of the 1978 Act—

### **“19A Power of Secretary of State to direct the closure etc. of roads.**

(1) The Secretary of State may by order direct—

- (a) that any highway specified in the order shall either be wholly closed or be closed to such extent, or diverted in such manner, as may be so specified;
- (b) that any highway specified in the order, being a highway which has already been wholly or partly closed, or diverted, in the exercise or purported exercise of any power conferred by or under a relevant enactment, shall continue to be so closed or diverted by virtue of the order.

(2) Any person who, without lawful authority or reasonable excuse (the proof of which lies on him), interferes with—

- (a) works executed in connection with the closure or diversion of any highway specified in an order under this section (whether executed in pursuance of any such order or in pursuance of the exercise or

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purported exercise of any such power as is mentioned in subsection (1) (b) above), or

(b) apparatus, equipment or any other thing used in pursuance of any such order in connection with the closure or diversion of any such highway, shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or both.

(3) In this section “relevant enactment” means section 19(2) or (3) above, section 17(2) or (3) of the Northern Ireland (Emergency Provisions) Act 1973, or the Civil Authorities (Special Powers) Act (Northern Ireland) 1922.

(4) Nothing in this section shall prejudice the operation of section 19(2) or (3) above.”

## 9 **Additional offence relating to proscribed organisations.**

After paragraph (c) of section 21(1) of the 1978 Act (proscribed organisations) there shall be inserted “or

- (d) arranges or assists in the arrangement or management of, or addresses, any meeting of three or more persons (whether or not it is a meeting to which the public are admitted) knowing that the meeting—
- (i) is to support a proscribed organisation;
  - (ii) is to further the activities of such an organisation; or
  - (iii) is to be addressed by a person belonging or professing to belong to such an organisation.”.

## 10 **Extension of categories of persons about whom it is unlawful to collect information.**

In section 22(2) of the 1978 Act (unlawful collection etc. of information)—

- (a) at the end of paragraph (c) “and” shall be omitted; and
- (b) after paragraph (d) there shall be added “; and
- (e) any person who has at any time been a person falling within any of the preceding paragraphs.”

## 11 **Offences relating to behaviour and dress in public places.**

(1) The following section shall be substituted for section 25 of the 1978 Act—

### **“25 Display of support in public for a proscribed organisation.**

Any person who in a public place—

- (a) wears any item of dress; or
- (b) wears, carries or displays any article,

in such a way or in such circumstances as to arouse reasonable apprehension that he is a member or supporter of a proscribed organisation, shall be liable—

- (i) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
- (ii) on conviction on indictment to imprisonment for a term not exceeding one year or to a fine, or both.”



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- (2) In section 26 of that Act (wearing of hoods etc. in public places), for the words from “a fine not exceeding” onwards there shall be substituted “a fine not exceeding the statutory maximum, or both, and on conviction on indictment to imprisonment for a term not exceeding one year or to a fine, or both.”
- (3) After sub-paragraph (c) of paragraph 19 of Schedule 4 to the 1978 Act (scheduled offences) there shall be inserted the following subparagraphs—
  - “(ca) section 25;
  - (cb) section 26;”.
- (4) Subsections (2) and (3) above shall not have effect in relation to an offence committed before the commencement of this section.

## 12 Compensation.

- (1) The following sections shall be substituted for section 28 of the 1978 Act—

### “28 Compensation.

- (1) Where under this Act any real or personal property is taken, occupied, destroyed or damaged, or any other act is done interfering with private rights of property, compensation shall, subject to the provisions of this section, be payable by the Secretary of State to any person who—
  - (a) has an estate or interest in that property or (as the case may be) is entitled to those rights of property, and
  - (b) suffers loss or damage as a result of the act.
- (2) No compensation shall be payable under this section in respect of any act falling within subsection (1) above unless an application for such compensation is made to the Secretary of State, in such manner as he may specify, within—
  - (a) the period of four months beginning with the relevant date, or
  - (b) such longer period beginning with that date and not exceeding 12 months as—
    - (i) the Secretary of State on a request being made to him in writing, or
    - (ii) the county court on an appeal under subsection (4) below, may in a particular case allow.
- (3) In subsection (2) above “the relevant date”, in relation to any such act as is there mentioned, means—
  - (a) where the act was done before the date of the coming into force of section 12 of the Northern Ireland (Emergency Provisions) Act 1987, that date, and
  - (b) in any other case, the date when the act was done.
- (4) Where the Secretary of State refuses any request made to him for the purposes of subsection (2)(b) above, he shall serve a notice of his refusal on the person who made the request, and that person may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against that refusal.

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- (5) Where the Secretary of State has determined any application for compensation made in accordance with subsection (2) above, he shall serve on the applicant either—
- (a) a notice stating that he has decided to award the applicant compensation in pursuance of his application and specifying the amount of the award, or
  - (b) a notice stating that he has decided to refuse the application;
- and the applicant may within the period of six weeks beginning with the date of service of the notice appeal to the county court against the decision of the Secretary of State to pay the amount of compensation specified in the notice or (as the case may be) to refuse the application (and unless he so appeals within that period that decision shall become in all respects final and binding).
- (6) Any notice served under subsection (4) or (5) above shall contain particulars of the right to make an appeal under that subsection and, in the case of a notice served under subsection (5), of the consequences of a failure to exercise that right.
- (7) Where—
- (a) a person having a right to compensation under this section has made an application in accordance with subsection (2) above, and
  - (b) by virtue of any assignment or operation of law that right has passed to any other person,
- that other person (or, if he is subject to any legal disability, the person appearing to the Secretary of State to be entitled to act on his behalf) may be treated by the Secretary of State as the applicant for the purposes of any provision of this section.
- (8) Where—
- (a) a person has a right to compensation in respect of any act falling within subsection (1) above, and
  - (b) the act was done in connection with, or revealed evidence of the commission of—
    - (i) a scheduled offence, or
    - (ii) an offence under this Act (other than a scheduled offence),
 and
  - (c) proceedings for that offence are brought against that person,
- his right to such compensation shall not be enforceable at any time when any such proceedings have not been concluded, or if he is convicted of the offence.

### **28A Provisions supplementary to section 28.**

- (1) The Lord Chief Justice of Northern Ireland after consultation with the Secretary of State may make rules as to—
- (a) the bringing of appeals under subsection (4) or (5) of section 28 above;
  - (b) the hearing and determination of such appeals; and
  - (c) any incidental or ancillary matters, including the awarding of costs in connection with such appeals;

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and any such rules shall be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

- (2) Any notice required by section 28 above to be served on any person by the Secretary of State may—
- (a) if that person is an individual, be served on him—
    - (i) by delivering it to him, or
    - (ii) by sending it by post addressed to him at his usual or last-known place of residence or business, or
    - (iii) by leaving it for him there;
  - (b) if that person is a partnership, be served on the partnership—
    - (i) by sending it by post to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership, or
    - (ii) by addressing it to a partner or any such person and leaving it at that office;
  - (c) if that person is a body corporate, be served on the body—
    - (i) by sending it by post to the secretary or clerk of the body at its registered or principal office, or
    - (ii) by addressing it to the secretary or clerk of the body and leaving it at that office; or
  - (d) in any case, be served on that person’s solicitor by delivering it to the solicitor, or by sending it by post to him at his office, or by leaving it for him there.”

(2) Subsections (5) to (7) of section 28 of the 1978 Act, as amended by subsection (1) above, shall apply in relation to an application for compensation under that section made before the date of the coming into force of subsection (1) above and still outstanding on that date as they apply in relation to an application for compensation made in accordance with subsection (2) of that section, as so amended, but shall so apply as if any reference in those subsections to compensation under that section, as so amended, were a reference to compensation under that section, as originally enacted.

(3) For the purposes of subsection (2) above an application for compensation is still outstanding on the date mentioned in that subsection if, on that date, any question as to the compensation to which the application relates has still to be finally resolved and has not been referred to the county court or any arbitrator appointed by that court in accordance with subsections (2) and (3) of section 28 of the 1978 Act, as originally enacted.

### **13 Expiry and eventual repeal of 1978 Act.**

- (1) Section 33 of the 1978 Act (commencement etc. of that Act) shall be amended as follows—
- (2) In subsection (2), for “24th July 1978” there shall be substituted “21st March 1988”.
- (3) In subsection (3)(a) and (c), for “six” there shall be substituted “twelve”.
- (4) After subsection (8) there shall be added the following subsection—

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- “(9) This Act shall, by virtue of this subsection, be repealed as from the end of the period of five years beginning with the date of the passing of the Northern Ireland (Emergency Provisions) Act 1987.”
- (5) The amendment made by subsection (2) above does not affect any provision to which section 33(2) of the 1978 Act applies and which is not in force at the commencement of this section, and accordingly that amendment shall not be taken—
- (a) to revive any such provision, or
  - (b) to preclude the making of an order under section 33 with respect to any such provision.
- (6) Where, immediately before the repeal of the 1978 Act takes effect under the provision inserted by subsection (4), a person is held in custody in a prison or other place by virtue of a direction under section 4 of that Act (holding in custody of young persons charged with scheduled offences), it shall be lawful for him to continue to be held in custody in that prison or place until arrangements can be made for him to be held in custody in accordance with the law then applicable to his case.
- (7) Nothing in subsection (6) shall be taken to make lawful the holding in custody of any person who would, disregarding that subsection, be entitled to be released from custody.
- (8) The repeal of the 1978 Act shall not affect the application of any provision of sections 6 to 9 of that Act to any trial on indictment where the indictment has been presented, or any summary trial which has started, before the repeal takes effect.
- (9) It is hereby declared that the repeal of the 1978 Act shall not affect—
- (a) any committal of a person for trial in accordance with section 6 of that Act to the Crown Court sitting either in Belfast or elsewhere, or
  - (b) any committal of a person for trial which, in accordance with that section, has taken effect as a committal for trial to the Crown Court sitting elsewhere than in Belfast,
- in a case where the indictment has not been presented before the repeal takes effect.
- (10) The repeal of the 1978 Act shall not affect the application of any provision of sections 28 and 28A of that Act in relation to any right to compensation under section 28 which arises before the date when the repeal takes effect.

## PART II

### RIGHTS OF PERSONS DETAINED UNDER TERRORISM PROVISIONS IN POLICE CUSTODY

#### **14 Right to have someone informed of detention under terrorism provisions.**

- (1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or is likely to take an interest in his welfare told that he is being detained under those provisions and where he is being held in police custody.
- (2) A person shall be informed of the right conferred on him by subsection (1) as soon as practicable after he has become a person to whom that subsection applies.

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- (3) A request made by a person under subsection (1), and the time at which it is made, shall be recorded in writing.
- (4) If a person makes such a request, it must be complied with as soon as is practicable except to the extent that any delay is permitted by this section.
- (5) Any delay in complying with such a request is only permitted if—
  - (a) it is authorised by an officer of at least the rank of superintendent; and
  - (b) it does not extend beyond the end of the period referred to in subsection (6).
- (6) That period is—
  - (a) (except where paragraph (b) applies) the period of 48 hours beginning with the time when the detained person was first detained under the terrorism provisions;
  - (b) where the detained person was, prior to the time when he was first so detained, being examined in accordance with any order under section 13 of the Prevention of Terrorism (Temporary Provisions) Act 1984, the period of 48 hours beginning with the time when he was first so examined.
- (7) An officer may give an authorisation under subsection (5) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (8) An officer may only authorise a delay in complying with a request under subsection (1) where he has reasonable grounds for believing that telling the person named in the request of the detention of the detained person—
  - (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or
  - (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
  - (c) will hinder the recovery of any property obtained as a result of such an offence; or
  - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
  - (e) by alerting any person, will make it more difficult—
    - (i) to prevent an act of terrorism; or
    - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.
- (9) If any delay is authorised, then, as soon as is practicable—
  - (a) the detained person shall be told the reason for authorising it; and
  - (b) the reason shall be recorded in writing.
- (10) Any authorisation under subsection (5) shall cease to have effect once the reason for giving it ceases to subsist.
- (11) The right conferred by subsection (1) may be exercised by a person to whom that subsection applies on each occasion when he is transferred from one place to another; and this section applies to each subsequent occasion on which that right is so exercised as it applies to the first such occasion.

- (12) Subsection (11) shall not be construed as prejudicing the operation of a request by a person to whom subsection (1) applies which was made, but not complied with, before he was transferred.

**15 Right of access to legal advice.**

- (1) A person who is detained under the terrorism provisions and is being held in police custody shall be entitled, if he so requests, to consult a solicitor privately.
- (2) A person shall be informed of the right conferred on him by subsection (1) as soon as practicable after he has become a person to whom that subsection applies.
- (3) A request made by a person under subsection (1), and the time at which it is made, shall be recorded in writing unless it is made by him while at a court after being charged with an offence.
- (4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that any delay is permitted by this section.
- (5) Any delay in complying with a request under subsection (1) is only permitted if—
- (a) it is authorised by an officer of at least the rank of superintendent; and
  - (b) it does not extend beyond the relevant time.
- (6) In subsection (5) “the relevant time” means—
- (a) where the request is the first request made by the detained person under subsection (1), the end of the period referred to in section 14(6); or
  - (b) where the request follows an earlier request made by the detained person under that subsection in pursuance of which he has consulted a solicitor, the end of the period of 48 hours beginning with the time when that consultation began.
- (7) An officer may give an authorisation under subsection (5) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (8) An officer may only authorise a delay in complying with a request under subsection (1) where he has reasonable grounds for believing that the exercise of the right conferred by that subsection at the time when the detained person desires to exercise it—
- (a) will lead to interference with or harm to evidence connected with a scheduled offence or interference with or physical injury to any person; or
  - (b) will lead to the alerting of any person suspected of having committed such an offence but not yet arrested for it; or
  - (c) will hinder the recovery of any property obtained as a result of such an offence; or
  - (d) will lead to interference with the gathering of information about the commission, preparation or instigation of acts of terrorism; or
  - (e) by alerting any person, will make it more difficult—
    - (i) to prevent an act of terrorism; or
    - (ii) to secure the apprehension, prosecution or conviction of any person in connection with the commission, preparation or instigation of an act of terrorism.
- (9) If any delay is authorised, then, as soon as is practicable—
- (a) the detained person shall be told the reason for authorising it; and

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- (b) the reason shall be recorded in writing.
- (10) If an officer of at least the rank of Assistant Chief Constable has reasonable grounds for believing that, unless he gives a direction under subsection (11), the exercise by a person of the right conferred by subsection (1) will have any of the consequences specified in subsection (8), he may give a direction under subsection (11).
- (11) A direction under this subsection is a direction that a person desiring to exercise the right conferred by subsection (1) may only consult a solicitor in the sight and hearing of a qualified officer of the uniformed branch of the Royal Ulster Constabulary.
- (12) An officer is qualified for the purposes of subsection (11) if—
  - (a) he is of at least the rank of inspector; and
  - (b) in the opinion of the officer giving the direction, he has no connection with the case.
- (13) Any authorisation under subsection (5) or direction under subsection (11) shall cease to have effect once the reason for giving it ceases to subsist.

## **16 Interpretation of Part II.**

- (1) In this Part—
  - “scheduled offence” and “terrorism” have the same meaning as in the 1978 Act; and
  - “the terrorism provisions” means—
    - (a) section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1984 (powers of arrest and detention); and
    - (b) any provision conferring a power of detention and contained in an order under section 13 of that Act (control of entry and procedure for removal).
- (2) A person is held in police custody for the purposes of this Part if he is detained at a police station, or is detained elsewhere in the charge of a constable, except that a person who is at a court after being charged with an offence is not held in police custody for the purposes of section 14.

## **PART III**

### **REGULATION OF THE PROVISION OF SECURITY SERVICES**

## **17 Prohibition on provision of security services without a certificate.**

- (1) A person shall not provide, or offer to provide, security services for reward, unless he is, or is acting on behalf of, the holder of a certificate in force under this Part.
- (2) A person shall not publish, or cause to be published, any advertisement for the provision of such services by a person who is not the holder of such a certificate.
- (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding five years, or to a fine, or to both.
- (4) Where a person is charged with an offence under this section in respect of an advertisement, it shall be a defence for him to prove—
- (a) that he is a person whose business it is to publish or arrange for the publication of advertisements; and
  - (b) that he received the advertisement for publication in the ordinary course of business; and
  - (c) that he had reasonable grounds for believing that the person advertised as the provider of the security services in question was the holder of a certificate in force under this Part.
- (5) The following paragraph shall be inserted after paragraph 19C of Schedule 4 to the 1978 Act (scheduled offences)—

*“Northern Ireland (Emergency Provisions) Act 1987.*

19D        Offences under section 17 of the Northern Ireland (Emergency Provisions) Act 1987 (provision of security services without a certificate).”

- (6) In this Part “security services” means the services of one or more individuals as security guards (whether with or without any other services relating to the protection of property or persons).

## **18 Applications for certificates.**

- (1) An application for a certificate under this Part—
- (a) shall be made to the Secretary of State in such manner and form, and
  - (b) shall be accompanied by such information concerning—
    - (i) the applicant,
    - (ii) any business carried on or proposed to be carried on by the applicant and involving the provision of security services for reward,
    - (iii) any persons whom the applicant employs, or proposes to employ, as security guards,
    - (iv) any partners or proposed partners of the applicant or (if the applicant is a partnership) the members, and any proposed members, of the partnership, and
    - (v) if the applicant is a body corporate, the officers, and any proposed officers, of that body,
 as the Secretary of State may specify.
- (2) Any person who, in connection with any such application, knowingly or recklessly furnishes the Secretary of State with information which is false or misleading in a material respect shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (3) In this section and section 20—
- (a) “officer” includes a director, manager or secretary; and



- (b) any reference to the employment or proposed employment of any person or persons by an applicant for a certificate under this Part shall, in relation to an applicant who is, or is a member of, a partnership, be construed as a reference to the employment or proposed employment of any person or persons by the partnership or any of the partners.
- (4) For the purposes of this section and section 20 a person in accordance with whose directions or instructions the directors of a body corporate are accustomed to act shall be treated as an officer of that body, except that a person shall not be so treated by reason only that the directors act on advice given by him in a professional capacity.

## **19 Issue, duration and revocation of certificates.**

- (1) Where an application for a certificate under this Part has been made to the Secretary of State in accordance with section 18, the Secretary of State may only refuse to issue such a certificate to the applicant in a case where he is satisfied that an organisation falling within subsection (8) would be likely to benefit from the issue of the certificate; and, if he does so, he shall notify the applicant of his refusal to issue such a certificate.
- (2) A certificate under this Part shall come into force at the beginning of the day on which it is issued and, subject to subsection (3), shall expire at the end of the period of 12 months beginning with that day.
- (3) Where the certificate is issued to a person who already holds a certificate in force under this Part, the new certificate shall expire at the end of the period of 12 months beginning with the day following that on which that person's current certificate expires.
- (4) The Secretary of State may from time to time by order made by statutory instrument substitute for the period specified in each of subsections (2) and (3) such period exceeding 12 months as is specified in the order, and any such order shall be laid before Parliament after being made.
- (5) Subject to subsection (6), the Secretary of State may revoke a certificate in force under this Part if he is satisfied that an organisation falling within subsection (8) would be likely to benefit from the certificate remaining in force.
- (6) The Secretary of State shall not revoke a certificate under subsection (5) unless the holder of the certificate—
  - (a) has been notified of the Secretary of State's intention to revoke it, and
  - (b) has been given a reasonable opportunity of making representations to the Secretary of State.
- (7) If the Secretary of State revokes a certificate under subsection (5), he shall forthwith notify the holder of the certificate of its revocation.
- (8) An organisation falls within this subsection if—
  - (a) it is for the time being a proscribed organisation within the meaning of the 1978 Act, or
  - (b) it appears to the Secretary of State to be closely associated with an organisation which is for the time being such a proscribed organisation.
- (9) In this section "benefit" means benefit whether directly or indirectly and whether financially or in any other way.

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## **20 Duty to notify Secretary of State of changes of personnel.**

- (1) Where—
- (a) an application has been made by any person under section 18, and
  - (b) that person proposes to employ a person as a security guard as from a relevant time, and
  - (c) information concerning the proposed employee was not furnished to the Secretary of State in pursuance of section 18(1)(b)(iii) at the time when the application was made,
- the person who made the application shall, not later than 14 days before that relevant time, notify to the Secretary of State such information concerning the proposed employee as the Secretary of State may specify.
- (2) Where an application has been made by any person under section 18, that person shall notify to the Secretary of State such information concerning any change to which this subsection applies as the Secretary of State may specify, and shall so notify any such information—
- (a) not later than 14 days before the change occurs, or
  - (b) if that is not reasonably practicable, as soon as is reasonably practicable.
- (3) Subsection (2) applies—
- (a) in relation to an application made by a partnership or by a member of a partnership, to any change occurring at a relevant time in the members of the partnership, and
  - (b) in relation to an application made by a body corporate, to any change occurring at a relevant time in the officers of that body,
- unless the change, involves a person becoming a partner or officer and information relating to that change was furnished to the Secretary of State in pursuance of section 18(1)(b)(iv) or (v) at the time when the application was made.
- (4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (5) In this section “relevant time”, in relation to an application made under section 18, means a time when—
- (a) the application has been neither granted nor refused by the Secretary of State; or
  - (b) a certificate issued in pursuance of the application is in force under this Part; and subsections (3) and (4) of that section apply for the purposes of this section.

## **21 Payments in respect of the provision of security services.**

- (1) Any person who, in respect of the provision of security services, pays any sum of money to a person who is neither—
- (a) the holder of a certificate in force under this Part, nor
  - (b) a person acting on behalf of the holder of such a certificate,
- shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

- (3) It shall be a defence for a person charged with an offence under subsection (1) to prove that, at the time when he paid the money in question, he had reasonable grounds for believing that the person to whom he paid it was, or was acting on behalf of, the holder of a certificate in force under this Part.

## **22 Liability of directors etc.**

- (1) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

## **23 Notifications.**

- (1) Any notification given under this Part shall be in writing.
- (2) Any notification required by this Part to be given by any person to the Secretary of State may be sent to him by post.
- (3) Any notification required by this Part to be given by the Secretary of State to any person may—
- (a) if that person is an individual, be sent to him by post addressed to him at his usual or last-known place of residence or business;
  - (b) if that person is a partnership, be sent to a partner, or to a person having the control or management of the partnership business, at the principal office of the partnership; or
  - (c) if that person is a body corporate, be sent to the secretary or clerk of that body at its registered or principal office.
- (4) This section is without prejudice to any other lawful method of giving a notification.

## **24 Expenses of Secretary of State.**

Any expenses incurred by the Secretary of State under this Part shall be paid out of money provided by Parliament.

# **PART IV**

## **GENERAL**

## **25 Minor and consequential amendments, repeals and revocation.**

- (1) The enactments mentioned in Schedule 1 shall have effect subject to the minor and consequential amendments there specified.

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- (2) The enactments mentioned in Part I of Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule, and the enactment mentioned in Part II of that Schedule is hereby revoked to the extent so specified.
- (3) Any order in force under section 33 of the 1978 Act at the commencement of section 13 of this Act is hereby revoked.

## **26 Commencement, expiry, revival and eventual repeal of Act.**

- (1) This Act, except section 12 and Part III, shall come into force at the end of the period of one month beginning with the day on which it is passed, and section 12 and Part III shall come into force on such day as the Secretary of State may by order appoint.
- (2) An order under subsection (1)—
  - (a) may appoint different days for different provisions, and
  - (b) shall be made by statutory instrument.
- (3) The provisions of Parts II and III shall expire with 21st March 1988 unless continued in force by an order under subsection (4).
- (4) The Secretary of State may provide by order made by statutory instrument—
  - (a) that all or any of the provisions of Parts II and III which are for the time being in force (including any in force by virtue of an order under this subsection) shall continue in force for a period not exceeding 12 months from the coming into operation of the order;
  - (b) that all or any of those provisions which are for the time being in force shall cease to be in force; or
  - (c) that all or any of those provisions which are not for the time being in force shall come into force again and remain in force for a period not exceeding 12 months from the coming into operation of the order.
- (5) No order under subsection (4) shall be made unless—
  - (a) a draft of the order has been approved by resolution of each House of Parliament; or
  - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (6) Every order under subsection (4), except an order of which a draft has been so approved—
  - (a) shall be laid before Parliament; and
  - (b) unless approved by resolution of each House of Parliament before the end of the period of 40 days beginning with the date on which it was made, shall cease to have effect at the end of that period (but without prejudice to anything previously done or to the making of a new order).

In reckoning for the purposes of this subsection any period of 40 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (7) With the exception of section 13(6) to (10), this subsection and section 27, this Act shall, by virtue of this subsection, be repealed immediately after the repeal of the 1978 Act takes effect under section 33(9) of that Act (as amended by section 13(4) above).

**27 Short title, construction and extent.**

- (1) This Act may be cited as the Northern Ireland (Emergency Provisions) Act 1987.
- (2) In this Act “the 1978 Act” means the Northern Ireland (Emergency Provisions) Act 1978.
- (3) This Act extends to Northern Ireland only.

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## SCHEDULES

### SCHEDULE 1

Section 25(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *NORTHERN IRELAND (EMERGENCY PROVISIONS) ACT 1978 (c. 5)*

- 1 In section 13 (constables' general power of arrest and seizure)—
  - (a) in subsection (1), for “whom he suspects of committing, having committed or being” substitute “who he has reasonable grounds to suspect is committing, has committed or is”;
  - (b) in subsection (2), for “suspects him of being” substitute “has reasonable grounds for suspecting him to be”; and
  - (c) in subsection (3), for “suspects” substitute “has reasonable grounds to suspect”.
  
- 2 In section 14 (powers of arrest of members of Her Majesty’s forces)—
  - (a) in subsection (1), for “whom he suspects of committing, having committed or being” substitute “who he has reasonable grounds to suspect is committing, has committed or is”; and
  - (b) in subsection (3), for paragraph (b) substitute the following paragraph—
    - “(b) if there are reasonable grounds for suspecting that the person is a terrorist or has committed an offence involving the use or possession of an explosive substance or firearm, where there are reasonable grounds for suspecting him to be.”
  
- 3 In section 15 (power to search for munitions and radio transmitters)—
  - (a) in subsection (2), for “it is suspected” substitute “there are reasonable grounds for suspecting”;
  - (b) in subsection (3)(b), for “whom he suspects of having” substitute “who he has reasonable grounds to suspect has”;
  - (c) for subsection (4) substitute—
    - “(4) Where a member of Her Majesty’s forces or a constable is empowered by virtue of any provision of this Act to search any premises or other place or any person—
      - (a) he may seize any munitions found in the course of the search (unless it appears to him that the munitions are being, have been and will be used only lawfully) and may retain and, if necessary, destroy them; and
      - (b) he may seize any transmitter found in the course of the search (unless it appears to him that the transmitter has been, is being and is likely to be used only lawfully) and may retain it.”; and

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- (d) in subsection (5), in the definition of “transmitter”, for “and includes” substitute “or”.
- 4 In section 18 (power to stop and question)—
- (a) in subsection (1)(b), after “other” insert “recent”; and
- (b) in subsection (2), for the words from “imprisonment” onwards substitute “a fine not exceeding level 5 on the standard scale.”
- 5 In section 31(1) (interpretation), omit the definition of “constable”.
- 6 In section 32 (orders and regulations)—
- (a) in subsection (1), after “orders conferred by” insert “section 19A above and”;
- (b) in subsection (3), for the words from the beginning to “Schedules)” substitute “Subject to subsection (5) below, no order or regulations under this Act”;
- (c) in subsection (4), for the words from the beginning to “approved) shall” substitute “Subject to subsection (5) below, orders and regulations under this Act shall, if not so approved in draft,”; and
- (d) after that subsection add—
- “(5) Subsections (3) and (4) above do not apply to—
- (a) any order under section 19A above or under Schedule 1 or 3 to this Act; or
- (b) any regulations under section 5A above;
- but a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 7 In section 33 (commencement etc. of provisions of the 1978 Act)—
- (a) in subsection (5), at the end add “or (where the Lord Chancellor gives a direction under that subsection with respect to the trial) to the Crown Court sitting at the place specified in the direction.”; and
- (b) for subsection (7) substitute—
- “(7) It is hereby declared that the expiry or cesser of any provision of section 6 above shall not affect—
- (a) any committal of a person for trial in accordance with that provision to the Crown Court sitting either in Belfast or elsewhere, or
- (b) any committal of a person for trial which, in accordance with that provision, has taken effect as a committal for trial to the Crown Court sitting elsewhere than in Belfast,
- in a case where the indictment has not been presented.”
- 8 (1) In Schedule 4 (scheduled offences), Part I (substantive offences) shall be amended as follows.
- (2) In paragraph 12(f), at the end add “, subject also to note 2 below.”
- (3) In note 2, after paragraph (c) insert—
- “(cc) section 20 of the Theft Act (Northern Ireland) 1969 (subject to note 5 below); or”.

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(4) In note 5—

- (a) for “15 or 20” substitute “or 15”; and
- (b) at the end add “; and the Attorney General for Northern Ireland shall not certify that an offence under section 20 of the said Act of 1969 is not to be treated as a scheduled offence in a case where it is charged that the offence was so committed.”

*JUDICATURE (NORTHERN IRELAND) ACT 1978 (c. 23)*

- 9 In Part II of Schedule 5 (minor and consequential amendments), in the entry relating to section 2(1)(a) of the Northern Ireland (Emergency Provisions) Act 1978, for “sections 2(1)(a) and” substitute “section”.

SCHEDULE 2

Section 25(2).

REPEALS AND REVOCATION

**PART I**

Repeals

Chapter	Short title	Extent of repeal
1978 c. 5.	Northern Ireland (Emergency Provisions) Act 1978.	In section 22(2), the word “and” at the end of paragraph (c).  In section 31(1), the definition of “constable”.
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	In Part II of Schedule 5, the entries relating to sections 6 and 33(7) of the Northern Ireland (Emergency Provisions) Act 1978.

**PART II**

Revocation

Number	Title	Extent of revocation
S.I. 1981/1675 (N.I. 26).	Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraph 49.