



Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

2023 CHAPTER 41

PART 3

INVESTIGATIONS, LEGAL PROCEEDINGS ETC AND RELEASE OF PRISONERS

Interim custody orders

46 Interim custody orders: validity

- (1) This section applies in relation to the functions conferred by—
 - (a) Article 4(1) of the 1972 Order, and
 - (b) paragraph 11(1) of Schedule 1 to the 1973 Act,
(which enabled interim custody orders to be made, and which are referred to in this section as the “order-making functions”).
- (2) The order-making functions are to be treated as having always been exercisable by authorised Ministers of the Crown (as well as by the Secretary of State).
- (3) An interim custody order is not to be regarded as having ever been unlawful just because an authorised Minister of the Crown exercised any of the order-making functions in relation to the order.
- (4) The detention of a person under the authority of an interim custody order is not to be regarded as having ever been unlawful just because an authorised Minister of the Crown exercised any of the order-making functions in relation to the order.
- (5) Subsections (3) and (4) do not limit the effect of subsection (2).
- (6) This section and section 47 apply only in relation to an exercise of any of the order-making functions which was conduct forming part of the Troubles (see, in particular, section 1(2)); and for this purpose any exercise of any of the order-making functions

Status: This is the original version (as it was originally enacted).

must be assumed to have been conduct forming part of the Troubles unless the contrary is shown.

(7) In this section and section 47—

“1972 Order” means the Detention of Terrorists (Northern Ireland) Order 1972 (S.I. 1972/1632 (N.I. 15));

“1973 Act” means the Northern Ireland (Emergency Provisions) Act 1973;

“authorised Minister of the Crown” means a Minister of the Crown authorised to sign interim custody orders—

(a) by Article 4(2) of the 1972 Order (in the case of such orders under that Article), or

(b) by paragraph 11(2) of Schedule 1 to the 1973 Act (in the case of such orders under that paragraph);

“interim custody order” means an interim custody order under—

(a) Article 4 of the 1972 Order, or

(b) paragraph 11 of Schedule 1 to the 1973 Act;

“order-making functions” has the meaning given in subsection (1).