Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2004 No. (N.I.)

NORTHERN IRELAND

The Prison (Amendment) (Northern Ireland) Order 2004

Made - - - -	*2004*
Coming into operation	*2004*

At the Court at Buckingham Palace, the ** day of ** 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Title and commencement

1.—(1) This Order may be cited as the Prison (Amendment) (Northern Ireland) Order 2004.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order "the Prison Act" means the Prison Act (Northern Ireland) 1953 (c. 18).

Membership of board of visitors for prison

3. In section 10(4) of the Prison Act (which requires at least two members of a board of visitors to be justices of the peace)—

(a) the words from the beginning to "justices of the peace and" are repealed; and

(b) after "members" there shall be inserted "of the board of visitors".

Detention in the custody of a constable where admission to prison not practicable

4. After section 15 of the Prison Act there shall be inserted—

"**Detention in the custody of a constable where admission to prison not practicable**

15A. Where—

(a) a person is in the custody of a constable;

(b) it is the duty of the constable to take that person to a prison in which his detention is authorised by law; and

(c) it is for any reason not practicable to secure the admission of that person to that prison,

that person may lawfully be detained in the custody of a constable until such time as he can be admitted to that prison or is required to appear before a court.".

Testing prisoners for alcohol

5. After section 19 of the Prison Act there shall be inserted—

"**Testing prisoners for alcohol**

19A.—(1) If an authorisation is in force for the prison, any designated prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has alcohol in his body.

(2) If the authorisation so provides, the power conferred by subsection (1) shall include power—

(a) to require a prisoner to provide a sample of breath, whether instead of or in addition to a sample of urine, and

(b) to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine, a sample of breath or both.

(3) In this section—

"authorisation" means an authorisation by the Secretary of State;

"intimate sample" has the same meaning as in Part VI of the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12);

"designated prison officer", in relation to any prison, means a person appointed under section 2(2) who has been designated for the purposes of this section by the governor of the prison.".

Testing prisoners for drugs

6. After section 19A of the Prison Act there shall be inserted—

"**Testing prisoners for drugs**

19B.—(1) If an authorisation is in force for the prison, any designated prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined