



Northern Ireland
Assembly

Justice Bill

Annotated Marshalled List of Amendments
Consideration Stage

Tuesday, 2 June 2015

Amendments tabled up to 9.30am Thursday, 28 May 2015 and selected for debate

The Bill will be considered in the following order-

Clauses, Schedules and Long Title

Clause 7 [*Question that Clause 7 stand part negated on Division*]

The Member listed below gives notice of his intention to oppose the question that clause 7 stand part of the Bill.

Mr Jim Allister

Amendment 1 [*Made*]

New Clause

After clause 7 insert -

‘Preliminary investigations

7A. Article 30 of the Magistrates’ Courts (Northern Ireland) Order 1981 (which enables a magistrates’ court to conduct a preliminary investigation of an indictable offence) shall apply only when the court is satisfied that a preliminary investigation is required in the interests of justice; and accordingly in all other cases committal proceedings in a magistrates’ court shall be by way of preliminary inquiry under that Order.’

Clause 8 [Question that Clause 8 stand part negatived]

The Member listed below gives notice of his intention to oppose the question that clause 8 stand part of the Bill.

Mr Jim Allister

Amendment 2 [Made]

New Clause

After clause 8 insert -

‘Mixed committals: evidence on oath at preliminary inquiry

8A. Article 34(2) of the Magistrates’ Courts (Northern Ireland) Order 1981 (which enables witnesses to give evidence on oath at a preliminary inquiry) shall apply only when the court is satisfied that such is required in the interests of justice.’

Mr Jim Allister

Clause 9 [Question that Clause 9 stand part negatived]

The Member listed below gives notice of his intention to oppose the question that clause 9 stand part of the Bill.

Mr Jim Allister

Amendment 3 [Made]

New Clause

After clause 12 insert -

‘Direct committal for trial: offences related to specified offences

12A.—(1) Where—

- (a) this Chapter applies in relation to an accused (“A”) who—
 - (i) is charged with an offence (“offence A”) which is not a specified offence, and
 - (ii) is not also charged with a specified offence,
- (b) A appears or is brought before the court on the same occasion as another person (“B”) charged with a specified offence,
- (c) the court commits B for trial for the specified offence under section 12, and
- (d) offence A appears to the court to be related to the specified offence for which the court commits B for trial,

the court shall forthwith commit A to the Crown Court for trial for offence A.

(2) Where—

- (a) this Chapter applies in relation to an accused (“A”) who—
 - (i) is charged with an offence (“offence A”) which is not a specified offence, and
 - (ii) is not also charged with a specified offence,
- (b) on a previous occasion another person (“B”) has appeared or been brought before the court charged with a specified offence,
- (c) the court has on that occasion committed B for trial for the specified offence under section 12, and
- (d) offence A appears to the court to be related to the specified offence for which the court committed B for trial,

the court may forthwith commit A to the Crown Court for trial for offence A if the court considers that it is necessary or appropriate in the interests of justice to do so.

(3) Where the court commits the accused for trial for an offence under this section—

- (a) it shall accordingly not conduct committal proceedings in relation to that offence; and
- (b) the functions of the court then cease in relation to that offence, except as provided by—
 - (i) section 13; or
 - (ii) Article 29(2)(a) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or any regulations under Article 26(3) of the Access to Justice (Northern Ireland) Order 2003.

(4) For the purposes of this section an offence is related to a specified offence if a count charging the offence could be included in the same indictment as a count charging the specified offence.’

Minister of Justice

Amendment 4 [*Made*]

Clause 14, Page 8, Line 31

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 5 [*Made*]

Clause 14, Page 9, Line 14

Leave out ‘(e) or (f)’ and insert ‘or (e)’

Minister of Justice

Amendment 6 [*Withdrawn*]

Clause 17, Page 11, Line 39

After ‘conviction,’ insert ‘excepting violent or controlling or coercive offences by a current or previous intimate partner,’

*Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood*

Amendment 7 [Made]

Clause 33, Page 23, Line 14

Leave out from ‘and’ to end of line 16

Minister of Justice

Amendment 8 [Made]

Clause 33, Page 23, Line 40

At end insert ‘and members of the victim’s family’

Minister of Justice

Amendment 9 [Made]

Clause 33, Page 23, Line 43

At end insert ‘and members of the victim’s family’

Minister of Justice

Amendment 10 [Made]

Clause 33, Page 23, Line 43

At end insert -

‘(9) Regulations may provide that, except in prescribed cases or circumstances, paragraphs (c) and (d) of subsection (8) are to have effect with the omission of the words “and members of the victim’s family”.

(10) The provisions of the Victim Charter referred to in section 29(6)(a) apply for the purposes of subsections (2) and (8)(c) and (d) as they apply for the purposes of subsection (3) of section 29.’

Minister of Justice

Amendment 11 [Made]

New Clause

After clause 35 insert -

Information sharing

Disclosure for purposes of victim and witness support services and victim information schemes

35A. Schedule 3A (which makes provision for the disclosure of information for the purposes of victim and witness support services and victim information schemes) has effect.’

Minister of Justice

Amendment 12 [Made]

Clause 37, Page 26, Line 35

Leave out ‘subsection (3)(b)’ and insert ‘subsection (4)(b)’

Minister of Justice

Amendment 13 [Made]

Clause 39, Page 27

Leave out lines 20 to 22 and insert -

“(4A) The Department may from time to time publish guidance to chief officers as to the exercise of functions under subsection (4); and in exercising functions under that subsection a relevant chief officer must have regard to any guidance for the time being published under this subsection.”’

Minister of Justice

Amendment 14 [Made]

New Clause

After clause 39 insert -

‘Review of criminal record certificates

39A.—(1) The Police Act 1997 is amended as follows.

(2) After section 117A (inserted by section 39(5)) insert—

“Review of criminal record certificates

117B. Schedule 8A (which provides for an independent review of certain criminal record certificates) has effect.”

(3) After Schedule 8 insert as Schedule 8A the Schedule set out in Schedule 3B to this Act.’

Minister of Justice

Amendment 15 [Made]

Clause 40, Page 29, Line 44

At end insert -

(7A) The Department must not grant an application as mentioned in subsection (4)(c) or (5) (c) if—

- (a) the certificate in question is an enhanced criminal record certificate; and
- (b) the certificate contains (or would contain) information which relates to an individual other than the individual whose certificate it is.’

Minister of Justice

Amendment 16 [Made]

Clause 41, Page 31, Line 18

Leave out ‘it is’ and insert ‘be’

Minister of Justice

Amendment 17 [Made]

New Clause

After clause 42 insert -

‘Disclosures by Department of Justice to Disclosure and Barring Service

42A. In section 119 of the Police Act 1997 (sources of information) after subsection (4) insert—

“(4A) The Department of Justice may provide to the Disclosure and Barring Service any information it holds for the purposes of this Part in order to enable the Disclosure and Barring Service to determine whether, in relation to any person, paragraphs 1, 2, 3, 5, 7, 8, 9 or 11 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 applies or appears to apply.”.’

Minister of Justice

Amendment 18 [Made]

New Clause

After clause 42 insert -

‘Inclusion of cautions and other diversionary disposals in criminal records

42B. In Article 29 of the Police and Criminal Evidence (Northern Ireland) Order 1989 for paragraph (4) substitute—

“(4) The Department of Justice may by regulations make provision for recording—

- (a) convictions for such offences as are specified in the regulations (“recordable offences”);
- (b) cautions given in respect of recordable offences;
- (c) informed warnings given in respect of recordable offences;
- (d) diversionary youth conferences in respect of recordable offences.

(5) For the purposes of paragraph (4)—

- (a) “caution” means a caution given to a person in respect of an offence which, at the time when the caution is given, the person has admitted;
- (b) “diversionary youth conference” has the meaning given by Part 3A of the Criminal Justice (Children) (Northern Ireland) Order 1998.”.’

Minister of Justice

Amendment 19 [Made]

New Clause

After clause 43 insert -

PART 5A

CHILD PROTECTION DISCLOSURES

Child protection disclosures

43A.—(1) The Criminal Justice (Northern Ireland) Order 2008 is amended as follows.

(2) After Article 50 (Guidance to agencies on assessing and managing certain risks to the public) in paragraph (2) insert—

“(2A) Guidance under this Article must contain arrangements for the consideration of disclosure, to any particular member of the public, of information in the possession of the agencies about the relevant previous convictions of any specified sexual or violent offender, where it is necessary to protect a particular child or children from serious harm caused by the offender. Such arrangements may include conditions for preventing the member of the public concerned from disclosing the information to any other person.”

(3) In paragraph (3), for “Paragraph 2 does” substitute “Paragraphs (2) and (2A) do”.

(4) In Article 49, (interpretation), at end of paragraph (1) insert—

“; “relevant previous convictions” means convictions, findings or cautions which relate to the offender’s specification in guidance under Article 50”.’

Mr Paul Frew

The Lord Morrow of Clogher Valley

Amendment 20 [Made]

Clause 46, Page 36, Line 7

At end insert -

‘(9A) If where the offender is attending proceedings through a live link it appears to the court—

- (a) that the offender is not able to see and hear the court and to be seen and heard by it, and
- (b) that this cannot be immediately corrected,

the court must adjourn the proceedings.’

Amendment 21 [Not Moved]

New Clause

After clause 49 insert -

PART 6A

DOMESTIC VIOLENCE PROTECTION NOTICES, ORDERS AND DISCLOSURES

Power to issue a domestic violence protection notice

49A.—(1) A member of a police force not below the rank of superintendent (“the authorising officer”) may issue a domestic violence protection notice (“a DVPN”) under this section.

(2) A DVPN may be issued to a person (“P”) aged 16 years or over if the authorising officer has reasonable grounds for believing that—

- (a) P has been violent towards, or has threatened violence towards or controlled or coerced, a former or current intimate partner or an associated person, and
- (b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by P.

(3) Before issuing a DVPN, the authorising officer must, in particular, consider—

- (a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN (whether or not that person is an associated person);
- (b) the opinion of the person for whose protection the DVPN would be issued as to the issuing of the DVPN;
- (c) any representations made by P as to the issuing of the DVPN, and
- (d) in the case of provision included by virtue of subsection (8), the opinion of any other associated person who lives in the premises to which the provision would relate.

(4) The authorising officer must take reasonable steps to discover the opinions mentioned in subsection (3).

(5) But the authorising officer may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.

(6) A DVPN must contain provision to prohibit P from molesting the person for whose protection it is issued.

(7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPN is issued, the DVPN may also contain provision—

- (a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPN is issued;
- (b) to prohibit P from entering the premises;
- (c) to require P to leave the premises, or
- (d) to prohibit P from coming within such distance of the premises as may be specified in the DVPN.

(9) An “associated person” means a person who is associated with P within the meaning of section 62 of the Family Law Act 1996;

(10) Subsection (11) applies where a DVPN includes provision in relation to premises by virtue of subsection (8)(b) or (8)(c) and the authorising officer believes that—

(a) P is a person subject to service law in accordance with sections sections 367 to 369 of the Armed Forces Act 2006, and

(b) the premises fall within paragraph (a) of the definition of “service living accommodation” in section 96(1) of that Act.

(11) The authorising officer must make reasonable efforts to inform P’s commanding officer (within the meaning of section 360 of the Armed Forces Act 2006) of the issuing of the notice.

(12) A former or current intimate partner means a person who is personally connected with P within the meaning of section 76 of the Serious Crime Act 2015.

(13) Controlling or coercive behaviour includes behaviour by P that is within the meaning of section 76 of the Serious Crime Act 2015 and financial coercion.

(14) Financial coercion means a series of acts of manipulation by P to the financial detriment of A as provided in regulations by Department.’

Mrs Dolores Kelly

Mrs Karen McKeivitt

Mr Alban Maginness

Mr Colum Eastwood

Amendment 22 [*Not called*]

New Clause

After clause 49 insert -

‘Contents and service of a domestic violence protection notice

49B.—(1) A DVPN must state—

(a) the grounds on which it has been issued;

(b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN;

(c) that an application for a domestic violence protection order under section 49D will be heard within 48 hours of the time of service of the DVPN and a notice of the hearing will be given to P;

(d) that the DVPN continues in effect until that application has been determined, and

(e) the provision that a magistrates’ court may include in a domestic violence protection order.

(2) A DVPN must be in writing and must be served on P personally by a constable.

(3) On serving P with a DVPN, the constable must ask P for an address for the purposes of being given the notice of the hearing of the application for the domestic violence protection order.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 23 [Not called]

New Clause

After clause 49 insert -

‘Breach of a domestic violence protection notice

49C.—(1) A person arrested by virtue of section 49B(1)(b) for a breach of a DVPN must be held in custody and brought before the magistrates’ court which will hear the application for the DVPO under section 49D—

- (a) before the end of the period of 24 hours beginning with the time of the arrest, or
- (b) if earlier, at the hearing of that application.

(2) If the person is brought before the court by virtue of subsection (1)(a), the court may remand the person.

(3) If the court adjourns the hearing of the application by virtue of section 49D(8), the court may remand the person.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 24 [Not called]

New Clause

After clause 49 insert -

‘Application for a domestic violence protection order

49D.—(1) If a DVPN has been issued, a constable must apply for a domestic violence protection order (“a DVPO”).

(2) The application must be made by complaint to a magistrates’ court.

(3) The application must be heard by the magistrates’ court not later than 48 hours after the DVPN was served pursuant to section 49B(2).

(4) A notice of the hearing of the application must be given to P.

(5) The notice is deemed given if it has been left at the address given by P under section 49B(3).

(6) But if the notice has not been given because no address was given by P under section 49B(3), the court may hear the application for the DVPO if the court is satisfied that the constable applying for the DVPO has made reasonable efforts to give P the notice.

(7) The magistrates’ court may adjourn the hearing of the application.

(8) If the court adjourns the hearing, the DVPN continues in effect until the application has been determined.

(9) On the hearing of an application for a DVPO, section 20 of the Magistrates' Courts (Northern Ireland) Order 1981 does not apply in relation to a person for whose protection the DVPO would be made, except where the person has given oral or written evidence at the hearing.'

Mrs Dolores Kelly

Mrs Karen McKeivitt

Mr Alban Maginness

Mr Colum Eastwood

Amendment 25 [Not called]

New Clause

After clause 49 insert -

'Conditions for and contents of a domestic violence protection order

49E.—(1) The court may make a DVPO if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that P has been violent towards, or has threatened violence towards or coerced, a former or current intimate partner or, an associated person.

(3) The second condition is that the court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by P.

(4) Before making a DVPO, the court must, in particular, consider—

(a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the DVPO (whether or not that person is a former or current intimate partner or an associated person), and

(b) any opinion of which the court is made aware—

(i) of the person for whose protection the DVPO would be made, and

(ii) in the case of provision included by virtue of subsection (8), of any other associated person who lives in the premises to which the provision would relate.

(5) But the court may make a DVPO in circumstances where the person for whose protection it is made does not consent to the making of the DVPO.

(6) A DVPO must contain provision to prohibit P from molesting the person for whose protection it is made.

(7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPO is made, the DVPO may also contain provision—

(a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is made;

(b) to prohibit P from entering the premises;

(c) to require P to leave the premises, or

(d) to prohibit P from coming within such distance of the premises as may be specified in the DVPO.

(9) A DVPO must state that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO.

(10) A DVPO may be in force for—

- (a) no fewer than 14 days beginning with the day on which it is made, and
- (b) no more than 28 days beginning with that day.

(11) A DVPO must state the period for which it is to be in force.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 26 [Not called]

New Clause

After clause 49 insert -

‘Breach of a domestic violence protection order

49F.—(1) A person arrested by virtue of section 49E(9) for a breach of a DVPO must be held in custody and brought before a magistrates’ court within the period of 24 hours beginning with the time of the arrest.

(2) If the matter is not disposed of when the person is brought before the court, the court may remand the person.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 27 [Not called]

New Clause

After clause 49 insert -

‘Further provision about remand

49G.—(1) This section applies for the purposes of the remand of a person by a magistrates’ court under section 49C(2) or (3) or 49F(2).

(2) In the instance of a magistrates’ court remanding a person on bail for a period exceeding 8 clear days under section 47(4) of the Magistrates’ Courts (Northern Ireland) Order 1981, for those purposes the reference to the “other party” is to be read—

- (a) in the case of a remand prior to the hearing of an application for a DVPO, as a reference to the authorising officer;
- (b) in any other case, as a reference to the constable who applied for the DVPO.

(3) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.

(4) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.

(5) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.

(6) If the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, the court has the same power to make an order under section 42 of that Act (remand to hospital for medical report) as it has under that section in the case of an accused person (within the meaning of that section).

(7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 28 [Not called]

New Clause

After clause 49 insert -

‘Domestic Violence Disclosures

Guidance

49H.—(1) The Department must provide guidance relating to the exercise by a constable of functions under sections 49A to 49H to enable him or her to—

- (a) undertake full checks to inform a risk assessment and disclosure of P’s previous history of domestic violence or violent acts at the request of the current or former intimate partner of P;
- (b) proactively disclose information in prescribed circumstances to a current or former intimate partner of P relating to P’s previous history of domestic violence or violent acts.

(2) A constable must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.

(3) Before issuing guidance under this section, the Department must consult—

- (a) the Association of Chief Police Officers;
- (b) the Police Service of Northern Ireland, and
- (c) such other persons as the Department should think fit.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 29 [Not called]

New Clause

After clause 49 insert -

‘Pilot schemes

49I.—(1) The Department may by order made by statutory instrument provide for any provision of sections 49A to 49H to come into force for a period of time to be specified in or under the order for the purpose of assessing the effectiveness of the provision.

(2) Such an order may make different provision for different areas.

(3) More than one order may be made under this section.

(4) Provision included in an order under this section does not affect the provision that may be included in relation to sections 49A to 49G in an order under section 91.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

Amendment 30 [Made]

Clause 65, Page 49

Leave out lines 2 to 4 and insert -

‘(4) Fingerprints and photographs taken from an offender under this section—

(a) are to be used for verifying the identity of the offender at any time while the offender is subject to notification requirements; and

(b) may also, subject to the following provisions of this section, be used for any purpose related to the prevention, detection, investigation or prosecution of offences (whether or not under this Part), but for no other purpose.

(5) Fingerprints taken from an offender under this section must be destroyed no later than the date on which the offender ceases to be subject to notification requirements, unless they are retained under the power conferred by subsection (7).

(6) Subsection (7) applies where—

(a) fingerprints have been taken from a person under any power conferred by the Police and Criminal Evidence (Northern Ireland) Order 1989;

(b) fingerprints have also subsequently been taken from that person under this section; and

(c) the fingerprints taken as mentioned in paragraph (a) do not constitute a complete and up to date set of the person's fingerprints or some or all of those fingerprints are not of sufficient quality to allow satisfactory analysis, comparison or matching.

(7) Where this subsection applies—

(a) the fingerprints taken as mentioned in subsection (6)(b) may be retained as if taken from the person under the power mentioned in subsection (6)(a); and

(b) the fingerprints taken as mentioned in subsection (6)(a) must be destroyed.

(8) Photographs taken of any part of the offender under this section must be destroyed no later than the date on which the offender ceases to be subject to notification requirements unless they are retained by virtue of an order under subsection (9).

(9) The Chief Constable may apply to a District Judge (Magistrates' Courts) for an order extending the period for which photographs taken under this section may be retained.

(10) An application for an order under subsection (9) must be made within the period of 3 months ending on the last day on which the offender will be subject to notification requirements.

(11) An order under subsection (9) may extend the period for which photographs may be retained by a period of 2 years beginning when the offender ceases to be subject to notification requirements.

(12) The following persons may appeal to the county court against an order under subsection (9), or a refusal to make such an order—

(a) the Chief Constable;

(b) the person in relation to whom the order was sought.

(13) In this section—

(a) "photograph" includes any process by means of which an image may be produced; and

(b) references to the destruction or retention of photographs or fingerprints include references to the destruction or retention of copies of those photographs or fingerprints.'

Minister of Justice

Amendment 31 [Made]

Clause 68, Page 51, Line 8

After 'may' insert ', subject to subsections (3A) to (3E),'

Minister of Justice

Amendment 32 [Made]

Clause 68, Page 51, Line 13

At end insert -

(3A) The information must be destroyed no later than the date on which the offender ceases to be subject to notification requirements unless it is retained by virtue of an order under subsection (3B).

(3B) The Chief Constable may apply to a District Judge (Magistrates' Court) for an order extending the period for which the information may be retained.

(3C) An application for an order under subsection (3B) must be made within the period of 3 months ending on the last day on which the offender will be subject to notification requirements.

(3D) An order under subsection (3B) may extend the period for which the information may be retained by a period of 2 years beginning when the offender ceases to be subject to notification requirements.

(3E) The following persons may appeal to the county court against an order under subsection (3B), or a refusal to make such an order—

- (a) the Chief Constable;
- (b) the person in relation to whom the order was sought.’

Minister of Justice

Amendment 33 [*Made*]

Clause 70, Page 52, Line 3

Leave out ‘and’ and insert -

‘(d) that, in a case where a person other than the offender resides there, it is proportionate in all the circumstances for a constable to enter and search the premises for that purpose; and’

Minister of Justice

Amendment 34 [*Negated on Division by Cross-Community Vote*]

New Clause

After clause 71 insert -

PART 7A

ENDING THE LIFE OF AN UNBORN CHILD

Ending the life of an unborn child

71A.—(1) Without prejudice to section 58 and section 59 of the Offences Against the Person Act 1861 and section 25 of the Criminal Justice Act (Northern Ireland) 1945 and subject to subsection (2) any person who ends the life of an unborn child at any stage of that child’s development shall be guilty of an offence and liable on conviction on indictment to a period of not more than ten years’ imprisonment and a fine.

(2) It shall be a defence for any person charged with an offence under this section to show—

- (a) that the act or acts ending the life of an unborn child were lawfully performed at premises operated by a Health and Social Care Trust, or
- (b) that the act or acts ending the life of the unborn child were lawfully performed without fee or reward in circumstances of urgency when access to premises operated by a Health and Social Care Trust was not possible.

(3) For the purposes of this section a person ends the life of an unborn child if that person does any act, or causes or permits any act, with the intention of bringing about the end of the life of an unborn child, and, by reason of any such act, the life of that unborn child is ended.

(4) For the purposes of this section ‘lawfully’ in subsection (2) means in accordance with any defence or exception under section 58 and section 59 of the Offences Against the Person Act 1861 and section 25 of the Criminal Justice Act (Northern Ireland) 1945.’

Amendment 35 [Made]

New Clause

After clause 76 insert -

Personal samples, DNA profiles and fingerprints

Power to take further fingerprints or non-intimate samples

76A.—(1) In Article 61 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (fingerprinting)—

(a) in paragraphs (5A) and (5B) for the words after “investigation” in sub-paragraph (b) substitute “but—

- (i) paragraph (4A)(a) or (b) applies, or
- (ii) paragraph (5C) applies.”;

(b) after paragraph (5B) insert—

“(5C) This paragraph applies where—

- (a) the investigation was discontinued but subsequently resumed, and
- (b) before the resumption of the investigation the fingerprints were destroyed pursuant to Article 63B(2).” .

(2) In Article 63 of that Order (non-intimate samples)—

(a) at the end of paragraph (3ZA)(b) insert “, or

(iii) paragraph (3AA) applies.”;

(b) in paragraph (3A)(b) for “insufficient; or” substitute “insufficient, or

(iii) paragraph (3AA) applies; or”;

(c) after paragraph (3A) insert—

“(3AA) This paragraph applies where the investigation was discontinued but subsequently resumed, and before the resumption of the investigation—

- (a) any DNA profile derived from the sample was destroyed pursuant to Article 63B(2), and
- (b) the sample itself was destroyed pursuant to Article 63P(2), (3) or (10).”.

(3) In Schedule 2A to that Order (fingerprinting and samples: power to require attendance at police station)—

(a) in paragraph 1 (fingerprinting: persons arrested and released)—

(i) in sub-paragraph (2) for “Article 61(5A)(b)” substitute “Article 61(5A)(b)(i)”;

(ii) after sub-paragraph (3) insert—

“(4) The power under sub-paragraph (1) may not be exercised in a case falling within Article 61(5A)(b)(ii) (fingerprints destroyed where investigation interrupted) after the end of the period of six months beginning with the day on which the investigation was resumed.”;

(b) in paragraph 2 (fingerprinting: persons charged, etc.)—

(i) in sub-paragraph (2)(b) for “Article 61(5B)(b)” substitute “Article 61(5B)(b)(i)”;

(ii) at the end of sub-paragraph (2) insert “, or

- “(c) in a case falling within Article 61(5B)(b)(ii) (fingerprints destroyed where investigation interrupted), the day on which the investigation was resumed.”;
- (c) in paragraph 9 (non-intimate samples: persons arrested and released)—
- (i) in sub-paragraph (2) for “within Article 63(3ZA)(b)” substitute “within Article 63(3ZA)(b)(i) or (ii)”;
- (ii) after sub-paragraph (3) insert—
- “(4) The power under sub-paragraph (1) may not be exercised in a case falling within Article 63(3ZA)(b)(iii) (sample, and any DNA profile, destroyed where investigation interrupted) after the end of the period of six months beginning with the day on which the investigation was resumed.”;
- (d) in paragraph 10 (non-intimate samples: person charged etc.)—
- (i) in sub-paragraph (3) for “within Article 63(3A)(b)” substitute “within Article 63(3A)(b)(i) or (ii)”;
- (ii) after sub-paragraph (4) insert—
- “(5) The power under sub-paragraph (1) may not be exercised in a case falling within Article 63(3A)(b)(iii) (sample, and any DNA profile, destroyed where investigation interrupted) after the end of the period of six months beginning with the day on which the investigation was resumed.”.

Minister of Justice

Amendment 36 [Made]

New Clause

After clause 76 insert -

‘Retention of material: persons convicted of an offence in England and Wales or Scotland

76B. After Article 63G of the Police and Criminal Evidence (Northern Ireland) Order 1989 insert—

“Retention of material: effect of convictions in England and Wales or Scotland

63GA.—(1) This Article applies to Article 63B material which does not fall within Article 63G (2).

(2) If the material relates to a person who has been convicted under the law in force in England and Wales of a recordable offence within the meaning of section 118(1) of PACE (“an EW recordable offence”) Articles 63D, 63E, 63H and 63L apply as if—

- (a) references in Article 63D(2) and (14), 63E(2) 63H(1)(a)(ii) and (5) and 63L(3)(b) to a person being convicted of a recordable offence included references to a person being convicted of an EW recordable offence (and section 65B(1) of PACE (meaning of “convicted”) applies for that purpose);
- (b) references in Article 63D(14) to a qualifying offence included references to a qualifying offence within the meaning of section 65A of PACE;
- (c) references in Article 63D(14) and 63H(2) to (4) to a custodial sentence included references to a relevant custodial sentence within the meaning of section 63K(6) of PACE.

(3) If the material relates to a person who has been convicted under the law in force in Scotland of an offence which is punishable by imprisonment (“a relevant Scottish offence”) Article 63D, 63E, 63H and 63L apply as if—

- (a) references in Article 63D(2) and (14), 63E(2) 63H(1)(a)(ii) and (5) and 63L(3)(b) to a person being convicted of a recordable offence included references to a person being convicted of a relevant Scottish offence;
 - (b) references in Article 63D(14) to a qualifying offence included references to—
 - (i) a relevant sexual offence and a relevant violent offence within the meaning of section 19A of the Criminal Procedure (Scotland Act) 1995; and
 - (ii) an offence for the time being listed in section 41(1) of the Counter-Terrorism Act 2008;
 - (c) references in Article 63D(14) and 63H(2) to (4) to a custodial sentence included references to a sentence of imprisonment or detention.
- (4) In this Article “PACE” means the Police and Criminal Evidence Act 1984.”.’

Minister of Justice

Amendment 37 [Made]

New Clause

After clause 76 insert -

‘Retention of DNA profiles or fingerprints: persons given a prosecutorial fine

76C. After Article 63K of the Police and Criminal Evidence (Northern Ireland) Order 1989 insert—

“Retention of Article 63B material: persons given a prosecutorial fine notice

63KA.—(1) This Article applies to Article 63B material which—

- (a) relates to a person who is given a prosecutorial fine notice under section 18 of the Justice Act (Northern Ireland) 2015, and
 - (b) was taken (or, in the case of a DNA profile, derived from a sample taken) from the person in connection with the investigation of the offence (or one of the offences) to which the notice relates.
- (2) The material may be retained—
- (a) in the case of fingerprints, for a period of 2 years beginning with the date on which the fingerprints were taken,
 - (b) in the case of a DNA profile, for a period of 2 years beginning with—
 - (i) the date on which the DNA sample from which the profile was derived was taken, or
 - (ii) if the profile was derived from more than one DNA sample, the date on which the first of those samples was taken.”.’

Minister of Justice

Amendment 38 [Made]

New Clause

After clause 76 insert -

‘Power to retain DNA profile or fingerprints in connection with different offence

76D. For Article 63N of the Police and Criminal Evidence (Northern Ireland) Order 1989 (Article 63B material obtained for one purpose and used for another) substitute—

“Retention of Article 63B material in connection with different offence

63N.—(1) Paragraph (2) applies if—

- (a) Article 63B material is taken (or, in the case of a DNA profile, derived from a sample taken) from a person in connection with the investigation of an offence, and
- (b) the person subsequently—
 - (i) is arrested for or charged with a different offence,
 - (ii) is convicted of a different offence,
 - (iii) is given a penalty notice or a prosecutorial fine notice in respect of a different offence;
 - (iv) is given a caution in respect of a different offence committed when the person is under the age of 18; or
 - (v) completes a diversionary youth conference process with respect to a different offence.

(2) Articles 63C to 63M and Articles 63O and 63Q have effect in relation to the material as if the material were also taken (or, in the case of a DNA profile, derived from a sample taken)—

- (a) in connection with the investigation of the offence mentioned in paragraph (1)(b),
- (b) on the date on which the person was arrested for that offence or, if the person was not arrested, on the date on which the person—
 - (i) was charged with the offence or given a penalty notice or prosecutorial fine in respect of the offence, or
 - (ii) was cautioned in respect of the offence; or
 - (iii) completed the diversionary youth conference process with respect to the offence.

(3) Paragraph (3) of Article 63J applies for the purposes of this Article as it applies for the purposes of Article 63J.”.’

Minister of Justice

Amendment 39 [Made]

New Clause

After clause 76 insert -

‘Retention of personal samples that are or may be disclosable

76E. In Article 63R of the Police and Criminal Evidence (Northern Ireland) Order 1989 (exclusions for other regimes)—

- (a) in paragraph (5) (material that is or may become disclosable to the defence) for “Articles 63B to 63O and 63Q” substitute “Articles 63B to 63Q”;
- (b) after that paragraph insert—
 - “(5A) A sample that—
 - (a) falls within paragraph (5), and
 - (b) but for that paragraph would be required to be destroyed under Article 63P,

must not be used other than for the purposes of any proceedings for the offence in connection with which the sample was taken.

(5B) A sample that once fell within paragraph (5) but no longer does, and so becomes a sample to which Article 63P applies, must be destroyed immediately if the time specified for its destruction under that Article has already passed.”.’

Minister of Justice

Amendment 40 [Made]

Clause 78, Page 55, Line 21

Leave out subsection (3)

Minister of Justice

Amendment 41 [Made]

New Clause

After clause 78 insert -

‘Sexual offences against children

Meeting a child following sexual grooming etc.

78A. In Article 22(1)(a) of the Sexual Offences (Northern Ireland) Order 2008 (meeting a child following sexual grooming etc.) for “on at least two occasions” substitute “on one or more occasions”.’

Minister of Justice

Amendment 42 [Made]

New Clause

After clause 78 insert -

‘Sexual communication with a child

78B.—(1) In the Sexual Offences (Northern Ireland) Order 2008 after Article 22 insert—

“Sexual communication with a child

22A.—(1) A person aged 18 or over (A) commits an offence if—

- (a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
- (b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual, and
- (c) B is under 16 and A does not reasonably believe that B is 16 or over.

(2) For the purposes of this Article, a communication is sexual if—

- (a) any part of it relates to sexual activity, or

(b) a reasonable person would, in all the circumstances but regardless of any person's purpose, consider any part of the communication to be sexual;
and in sub-paragraph (a) "sexual activity" means an activity that a reasonable person would, in all the circumstances but regardless of any person's purpose, consider to be sexual.

(3) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years."

(2) In Article 4 of that Order (meaning of "sexual") after "except" insert "Article 22A (sexual communication with a child) or".

(3) In Article 76(10)(a) of that Order (offences outside the United Kingdom) after "children" insert "except Article 22A".

(4) In the Sexual Offences Act 2003 in Schedule 3 (sexual offences for purposes of Part 2 of that Act) after paragraph 92H insert—

"92HA. An offence under Article 22A of that Order (sexual communication with a child)."

(5) In the Criminal Justice (Northern Ireland) Order 2008 in Part 2 of Schedule 2 (specified sexual offences) in paragraph 14A after the entry relating to Article 22 of the Sexual Offences (Northern Ireland) Order 2008 insert—

"Article 22A (sexual communication with a child).".'

Minister of Justice

Amendment 43 [Made]

Clause 79, Page 55, Line 31

Leave out 'The Department may by regulations impose a general duty on' and insert 'It is the duty of all'

Minister of Justice

Amendment 44 [Made]

Clause 79, Page 55, Line 34

Leave out subsection (2)

Minister of Justice

Amendment 45 [Made]

At end insert -

Clause 80, Page 56, Line 23

(5) The regulations must in particular take account of the need to identify and respect the needs of—
(a) victims,

- (b) witnesses, particularly those to whom Article 4(2) of the Criminal Evidence (Northern Ireland) Order 1999 may apply; and
- (c) persons under the age of 18.’

Minister of Justice

Amendment 46 [Made]

Clause 80, Page 56, Line 23

At end insert -

‘(6) Before making any regulations under this section the Department must consult—

- (a) the Lord Chief Justice;
- (b) the Director of Public Prosecutions;
- (c) the General Council of the Bar of Northern Ireland; and
- (d) the Law Society of Northern Ireland.’

Minister of Justice

Amendment 47 [Made]

Clause 82, Page 57, Line 37

Leave out from ‘in connection’ to ‘D’s appeal’ on line 38 and insert ‘to ensure compliance with Article 6 of the European Convention on Human Rights’

Minister of Justice

Amendment 48 [Made]

New Clause

After clause 83 insert -

‘Causing or allowing child or vulnerable adult to suffer serious physical harm

Causing or allowing child or vulnerable adult to suffer serious physical harm

83A.—(1) Section 5 of the Domestic Violence, Crime and Victims Act 2004 (offence of causing or allowing the death of a child or vulnerable adult) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) after “dies” insert “or suffers serious physical harm”;
- (b) in paragraph (d) for “V’s death” substitute “the death or serious physical harm”.

(3) In subsection (3)(a) for “V’s death” substitute “the death or serious physical harm”.

(4) In subsection (4)(b) for “V’s death” substitute “the death or serious physical harm”.

(5) In subsection (7) after “this section” insert “of causing or allowing a person’s death”.

(6) After that subsection insert—

“(8) A person guilty of an offence under this section of causing or allowing a person to suffer serious physical harm is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or to a fine, or to both.”.

(7) For the cross-heading before section 5 substitute “Causing or allowing a child or vulnerable adult to die or suffer serious physical harm”.

(8) Schedule 4A (which contains amendments consequential on this section) has effect.’

Minister of Justice

Amendment 49 [Made]

New Clause

After clause 85 insert -

‘Salary of Lands Tribunal members

Salary of Lands Tribunal members

85A.—(1) Section 2 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 is amended as follows.

(2) For subsections (5) and (5A) substitute—

“(5) There shall be paid to the members of the Lands Tribunal appointed under section 1(2) such remuneration as the Department of Justice may determine.”.’

Minister of Justice

Amendment 50 [Negatived on Division by Cross-Community Vote]

New Clause

After clause 85 insert -

‘Provision of health and social care information to Attorney General about direction of inquests

85A. In the Coroners Act (NI) 1959 after section 14 insert—

“Provision of information to Attorney General for purposes of section 14

14A.—(1) The Attorney General may, by notice in writing to any person who has provided health care or social care to a deceased person, require that person to produce any document or give any other information which in the opinion of the Attorney General may be relevant to the question of whether a direction should be given by the Attorney General under section 14.

(2) A person may not be required to produce any document or give any other information under this section if that person could not be compelled to produce that document or give that information in civil proceedings in the High Court.

(3) In this section—

“document” includes information recorded in any form, and references to producing a document include, in relation to information recorded otherwise than in a legible form, references to providing a copy of the information in a legible form.

(4) A person who fails without reasonable excuse to comply with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Review and duration of section 14A

14B.—(1) Section 14A ceases to have effect on (3 years after Royal Assent) unless, before that date, having considered the report under subsection (2), the Assembly resolves that it is to continue to have effect.

(2) The Department must, at the end of the period of 3 years beginning with the coming into operation of section 14A, review its operation and lay before the Assembly a report on that review; that report must in particular include—

- (a) the number of cases in which the Attorney General compelled the provision of documents and other information;
- (b) the number of inquests the Attorney General subsequently directed;
- (c) an assessment, by an independent person appointed by the Department, of the impact of the operation of section 14A on the use of the power in section 14.”.

Mr Raymond McCartney

Mr Seán Lynch

Mr Chris Hazzard

Clause 86 [Negatived without Division]

The Chairperson of the Committee listed below gives notice of his intention to oppose the question that clause 86 stand part of the Bill.

Chair, Committee for Justice

Amendment 51 [Not moved]

Clause 87, Page 60

Leave out paragraph (b)

Chair, Committee for Justice

Amendment 52 [Not moved]

Clause 87, Page 60, Line 12

Leave out from ‘incidental’ to ‘saving’ and insert ‘consequential and transitional’

Chair, Committee for Justice

Amendment 53 [Made]

Clause 91, Page 60, Line 36

At end insert -

‘() section 35A and Schedule 3A;’

Minister of Justice

Amendment 54 [Made]

Clause 91, Page 60, Line 36

At end insert -

‘() sections 78A and 78B;’

Minister of Justice

Amendment 55 [Made]

Schedule 1, Page 62

Leave out lines 4 to 28 and insert -

The Gaming Act (Ireland) 1739 (c. 8)

. In section 16 (bringing of actions) omit the words from “and shall be laid” to the end.

The Forcible Entry Act (Ireland) 1786 (c.24)

. In section 65 (indictments) for “some one or more of the justices of the peace of the county, county of the city or town where such indictment shall be made” substitute “a district judge (magistrates’ courts)”.

The Parliamentary Representation Act (Ireland) 1800 (c.29)

. In section 7 (writs) for “crown office in Ireland” and “crown office of Ireland” substitute “chief clerk”.

The Tolls (Ireland) Act 1817 (c.108)

. In section 7 (schedule of tolls) for “chief clerk for the county court division where such custom, toll, or duty may be claimed,” substitute “chief clerk”.

The Tithe Rentcharge (Ireland) Act 1838 (c. 109)

. In section 27 (recovery of rent-charge) omit “wherein the lands charged therewith may be situate”.

The Defence Act 1842 (c. 94)

. In section 24 (compensation)—

- (a) for “two justices of the peace of the county, riding, stewartry, city or place” substitute “a court of summary jurisdiction”;
- (b) for “such justices” substitute “that court”.

The Fisheries (Ireland) Act 1842 (c. 106)

.—(1) In section 92 (byelaws) for the words from “deposited with” to “in each such petty sessions district” substitute “deposited with the clerk of petty sessions who shall publish notice of the lodgement;”.

(2) In section 103 omit “in the district where the same shall be seized”.

The Companies Clauses Consolidation Act 1845 (c. 16)

.—(1) In section 3 (interpretation) omit “acting for the place where the matter requiring the cognizance of any such justice shall arise and”.

(2) In section 161 (deposit of copies of special Act) for the words from “deposit in the office” to “into which the works shall extend” substitute “deposit in the office of the chief clerk”.

The Lands Clauses Consolidation Act 1845 (c. 18)

. In section 150 (deposit of copies of special Act) for the words from “deposit in the office” to “into which the works shall extend” substitute “deposit in the office of the chief clerk”.

The Railways Clauses Consolidation Act 1845 (c. 20)

.—(1) In section 7 (correction of plans) for the words from “deposited with” to “shall be situate” substitute “deposited with the chief clerk”.

(2) In section 8 (deposit of plans) for the words from “deposited with” to “intended to pass” substitute “deposited with the chief clerk”.

(3) In section 11 (limitation of deviation)—

(a) for the words from “two or more justices” to “may be situated” substitute “a court of summary jurisdiction”;

(b) omit the words from “Provided also, that” to the end.

(4) In section 59 (consent to level crossing)—

(a) for the words from “any two or more justices” to “is situate, and assembled in petty sessions” substitute “a court of summary jurisdiction”;

(b) for “such justices” substitute “that court”.

The Ejectment and Distress (Ireland) Act 1846 (c. 111)

. In section 16 for the words from “apply to any one” to “fixed in such summons” substitute “apply to a district judge (magistrates’ courts) for the redress of his grievance, whereupon the district judge shall summon the person complained of to appear before a court of summary jurisdiction at a reasonable time to be fixed in the summons.”.

The Markets and Fairs Clauses Act 1847 (c. 14)

.—(1) In section 7 (correction of errors) for “the chief clerk for the county court division in which the lands affected thereby shall be situated” substitute “the chief clerk”.

(2) In section 50 (annual account) for “the chief clerk for the county court division in which the market or fair is situate” substitute “the chief clerk”.

(3) In section 58 (deposit of special Act) for the words from “deposit in” to “is situate” substitute “deposit in the office of the chief clerk”.

The Commissioners Clauses Act 1847 (c. 16)

.—(1) In section 95 for “the chief clerk for the county court division where the undertaking is situate” substitute “the chief clerk”.

(2) In section 110 (copies of special Act) for the words from “deposit in” to “is situate” substitute “deposit in the office of the chief clerk”.

The Harbours, Docks and Piers Clauses Act 1847 (c. 27)

.—(1) In section 7 (correction of plans) for the words from “be deposited in” to “are situate” substitute “be deposited with the chief clerk”.

(2) In section 8 (alterations to plans) for the words from “deposited with the said” to “is situate” substitute “deposited with the chief clerk”.

(3) In section 50 (annual account) for the words from “charge, to the” to “is situate” substitute “charge, to the chief clerk”.

(4) In section 97 (copies of special Act) for the words from “deposit in” to “is situate” substitute “deposit in the office of the chief clerk”.

The Towns Improvement Clauses Act 1847 (c. 34)

.—(1) In section 3 (interpretation)—

- (a) in the definition of “justice” for the words from “shall mean” to arises” substitute “shall mean a lay magistrate”;
- (b) in the definition of “quarter sessions” for the words from “shall mean” to the end substitute “shall mean the county court”.

(2) In section 20 (correction of errors) for “the chief clerk for the county court division in which the lands affected thereby shall be situated” substitute “the chief clerk”.

(3) In section 214 (copies of special Act) for the words from “deposit in” to “is situated” substitute “deposit in the office of the chief clerk”.

The Cemeteries Clauses Act 1847 (c. 65)

.—(1) In section 7 (correction of errors) for the words from “deposited with” to “shall be situated” substitute “deposited with the chief clerk”.

(2) In section 60 (annual accounts) for the words from “charge, to the” to “is situated” substitute “charge, to the chief clerk”.

(3) In section 66 (copies of special Act) for the words from “deposit in” to “is situated” substitute “deposit in the office of the chief clerk”.

The Vagrancy (Ireland) Act 1847 (c. 84)

. In section 8 (interpretation) for the words from “any justice” to “town corporate” substitute “any lay magistrate or district judge (magistrates’ courts)”.

The Town Police Clauses Act 1847 (c. 89)

. In section 77 (copies of special Act) for the words from “deposit in” to “is situated” substitute “deposit in the office of the chief clerk”.

The Railway Act (Ireland) 1851 (c.70)

.—(1) In section 4 (deposit of maps) for the words from “or so much thereof as relates” to the end substitute “with the chief clerk”.

(2) In section 8 (notice of appointment of arbitrator) for the words “with the chief clerks for the county court division” substitute “with the chief clerk”.

(3) In section 11 (retention of documents) for the words from the beginning to “hereby” substitute “The chief clerk is hereby”.

The Fines Act (Ireland) 1851 (c. 90)

.—(1) In section 6 (enforcement) for “two justices of the county” substitute “district judge (magistrates’ courts)”.

(2) In section 8 (penalties) for “two justices of the county” substitute “district judge (magistrates’ courts)”.

The Summary Jurisdiction (Ireland) Act 1851 (c. 92)

. In section 1 (jurisdiction of justices) omit—

(a) “within his or their respective jurisdictions”; and

(b) “(when the case shall be heard in any petty sessions district)”.

The Petty Sessions (Ireland) Act 1851 (c. 93)

.—(1) In section 26(3) (execution of warrants) for the words from “at any place” to “adjoining county” substitute “at any place”.

(2) In section 28 (backing of warrants) for the words from “are not to be found” to “in any of the places” substitute “are in any of the places”.

(3) In section 31 (execution of warrant) for the words from “or peace officers” to the end substitute “to execute the warrant by arrest, committal, or levy, as the case may be, and in the case of a warrant to arrest any person and convey him when arrested before any district judge (magistrates’ courts) to be dealt with according to law.”.

The Boundary Survey (Ireland) Act 1854 (c. 17)

. In section 12 (alteration of boundary) for the words from “transmitted to” to “way relate” substitute “transmitted to the chief clerk”.

The Towns Improvement (Ireland) Act 1854 (c. 103)

. In section 1 (interpretation) omit the definition of “assistant barrister”.

The Boundary Survey (Ireland) Act 1859 (c. 8)

. In section 4 (publication of order) for the words from “transmitted to” to “way relate” substitute “transmitted to the chief clerk”.

The Ecclesiastical Courts Jurisdiction Act 1860 (c. 32)

. In section 3 (offenders) for the words from “taken before” to the end substitute “taken before a district judge (magistrates’ courts) to be dealt with according to law.”.

The Tramways (Ireland) Act 1860 (c. 152)

. In section 33 (entry to land)—

(a) for the words from “under the hand” to “not having” substitute “under the hand of district judge (magistrates’ courts) who does not have”;

(b) for the words from “fixed by” to “same district” substitute “fixed by a district judge (magistrates’ courts)”.

The Landlord and Tenant Law Amendment Act (Ireland) 1860 (c. 154)

.—(1) In section 35 (restraint of waste)—

(a) for the words from “satisfy” to “of the county” substitute “satisfy a district judge (magistrates’ courts)”;

(b) for the words from “at the next” to “premises are situate” substitute “at the next petty sessions”.

(2) In sections 63 and 69 (deposit of sums due) for “chief clerk for the county court division” substitute “chief clerk”.

(3) In section 79 (view of lands) for the words from “lawful for” to “shall be situate and” substitute “lawful for a district judge (magistrates’ courts)”.

(4) In Schedule (A) (forms) omit “for the county of M,” (wherever occurring).

The Railways Act (Ireland) 1864 (c. 71)

. In section 14 (value of crops) for the words from “determined by” to the end substitute “determined by a district judge (magistrates’ courts)”.

The Dockyard Ports Regulation Act 1865 (c. 125)

. Omit section 22 (jurisdiction of justices over vessels).

The Promissory Oaths Act 1871 (c. 48)

. In section 2 (persons who may take oaths) for the words from “or at the” to the end substitute “or at the county court”.

The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1871 (c. 49)

. In section 23 (register books) for the words from “information thereof to” to “solemnized” substitute “information thereof to a district judge (magistrates’ courts)”.

The Public Health (Ireland) Act 1878 (c. 52)

—(1) In section 2 (interpretation) omit the definition of “court of quarter sessions”.

(2) In section 269 (appeals) for subsection (1) substitute—

“(1) The appeal shall be made to the county court.”

The Settled Land Act 1882 (c. 38)

. In section 46(10) (payment into court) for the words from “be exercised by” to the end substitute “be exercised by the county court”.

The Married Women’s Property Act 1882 (c. 75)

. In section 17 (summary decision of questions) for the words from “in a summary way” to “and the court” substitute “in a summary way to the High Court or a county court and the court”.

The Explosive Substances Act 1883 (c. 3)

. In section 6(1) (inquiry into crimes) omit—

(a) “for the county, borough, or place in which the crime was committed or is suspected to have been committed”;

(b) “in the said county, borough, or place”.

The Bills of Sale (Ireland) Act (1879) Amendment Act 1883 (c. 7)

. In section 11 (registration) for the words from “transmit” to the end of the first paragraph substitute “transmit an abstract in the prescribed form of the contents of such bill of sale to the chief clerk.”.

The Local Government (Ireland) Act 1898 (c. 37)

. In section 69 (boundaries)—

(a) in subsection (3) omit the words from “provided that” to the end;

(b) omit subsections (4) and (5).

The Open Spaces Act 1906 (c. 25)

. In section 4(2) (transfer of open space) omit the words from “of the district” to the end.

The Summary Jurisdiction (Ireland) Act 1908 (c. 24)

. In sections 1(2) and 2(2) (habitual drunkards) for the words from “anyone holding” to the end substitute “any justice of the peace”.’

Minister of Justice

Amendment 56 [Made]

Schedule 1, Page 66, Line 38

At end insert -

‘(2A) In section 18(2) (rules) after “subsection (1) above” insert “(other than paragraph (a))”.’

Minister of Justice

Amendment 57 [Made]

Schedule 1, Page 75, Line 12

Leave out sub-paragraph (1) and insert -

‘(1) Omit section 15(3) (interpretation).’

Minister of Justice

Amendment 58 [Made]

Schedule 1, Page 84

Leave out lines 10 to 12

Minister of Justice

Amendment 59 [Made]

Schedule 1, Page 86, Line 16

At end insert -

‘(1A) In section 125 (variation, renewal and discharge of orders)—

(a) in paragraph (1) for “the appropriate court” substitute “a court of summary jurisdiction”; and

(b) omit subsection (7).’

Amendment 60 [Made]

Schedule 1, Page 90, Line 31

At end insert -

‘The Serious Crime Act 2015 (c. 9)

109. In Schedule 2 in paragraph 11(2)(c) omit “for the petty sessions district in which the lay magistrate was acting when he or she issued the warrant”.’

Minister of Justice

Schedule 2 [Question that Schedule 2 stand part negatived]

The Member listed below gives notice of his intention to oppose the question that Schedule 2 stand part of the Bill.

Mr Jim Allister

Amendment 61 [Made]

Schedule 3, Page 94, Line 29

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 62 [Made]

Schedule 3, Page 94, Line 37

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 63 [Made]

Schedule 3, Page 95, Line 4

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 64 [Made]

Schedule 3, Page 95, Line 12

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 65 [Made]

Schedule 3, Page 95, Line 19

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 66 [Made]

Schedule 3, Page 95, Line 27

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 67 [Made]

Schedule 3, Page 96, Line 13

After ‘section 12’ insert ‘or 12A’

Minister of Justice

Amendment 68 [Made]

New Schedule

After schedule 3 insert -

‘SCHEDULE 4

**DISCLOSURE OF INFORMATION: VICTIM AND WITNESS SUPPORT SERVICES AND
VICTIM INFORMATION SCHEMES**

Disclosure by police to body providing support services for victims

1.—(1) A police officer or member of the police support staff may disclose relevant information relating to a victim to a prescribed body for the purpose of enabling that body to advise the victim about support services provided by the body, or offer or provide support services to the victim.

(2) For the purposes of this paragraph—

“relevant information relating to a victim” means—

- (a) the name and address of the victim;
- (b) any telephone number or e-mail address at which the victim may be contacted; and

(c) such other information relating to the victim or the criminal conduct concerned as it appears to the police officer or member of the police support staff to be appropriate to disclose for the purpose mentioned in sub-paragraph (1);

“support services” means services involving the provision of information, advice, support or any other form of assistance to victims.

Disclosure by Public Prosecution Service to body providing support services for witnesses

2.—(1) Where the Director of Public Prosecutions has the conduct of criminal proceedings, a member of staff of the Public Prosecution Service may disclose relevant information relating to a witness for the prosecution in those proceedings to a prescribed body for the purpose of enabling that body to advise the witness about support services provided by the body, or offer or provide support services to the witness.

(2) For the purposes of this paragraph—

(a) “relevant information relating to a witness” means—

(i) the name and address of the witness;

(ii) the age of the witness;

(iii) any telephone number or e-mail address at which the witness may be contacted; and

(iv) such other information relating to the witness or the proceedings concerned as it appears to the member of staff of the public prosecution service to be appropriate to disclose for the purpose mentioned in sub-paragraph (1).

(3) In this paragraph—

“support services” means services involving the provision of information, advice, support or any other form of assistance to prosecution witnesses in criminal proceedings;

“prosecution witness”, in relation to any criminal proceedings, means a person who has been or may be called to give evidence for the prosecution in such proceedings.

Disclosure by Public Prosecution Service for purposes of victim information schemes

3.—(1) A member of staff of the Public Prosecution Service may disclose relevant information relating to a victim to the Department for the purpose of enabling the Department to provide information and advice to the victim in connection with—

(a) a scheme under section 68 of the Justice (Northern Ireland) Act 2002 (prisoner release victim information scheme); or

(b) a scheme under section 69A of the Justice (Northern Ireland) Act 2002 (victims of mentally disordered offenders information scheme).

(2) A member of staff of the Public Prosecution Service may disclose relevant information relating to a victim to the Board for the purpose of enabling the Board to provide information and advice to the victim in connection with a scheme under Article 25 of the Criminal Justice (Northern Ireland) Order 2005 (the Probation Board for Northern Ireland victim information scheme).

(3) For the purposes of this paragraph “relevant information relating to a victim” means—

(a) the name and address of the victim;

(b) any telephone number or e-mail address at which the victim may be contacted;

(c) details of the criminal conduct concerned; and

(d) such other information relating to the victim or the criminal conduct concerned as it appears to the member of staff of the Public Prosecution Service to be appropriate to disclose for the purpose mentioned in sub-paragraph (1).

Unauthorised disclosure of information

4.—(1) If a person to whom this paragraph applies discloses without lawful authority any information—

- (a) acquired in the course of that person's employment,
- (b) which is, or is derived from, information provided under this Schedule, and
- (c) which relates to a particular person,

that person is guilty of an offence.

(2) This paragraph applies to any person who is—

- (a) employed in a body prescribed under paragraph 1 or 2 or in the provision of services to such a body;
- (b) employed in the Department or in the provision of services to the Department; or
- (c) employed by the Board or in the provision of services to the Board.

(3) It is not an offence under this paragraph to disclose information which has previously been disclosed to the public with lawful authority.

(4) It is a defence for a person charged with an offence under this paragraph to show that at the time of the alleged offence—

- (a) that person believed that the disclosure in question was made with lawful authority and had no reasonable cause to believe otherwise; or
- (b) that person believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(5) A person who is guilty of an offence under this paragraph is liable—

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

(6) For the purposes of this paragraph a disclosure of information by a person is to be regarded as made with lawful authority if, and only if, it is made—

- (a) in the course of and for the purposes of that person's employment in a prescribed body;
- (b) in accordance with that person's official duty as a civil servant or as an employee of the Board;
- (c) in accordance with an authorisation given by the Department, the Board or the prescribed body;
- (d) in accordance with any statutory provision or order of a court;
- (e) for the purposes of any criminal proceedings; or
- (f) with the consent of the person to whom the information relates.

(7) In this paragraph "employment"—

- (a) includes employment as a volunteer; and
- (b) in relation to a particular person, shall be construed in accordance with sub-paragraph (2).

Saving for other powers of disclosure

5. Nothing in this Schedule affects any power to disclose information that exists apart from this Schedule.

Interpretation

6.—(1) In this Schedule—

- "the Board" means the Probation Board for Northern Ireland;
- "prescribed" means prescribed by regulations made by the Department.

(2) Section 29 (meaning of victim and related terms) applies for the purposes of this Schedule as it applies for the purposes of section 28.'

Minister of Justice

Amendment 69 [Made]

New Schedule

After schedule 3 insert -

'SCHEDULE 3A

SCHEDULE INSERTED AS SCHEDULE 8A TO THE POLICE ACT 1997

"SCHEDULE 8A

REVIEW OF CRIMINAL RECORD CERTIFICATES

Interpretation

1. In this Schedule—

"conviction" and "spent conviction" have the same meanings as in the Rehabilitation of Offenders (Northern Ireland) Order 1978;

"the independent reviewer" means the person appointed under paragraph 2;

"other disposal", in relation to a criminal record certificate or enhanced criminal record certificate issued to any person, means any caution, diversionary youth conference or informed warning relating to that person of which details are given in the certificate.

The independent reviewer

2.—(1) There is to be an independent reviewer for the purposes of this Schedule.

(2) The independent reviewer is a person appointed by the Department—

- (a) for such period, not exceeding 3 years, as the Department decides; and
- (b) on such terms as the Department decides.

(3) A person may be appointed for a further period or periods.

(4) The Department may terminate the appointment of the independent reviewer before the end of the period mentioned in sub-paragraph (2)(a) by giving the independent reviewer notice of the determination not less than 3 months before it is to take effect.

(5) The Department may—

- (a) pay such remuneration or allowances to the independent reviewer as it may determine;
- (b) make arrangements for the provision of administrative or other assistance to the independent reviewer.

(6) The independent reviewer must, in relation to each financial year year and no later than 3 months after the end of that year, make a report to the Department about the exercise of his or her functions under this Schedule in that year.

- (7) The independent reviewer may make recommendations to the Department as to—
- (a) any guidance issued by the Department under paragraph 3 or which the independent reviewer thinks it would be appropriate for the Department to issue under that paragraph;
 - (b) any changes to any statutory provision which the independent reviewer thinks may be appropriate.
- (8) A person may at the same time hold office as the independent reviewer and as the independent monitor under section 119B.

Guidance

3. The Department may from time to time publish guidance to the independent reviewer as to the exercise of functions under this Schedule; and in exercising functions under this Schedule the independent reviewer must have regard to any guidance for the time being published under this paragraph.

Application for review after issue of certificate

- 4.—(1) A person who receives a criminal record certificate or an enhanced criminal record certificate may apply in writing to the Department for a review of the inclusion in that certificate of—
- (a) the details of any spent conviction; or
 - (b) the details of any other disposal.
- (2) An application under this paragraph must—
- (a) be accompanied by such fee (if any) as may be prescribed; and
 - (b) be made within such period after the issue of the certificate as the Department may specify in a notice accompanying the certificate.
- (3) The Department must refer any application under this paragraph to the independent reviewer together with—
- (a) any information supplied by the applicant in connection with the application; and
 - (b) any other information which appears to the Department to be relevant to the application.

Review by independent reviewer after issue of certificate

- 5.—(1) The independent reviewer, on receiving an application under paragraph 4 in relation to a certificate, must review the inclusion in that certificate of—
- (a) the details of any spent conviction; and
 - (b) the details of any other disposal.
- (2) If, following that review, the independent reviewer determines that the details of any spent conviction or other disposal included in the certificate should be removed—
- (a) the independent reviewer must inform the Department of that fact; and
 - (b) on being so informed the Department must issue a new certificate.
- (3) In issuing such a certificate the Department must give effect to the determination of the independent reviewer and must (in the case of an enhanced certificate) again comply with section 113B(4).
- (4) If, following that review, the independent reviewer determines that the details of any spent convictions or other disposals included in the certificate should not be removed—
- (a) the independent reviewer must inform the Department of that fact; and
 - (b) the Department must inform the applicant that the application is refused.

(5) The independent reviewer must not determine that details of a spent conviction or other disposal should be removed from a certificate unless the independent reviewer is satisfied that the removal of those details would not undermine the safeguarding or protection of children and vulnerable adults or pose a risk of harm to the public.

Automatic review before issue of certificate containing only details of spent convictions or other disposals of person under 18

6.—(1) This paragraph applies where—

- (a) the Department proposes to issue (otherwise than under sub-paragraph (4)(b) or (6)(b)) a criminal record certificate or an enhanced criminal record certificate relating to any person; and
- (b) the certificate would—
 - (i) contain details of any spent conviction or other disposal which occurred at a time when the person was under the age of 18; but
 - (ii) not contain details of any conviction (whether spent or not) or other disposal occurring after that time.

(2) The Department must, before issuing the certificate, refer the certificate for review to the independent reviewer together with any information which appears to the Department to be relevant to that review.

(3) The independent reviewer, on receiving a referral under sub-paragraph (2) in relation to a certificate, must review the inclusion in that certificate of—

- (a) the details of any spent conviction; and
- (b) the details of any other disposal.

(4) If, following that review, the independent reviewer determines that the details of any spent conviction or other disposal included in the certificate should be removed—

- (a) the independent reviewer must inform the Department of that fact; and
- (b) on being so informed the Department must amend the certificate and issue the amended certificate.

(5) In issuing such a certificate the Department must give effect to the determination of the independent reviewer and must (in the case of an enhanced certificate) again comply with section 113B(4).

(6) If, following that review, the independent reviewer determines that the details of any spent convictions or other disposals included in the certificate should not be removed—

- (a) the independent reviewer must inform the Department of that fact; and
- (b) the Department must issue the certificate in the form referred to the independent reviewer.

(7) The independent reviewer must not determine that details of a spent conviction or other disposal should be removed from a certificate unless the independent reviewer is satisfied that the removal of those details would not undermine the safeguarding or protection of children and vulnerable adults or pose a risk of harm to the public.

(8) The fact that a review has been carried out under this paragraph before a certificate is issued does not prevent the operation of paragraphs 4 and 5 in relation to the certificate once issued.

Disclosure of information to the independent reviewer

7. The Chief Constable, the Department and the Probation Board of Northern Ireland must provide to the independent reviewer such information as the independent reviewer reasonably requires in connection with the exercise of his or her functions under this Schedule.”.’

Minister of Justice

Amendment 70 [Made]

Schedule 4, Page 96, Line 33

Leave out ‘a criminal’ and insert ‘an enhanced criminal’

Minister of Justice

Amendment 71 [Made]

New Schedule

After schedule 4 insert -

‘SCHEDULE 5

AMENDMENTS: SERIOUS PHYSICAL HARM TO CHILD OR VULNERABLE ADULT

The Law Reform (Year and a Day Rule) Act 1996 (c. 19)

1. In section 2 (restriction on institution of proceedings for fatal offence) in subsection (3)(c) for “(causing or allowing the death of a child or vulnerable adult)” substitute “of causing or allowing the death of a child or vulnerable adult”.

The Sexual Offences Act 2003 (c. 42)

2. In Schedule 5 (offences for purposes of making sexual offences prevention orders) in paragraph 171A for “the death of a child or vulnerable adult” substitute “a child or vulnerable adult to die or suffer serious physical harm”.

The Domestic Violence, Crime and Victims Act 2004 (c. 28)

3.—(1) For the heading of section 7 substitute “Evidence and procedure in cases of death: Northern Ireland”.

(2) In section 7(5) after “section 5” insert “of causing or allowing a person’s death”.

(3) After section 7 insert—

“Evidence and procedure in cases of serious physical harm: Northern Ireland

7A.—(1) Subsections (3) to (5) apply where a person (“the defendant”) is charged in the same proceedings with a relevant offence and with an offence under section 5 in respect of the same harm (“the section 5 offence”).

(2) In this section “relevant offence” means—

- (a) an offence under section 18 or 20 of the Offences against the Person Act 1861 (grievous bodily harm etc.);
- (b) an offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 of attempting to commit murder.

(3) Where by virtue of Article 4(4) of the Criminal Evidence (Northern Ireland) Order 1988 a court or jury is permitted, in relation to the section 5 offence, to draw such inferences as appear proper from the defendant's failure to give evidence or refusal to answer a question, the court or jury may also draw such inferences in determining whether the defendant is guilty of a relevant offence, even if there would otherwise be no case for the defendant to answer in relation to that offence.

(4) Where a magistrates' court is considering under Article 37 of the Magistrates' Courts (Northern Ireland) Order 1981 whether to commit the defendant for trial for the relevant offence, if there is sufficient evidence to put the defendant on trial for the section 5 offence there is deemed to be sufficient evidence to put the defendant on trial for the relevant offence.

(5) The power of a judge of the Crown Court under section 2(3) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 (entry of "No Bill") is not to be exercised in relation to a relevant offence unless it is also exercised in relation to the section 5 offence.

(6) At the defendant's trial the question whether there is a case for the defendant to answer on the charge of the relevant offence is not to be considered before the close of all the evidence (or, if at some earlier time the defendant ceases to be charged with the section 5 offence, before that earlier time)."

The Criminal Justice (Northern Ireland) Order 2008 (NI 1)

4. In Part 1 of Schedule 2 (specified violent offences) in paragraph 30 for "the death of a child or vulnerable adult" substitute "a child or vulnerable adult to die or suffer serious physical harm".'

Minister of Justice

Amendment 72 [Made]

Schedule 5, Page 102, Line 23

At end insert -

'Part 8: DNA profiles or fingerprints

7. The amendment made by section 76D applies even where the event referred to in paragraph (1)(b) of the substituted Article 63N of the Police and Criminal Evidence (Northern Ireland) Order 1989 occurs before the day on which that section comes into operation.'

Minister of Justice

Amendment 73 [Made]

Schedule 5, Page 102, Line 26

At end insert -

Part 8: Meeting a child following sexual grooming etc.

8. Section 78A does not apply in a case in which person A met or communicated with person B only once before the event mentioned in Article 22(1)(a)(i) to (iii) of the Sexual Offences (Northern Ireland) Order 2008, if that meeting or communication took place before the coming into operation of that section.’.

Minister of Justice

Amendment 74 [Made]

Schedule 5, Page 102, Line 29

At end insert -

Part 8: Serious physical harm to a child or vulnerable adult

9. An amendment made by section 83A or Schedule 4A does not apply in relation to any harm resulting from an act that occurs, or so much of an act as occurs, before the coming into operation of that amendment.’

Minister of Justice

Amendment 75 [Made]

Schedule 6, Page 102, Line 35

Leave out from beginning to end of line 4 on page 103 and insert -

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| | |
|---|--|
| The Gaming Act (Ireland) 1739 (c. 8) | In section 16 the words from “and shall be laid” to the end. |
| The Tithe Rentcharge (Ireland) Act 1838 (c. 109) | In section 27 the words “wherein the lands charged therewith may be situate”. |
| The Fisheries (Ireland) Act 1842 (c. 106) | In section 103 the words “in the district where the same shall be seized”. |
| The Companies Clauses Consolidation Act 1845 (c. 106) | In section 3 the words “acting for the place where the matter requiring the cognizance of any such justice shall arise and”. |
| The Railway Clauses Consolidation Act 1845 (c. 20) | In section 11 the words from “Provided also, that” to the end. |
| The Summary Jurisdiction (Ireland) Act 1851 (c. 92) | In section 1 the words “within his or their respective jurisdictions” and “(when the case shall be heard in any petty sessions district)”. |
| The Towns Improvement (Ireland) Act 1854 (c. 103) | In section 1 the definition of “assistant barrister”. |

| | |
|---|--|
| The Gaming Act (Ireland) 1739 (c. 8) | In section 16 the words from “and shall be laid” to the end. |
| The Landlord and Tenant Law Amendment Act (Ireland) 1860 (c. 154) | In Schedule (A) the words “for the county of M,” (wherever occurring). |
| The Dockyard Ports Regulation Act 1865 (c.125) | Section 22. |
| The Public Health (Ireland) Act 1878 (c. 52) | In section 2 the definition of “court of quarter sessions”. |
| The Explosive Substances Act 1883 (c. 3) | In section 6(1) the words “for the county, borough, or place in which the crime was committed or is suspected to have been committed” and “in the said county, borough, or place”. |
| The Local Government (Ireland) Act 1898 (c. 37) | In section 69(3) the words from “provided that” to the end. |
| The Open Spaces Act 1906 (c. 25) | In section 4(2) the words from “of the district” to the end. |

Minister of Justice

Amendment 76 [Made]

Schedule 6, Page 111

Column 2, leave out lines 23 and 24 and insert -

| | |
|---|--|
| The Civil Jurisdiction and Judgments Act 1982 (c. 27) | Section 15(3). In section 36(4)(b), in the substituted section 13(5A)(a) the words from “and as if” to the end. |
|---|--|

Minister of Justice

Amendment 77 [Made]

Schedule 6, Page 117, Line 41, Column 2

At beginning insert -

Section 125(7).

Amendment 78 [Made]

Schedule 6, Page 121, Line 35

At end insert -

| | |
|--|--|
| The Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) | In Schedule 11, paragraph 71(5). |
| The Serious Crime Act 2015 (c. 9) | In Schedule 2, in paragraph 11(2)(c) the words “for the petty sessions district in which the lay magistrate was acting when he or she issued the warrant”. |