



Northern Ireland  
Assembly

Domestic Abuse and Family Proceedings Bill  
Annotated Marshalled List of Amendments  
Consideration Stage  
Tuesday 17 November 2020

Amendments tabled up to 9.30am Wednesday, 11 November 2020 and selected for debate

**The Consideration Stage was rescheduled.**

**This Marshalled List supersedes the one issued for 10 November 2020.**

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The Bill will be considered in the following order-  
Clauses and Long Title

**Amendment 1**      [*Negatived*]

**Clause 1**, Page 1, Line 12

Leave out paragraph (a) and insert -

‘(a) that B suffers physical and psychological harm, and’

*Mr Jim Allister*

**Clause 3**                      [*Question that Clause 3 stand part agreed*]

*The Member listed below gives notice of his intention to oppose the question that clause 3 stand part of the Bill.*

*Mr Jim Allister*

**Amendment 2** [Made]

**Clause 8**, Page 5, Line 24

Leave out ‘constituting the offence’ and insert ‘by virtue of which the offence is constituted’

*Minister of Justice*

**Amendment 3** [Made]

**Clause 9**, Page 6, Line 6

After ‘if’ insert ‘(any or all)’

*Minister of Justice*

**Amendment 4** [Made]

**Clause 9**, Page 6, Line 8

After ‘directed’ insert ‘, or threatened to direct,’

*Miss Rachel Woods*

*Mr Paul Frew*

**Amendment 5** [Not moved]

**Clause 9**, Page 6, Line 11

At end insert -

‘, or

(c) both of these apply—

- (i) a reasonable person would consider the course of behaviour, or an incident of behaviour which A directed at B as part of the course of behaviour, to be likely to adversely affect the child (including likely to cause the child to suffer fear, alarm or distress), and
- (ii) the child usually resides with A or B (or with A and B).’

*Minister of Justice*

**Amendment 6** [Not moved]

**Clause 9**, Page 6, Line 11

At end insert -

‘(2A) Subsection (2) does not require there to be evidence of some detrimental impact on the child that is attributable to A’s behaviour (or of the child’s awareness of, or understanding of the nature of, A’s behaviour), but nothing in this section prevents such evidence from being led in proceedings for the domestic abuse offence.’

*Minister of Justice*

**Amendment 7** [Made]

**Clause 9, Page 6, Line 11**

After ‘behaviour.’ insert -

‘Or

- (c) a reasonable person would consider the course of behaviour, or an incident of A’s behaviour that forms part of the course of behaviour, to be likely to adversely affect the child.
- (2A) For it to be proved that the offence is so aggravated, there does not need to be evidence that a child –
  - (a) has ever had any awareness or understanding of A’s behaviour, or
  - (b) has ever been adversely affected by A’s behaviour.
- (2B) Nothing in this subsection prevents evidence from being led about—
  - (a) a child’s observations of, or feelings as to, A’s behaviour, or
  - (b) a child’s situation so far as arising because of A’s behaviour.’

*Miss Rachel Woods*

*Mr Paul Frew*

**Amendment 8** [Made]

**Clause 10, Page 6, Line 38**

Leave out ‘course of behaviour would constitute the domestic abuse offence’ and insert ‘domestic abuse offence would be constituted by virtue of the course of behaviour’

*Minister of Justice*

**Amendment 9** [Made]

**Clause 11, Page 7, Line 15**

Leave out ‘18’ and insert ‘16’

*Minister of Justice*

**Amendment 10** [Made]

**Clause 13, Page 7, Line 40**

At end insert -

‘(3) This section is without prejudice to section 6(2) of the Criminal Law Act (Northern Ireland) 1967 (alternative verdicts on trial on indictment).’

*Minister of Justice*

**Amendment 11** [Made]

**Clause 17**, Page 9, Line 21

Leave out ‘18’ and insert ‘16’

*Minister of Justice*

**Amendment 12** [Made]

**New Clause**

Before clause 21 insert -

*‘Definitions for child cruelty offence*

**Meaning of ill-treatment etc. in offence provision**

**20A.** In section 20 (cruelty to persons under 16) of the Children and Young Persons Act (Northern Ireland) 1968—

- (a) in subsection (1), the words from “(including” to “derangement)” are repealed,
- (b) before paragraph (a) of subsection (2) insert—
  - “(za) a reference to—
    - (i) ill-treatment is to ill-treatment whether physical or otherwise;
    - (ii) suffering or injury is to suffering or injury whether physical or otherwise;”.

*Minister of Justice*

**Amendment 13** [Made]

**New Clause**

After clause 24 insert -

**‘Interim protection for the victim**

**24A.—**(1) The Department of Justice may by regulations, within 24 months of commencement, make provision for measures which may be made for the purposes of protecting and supporting the victim or alleged victim.

- (2) The regulations may include provisions about—
  - (a) court orders,
  - (b) measures other than court orders.

(3) The regulations may not be made unless a draft has been laid before and approved by a resolution of the Northern Ireland Assembly.’

*Chair, Committee for Justice*

**Amendment 14** [Made on Division]

**New Clause**

After clause 24 insert -

**‘Amendment to the eligibility requirement for civil legal aid**

**24A.** In The Civil Legal Services (Financial) Regulations (Northern Ireland) 2015, Article 10 (1), at end insert—

“(ab) advice and assistance or representation in proceedings for, or in relation to, any order referred in Article 8(1) of the Children (Northern Ireland) Act 1995 where the client is a victim of domestic abuse in accordance with the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020.”’

*Miss Rachel Woods*

**Amendment 15** [Not moved]

**New Clause**

Before clause 25 insert -

**‘Requirement for training within relevant bodies**

**24A.**—(1) Each of the following must provide such training on the effect of this Part as it considers appropriate for its personnel—

- (a) the Police Service of Northern Ireland,
- (b) the Public Prosecution Service for Northern Ireland.

(2) The Department of Justice must provide such training on the effect of this Part as it considers appropriate for staff within the Northern Ireland Courts and Tribunal Service.’

*Minister of Justice*

**Amendment 16** [Made]

**Clause 25**, Page 13, Line 28

Leave out ‘may’ and insert ‘must’

*Minister of Justice*

**Amendment 17** [Made]

**Clause 25**, Page 13, Line 30

Leave out ‘other matters’ and insert ‘such other matters as it considers appropriate’

*Minister of Justice*

**Amendment 18** [Made]

**Clause 25**, Page 13, Line 31

At end insert -

‘(1A) In supporting the operation of Part 1, the Department may by regulations make provision for informing the school of a child who saw, heard or was present during a domestic abuse incident.’

*Chair, Committee for Justice*

**Amendment 19** [Made]

**Clause 25**, Page 13, Line 34

Leave out from ‘may’ to end of line 35 and insert -

‘must—

- (a) keep any guidance issued under this section under review, and
- (b) revise any guidance issued under this section if it considers revision to be necessary in light of review.’

*Minister of Justice*

**Amendment 20** [Made]

**New Clause**

After clause 25 insert -

**‘Guidance on data collection**

**25A.**—(1) The Department of Justice—

- (a) may issue guidance to the relevant bodies about the sort of information which it seeks to obtain from them for the purpose of the assessment by it of the operation of this Part, and
- (b) must have regard to information which it obtains from the relevant bodies in relation to the operation of this Part when determining the steps (if any) that could be taken by it for the purpose of ensuring the effectiveness of the operation of this Part.

(2) The relevant bodies are—

- (a) Police Service of Northern Ireland,
- (b) Public Prosecution Service Northern Ireland,
- (c) the Northern Ireland Courts and Tribunals Service, and
- (d) such additional bodies as the Department considers appropriate.’

*Chair, Committee for Justice*

**Amendment 21** [Made]

**New Clause**

After clause 25 insert -

**‘Training**

**25A.**—(1) It shall be the duty of the Department to ensure that sufficient training of policing and criminal justice agencies, including but not limited to—

- (a) Police Service of Northern Ireland,
- (b) Public Prosecution Service Northern Ireland, and
- (c) the Northern Ireland Courts and Tribunals Service, and

is made available to allow for the effective operation of this Act.

(2) Training must be provided annually.

(3) Training is mandatory for all those involved in the disposal of domestic abuse cases in policing and criminal justice agencies, including but not limited to the agencies listed in subsection (1).

(4) Having identified the relevant staff in subsection (3) at the beginning of an annual reporting period, the Department must publish the uptake of training by each relevant organisation at the end of each year.’

*Chair, Committee for Justice*

**Amendment 22** [Negatived]

*As an Amendment to Amendment 21*

Clause 25A(1) after ‘sufficient’ insert the words ‘resources and’

*Miss Rachel Woods*

**Amendment 23** [Made]

**New Clause**

After clause 25 insert -

**‘Independent oversight**

**25A.**—(1) The Department of Justice must not later than 1 year after the commencement of this Act appoint an independent person to—

- (a) contribute to the development of the guidance under section 25, and
- (b) review, report and make recommendations in relation to the operation of Part 1.

(2) The person must produce a report annually on the activities in subsection (1), starting not later than 2 years after the commencement of this Act.

(3) The Department must—

- (a) lay the report before the Northern Ireland Assembly, and
- (b) arrange for it to be published.

(4) The Department may by regulations set out the date, not less than 7 years after commencement, when the independent person may cease the duties in subsections (1) and (2).

(5) Starting on the date when the independent person ceases duties, the Department must publish a report on subsection (1)(b) every 3 years thereafter.’

*Chair, Committee for Justice*

**Amendment 24**                      **[Made]**

**New Clause**

After clause 25 insert -

**‘Report on the operation of this Act**

**25A.—**(1) The Department of Justice must prepare a report on the operation of—

- (a) an offence under section 1(1), and
- (b) an offence that is aggravated as described in sections 8, 9 and 15.

(2) The report must set out, in relation to those sorts of offences—

- (a) the number of cases for which criminal proceedings are undertaken,
- (b) the number of convictions in criminal proceedings,
- (c) the average length of time—
  - (i) from service of the complaint or indictment,
  - (ii) to finding or verdict as to guilt (including plea of guilty),
- (d) information about the experience of witnesses (including witnesses who are children) at court,
- (e) such additional information as the Department of Justice considers appropriate.

(3) The report must, in relation to those sorts of offences, include distinct statistics for each of them.

(4) For the purpose of the report, the Department of Justice must seek information on how court business is arranged so as to ensure the efficient disposal of cases involving those sorts of offences.

(5) The report must also include—

- (a) activities and associated timespans for delivering the guidance in section 25 and any plans for review,
- (b) strategies to communicate the provisions of Part 1 to the public and to victims in particular, and
- (c) any additional activities which support the operation of the Act.

(6) The Department must prepare a report under this section—

- (a) not more than 2 years after commencement, and
- (b) thereafter, at intervals of not more than 3 years.

(7) The Department must—

- (a) lay the report before the Northern Ireland Assembly, and
- (b) arrange for it to be published.’

*Chair, Committee for Justice*



**Amendment 25** [Negatived]

***As an Amendment to Amendment 24***

Subsection (2)(b), at end insert—

- ‘(ba) the number of cases where it has been –
  - (i) specified that the offence is aggravated by reasons as described in sections 8, 9, and 15.
  - (ii) proved that the offence is so aggravated,
- (bb) information on A and B as described in Section 75 of the Northern Ireland Act 1998,’

*Miss Rachel Woods*

**Amendment 26** [Made]

***As an Amendment to Amendment 24***

Subsection (2), at end insert—

‘(2A) The report should also include the number of offences recorded within each police district in Northern Ireland,’

*Miss Rachel Woods*

**Amendment 27** [Made]

**New Clause**

Before clause 26 insert -

**‘Factors relevant to residence and contact orders**

**A26.** In the Children (Northern Ireland) Order 1995, in Article 12A (residence and contact orders and domestic violence)—

- (a) in paragraph (1), after “in favour of” insert “—
  - (a) any person, the court shall have regard to any conviction of the person for a domestic abuse offence involving the child,
  - (b) ”,
- (b) after paragraph (1) insert—
  - “(1A) For the purposes of paragraph (1)(a), a domestic abuse offence involving the child is—
    - (a) an offence under section 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 if—
      - (i) the offence is aggravated as provided for in section 9 of that Act, and
      - (ii) the aggravation of the offence relates to the child, or
    - (b) an offence of any kind (apart from one under section 1 of that Act) if—
      - (i) the offence is aggravated as provided for in section 15 of that Act, and
      - (ii) the child is not the person against whom the offence was committed but the aggravation of the offence relates to the child.”,
  - (c) in paragraph (2), for “paragraph (1)” substitute “paragraph (1)(b)”,
  - (d) in paragraph (3), after “Article 3” insert “(and in that paragraph neither sub-paragraph limits the effect of the other sub-paragraph)”.’

*Minister of Justice*

**Amendment 28** [Made]

**Clause 26**, Page 16, Line 3

Leave out “‘provision’ means a statutory provision or any other’ and insert “‘corresponding provision’ means a corresponding statutory provision or any other corresponding’

*Minister of Justice*

**Amendment 29** [Made]

**Clause 26**, Page 17, Line 5

Leave out ‘(2)’ and insert ‘3(2)’

*Minister of Justice*

**Amendment 30** [Made]

**Clause 26**, Page 18, Line 3

Leave out ‘family’

*Minister of Justice*

**Amendment 31** [Made]

**Clause 26**, Page 18, Line 6

Leave out ‘family’

*Minister of Justice*

**Amendment 32** [Made]

**New Clause**

After clause 26 insert -

**‘Special measures directions in family proceedings**

**26A.**—(1) In the Family Law (Northern Ireland) Order 1993, after Article 11J (as inserted by this Act) insert—

*“Special measures directions in family proceedings*

**Special measures in family proceedings: victims of abusive behaviour**

11K.—(1) Rules of court must make provision enabling the court to make a special measures direction in relation to a person (“P”) where—

- (a) P is a party to or witness in family proceedings,
- (b) P is, or is at risk of being, subjected to abusive behaviour by a person who is—

- (i) a party to the proceedings,
- (ii) a relative of a party to the proceedings (other than P), or
- (iii) a witness in the proceedings, and
- (c) P and that person are personally connected.

(2) Rules under paragraph (1) must provide for the court to consider, on the application of a party or of the court's own motion, whether a special measures direction (or more than one direction) should be made.

(3) Provision in rules by virtue of paragraph (2) may include provision about what factors the court is to take into account when considering whether a special measures direction should be made, in particular (but not limited to)—

- (a) the availability of the special measures in question, and
- (b) any views expressed by P.

(4) The following apply for the purposes of this Article as they apply for the purposes of Chapter 1 of Part 1 of the Domestic Abuse and Family Proceedings Act (Northern Ireland) 2020 (to give meanings to certain expressions)—

- (a) section 2 (as read with section 3(2)) of that Act,
- (b) sections 4 and 5 of that Act.

(5) In this Article—

“family proceedings” means—

- (a) proceedings which are family proceedings for the purposes of Article 12 (family proceedings rules),
- (b) proceedings in a court of summary jurisdiction when exercising its jurisdiction under one or more of the following—
  - (i) the Domestic Proceedings (Northern Ireland) Order 1980,
  - (ii) Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989,
  - (iii) the Children (Northern Ireland) Order 1995,
  - (iv) the Family Homes and Domestic Violence (Northern Ireland) Order 1998,
  - (v) Schedule 16 to the Civil Partnership Act 2004,

“relative” has the meaning given by Article 2(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998,

“rules of court” includes—

- (a) rules of court under Article 12, and
- (b) magistrates' courts rules,  
as well as rules of court as defined in section 21(4) of the Interpretation Act (Northern Ireland) 1954,

“special measures” means such measures specified by rules of court for the purpose of assisting a person to give evidence or participate in proceedings,

“special measures direction” means a direction by the court granting special measures.

### **Power to alter definition of family proceedings**

11L.—(1) The Department of Justice may by regulations amend Article 11K so as to alter the definition of “family proceedings” in paragraph (5) of that Article.

(2) Regulations that contain (with or without other provisions) provision under paragraph (1) may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.”.

*Minister of Justice*

## Amendment 33

### New Clause [Made]

After clause 26 insert -

#### **‘Prohibition of cross-examination in person in civil proceedings generally**

**26B.** In the Civil Evidence (Northern Ireland) Order 1997, after Article 7 insert—

*“Prohibition of cross-examination in person in civil proceedings*

#### **Prohibition of cross-examination in person: introductory**

7A.—(1) For the purposes of Articles 7B to 7F—

“civil proceedings” means proceedings (other than proceedings which are family proceedings for the purposes of Article 12 of the Family Law (Northern Ireland) Order 1993), in—

- (a) the High Court, or
- (b) a county court,  
exercising its civil jurisdiction,

“witness”, in relation to any proceedings, includes a party to the proceedings.

(2) The Department of Justice may by regulations amend this Article so as to alter the definition of “civil proceedings” in paragraph (1).

#### **Direction for prohibition of cross-examination in person**

7B.—(1) In civil proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) a witness in person if it appears to the court that—

- (a) the quality condition or the significant distress condition is met, and
- (b) it would not be contrary to the interests of justice to give the direction.

(2) The “quality condition” is met if the quality of evidence given by the witness on cross-examination—

- (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and
- (b) would be likely to be improved if a direction were given under this Article.

(3) The “significant distress condition” is met if—

- (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness or the party, and
- (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person.

(4) A direction under this Article may be made by the court—

- (a) on an application made by a party to the proceedings, or
- (b) of the court’s own motion.

(5) In determining whether the quality condition or the significant distress condition is met in the case of a witness or party, the court must have regard to (among other things)—

- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person,
- (b) any views expressed by the party as to whether or not the party is content to cross-examine the witness in person,
- (c) the nature of the questions likely to be asked, having regard to the issues in the proceedings,
- (d) any conviction or caution (of any kind) of which the court is aware for an offence committed by the party in relation to the witness,

- (e) any conviction or caution (of any kind) of which the court is aware for an offence committed by the witness in relation to the party,
  - (f) any behaviour by the party in relation to the witness in respect of which the court is aware that a finding of fact has been made in the proceedings or any other proceedings,
  - (g) any behaviour by the witness in relation to the party in respect of which the court is aware that a finding of fact has been made in the proceedings or any other proceedings,
  - (h) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness,
  - (i) any behaviour by the witness at any stage of the proceedings, both generally and in relation to the party,
  - (j) any relationship (of whatever nature) between the witness and the party.
- (6) Any reference in this Article to the quality of a witness's evidence is to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose, "coherence" refers to a witness's ability in giving evidence to give answers which—
- (a) address the questions put to the witness, and
  - (b) can be understood, both individually and collectively.

**Directions under Article 7B: supplementary**

- 7C.—(1) A direction under Article 7B has binding effect from the time it is made until the witness in relation to whom it applies is discharged.
- (2) But the court may revoke a direction under Article 7B before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either—
- (a) on an application made by a party to the proceedings, or
  - (b) of the court's own motion.
- (3) The court may revoke a direction under Article 7B on an application made by a party to the proceedings only if there has been a material change of circumstances since—
- (a) the direction was given, or
  - (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined.
- (4) The court must state its reasons for—
- (a) giving a direction under Article 7B,
  - (b) refusing an application for a direction under Article 7B,
  - (c) revoking a direction under Article 7B,
  - (d) refusing an application for the revocation of a direction under Article 7B.

**Alternatives to cross-examination in person**

- 7D.—(1) This Article applies where a party to civil proceedings is prevented from cross-examining a witness in person by virtue of Article 7B.
- (2) The court must consider whether (ignoring this Article) there is a satisfactory alternative means—
- (a) for the witness to be cross-examined in the proceedings, or
  - (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must—
- (a) invite the party to the proceedings to arrange for a qualified legal representative to act for the party for the purpose of cross-examining the witness, and
  - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether a qualified legal representative is to act for the party for that purpose.
- (4) Paragraph (5) applies if, by the end of the period specified under paragraph (3)(b), either—

- (a) the party has notified the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness, or
- (b) no notification has been received by the court and it appears to the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness.

(5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by a qualified legal representative appointed by the court to represent the interests of the party.

(6) If the court decides that it is, the court must appoint a qualified legal representative (chosen by the court) to cross-examine the witness in the interests of the party.

(7) A qualified legal representative appointed by the court under paragraph (6) is not responsible to the party except in so far as acting in the interests of the party by virtue of this Article.

(8) For the purposes of this Article—

- (a) a reference to cross-examination includes a reference to continuing to conduct cross-examination,
- (b) “qualified legal representative” means a legal representative who has a right of audience in relation to the proceedings before the court.

#### **Costs of legal representatives appointed under Article 7D(6)**

7E.—(1) The Department of Justice must pay such sums as the Department may determine in respect of—

- (a) fees or costs properly incurred by a qualified legal representative appointed under Article 7D(6), and
- (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.

(2) Regulations made by the Department of Justice may provide for sums payable under paragraph (1)—

- (a) to be such amounts as are specified in the regulations,
- (b) to be calculated in accordance with—
  - (i) a rate or scale specified in the regulations, or
  - (ii) other provision made by or under the regulations.

#### **Guidance for legal representatives appointed under Article 7D(6)**

7F.—(1) The Department of Justice may issue guidance in connection with the role which a qualified legal representative appointed under Article 7D(6) in connection with any civil proceedings is to play in the proceedings, including (among other things) guidance about the effect of Article 7D(7).

(2) A qualified legal representative appointed under Article 7D(6) must have regard to any guidance issued under this Article.

(3) The Department of Justice may from time to time revise any guidance issued under this Article.

(4) The Department of Justice must publish—

- (a) any guidance issued under this Article, and
- (b) any revisions of guidance issued under this Article.

#### **Regulations under Articles 7A to 7E**

7G.—(1) Any power of the Department of Justice to make regulations under Articles 7A to 7E includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

(2) Regulations that contain (with or without other provisions) provision under Article 7A(2) may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(3) Regulations that contain provision under Articles 7B to 7E are subject to negative resolution (except where they are required by paragraph (2) to be laid in draft before and approved by a resolution of the Assembly).”.’

*Minister of Justice*

**Amendment 34** [Made]

**New Clause**

After clause 26 insert -

**‘Special measures directions in civil proceedings generally**

**26C.** In the Civil Evidence (Northern Ireland) Order 1997, after Article 7G (as inserted by this Act) insert—

*“Special measures directions in civil proceedings*

**Special measures in civil proceedings: victims of specified offences**

7H.—(1) Rules of court must make provision enabling the court to make a special measures direction in relation to a person (“P”) where—

- (a) P is a party to or witness in civil proceedings, and
- (b) P is the victim, or alleged victim, of a specified offence.

(2) Rules under paragraph (1) must provide for the court to consider, on the application of a party or of the court’s own motion—

- (a) whether—
  - (i) the quality of P’s evidence, or
  - (ii) where P is a party to the proceedings, P’s participation in the proceedings, is likely to be diminished for reasons arising because P is the victim or alleged victim, and
- (b) if so, whether a special measures direction (or more than one direction) should be made.

(3) Provision in rules by virtue of paragraph (2)(b) may include provision about what factors the court is to take into account when considering whether a special measures direction should be made, in particular (but not limited to)—

- (a) the availability of the special measures in question, and
- (b) any views expressed by P.

(4) For the purposes of this Article—

- (a) P is the victim of a specified offence if another person has been convicted of, or given a caution for, the offence,
- (b) P is the alleged victim of a specified offence if another person has been charged with the offence.

(5) In this Article—

“caution” means—

- (a) in the case of Northern Ireland—
  - (i) a conditional caution given under section 71 of the Justice Act (Northern Ireland) 2011, or
  - (ii) any other caution given to a person in Northern Ireland in respect of an offence which, at the time the caution is given, the person has admitted,
- (b) in the case of England and Wales—
  - (i) a conditional caution given under section 22 of the Criminal Justice Act 2003,
  - (ii) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998, or

- (iii) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, the person has admitted,
- (c) in the case of Scotland, anything corresponding to a caution falling within sub-paragraph (b) (however described) which is given to a person in respect of an offence under the law of Scotland,

“civil proceedings” means proceedings (other than proceedings which are family proceedings for the purposes of Article 12 of the Family Law (Northern Ireland) Order 1993) in—

- (a) the High Court, or
- (b) a county court, exercising its civil jurisdiction,

“conviction” means—

- (a) wherever occurring in Northern Ireland, Scotland, or England and Wales—
  - (i) a conviction before a court, or
  - (ii) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged,
- (b) wherever occurring within or outside the United Kingdom, a conviction in service disciplinary proceedings,

“rules of court” includes county court rules as well as rules of court as defined in section 21(4) of the Interpretation Act (Northern Ireland) 1954,

“service disciplinary proceedings” means—

- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (except proceedings before a civilian court within the meaning of that Act),
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (whether before a court-martial or before any other court or person authorised under any of those Acts to award a punishment in respect of an offence),
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976,

“special measures” means such measures specified by rules of court for the purpose of assisting a person to give evidence or participate in proceedings,

“special measures direction” means a direction by the court granting special measures,

“specified offence” means an offence which is specified, or of a description specified, in regulations made by the Department of Justice.

(6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this Article to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally—

- (a) Article 6 of the Criminal Justice (Northern Ireland) Order 1996 or any corresponding provision,
- (b) section 187 of the Armed Forces Act 2006 or any corresponding provision.

(7) For the purposes of this Article—

“offence” includes an offence under a law that is no longer in force,

“corresponding provision” means a corresponding statutory provision or any other corresponding legislative provision (and includes an earlier provision or a provision applying in any part of the United Kingdom).



**Power to alter definition of civil proceedings**

7I.—(1) The Department of Justice may by regulations amend Article 7H so as to alter the definition of “civil proceedings” in paragraph (5) of that Article.

(2) Regulations that contain (with or without other provisions) provision under paragraph (1) may not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(3) Regulations that contain provision under Article 7H(5) are subject to negative resolution (except where they are required by paragraph (2) to be laid in draft and approved by a resolution of the Assembly).’.

*Minister of Justice*