

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Männystrie O tha Laa

www.justice-ni.gov.uk

Minister's Office
Castle Buildings Block B
Stormont Estate
Ballymiscaw
Belfast
BT4 3SG

Caroline Perry
Clerk to the Justice Committee
Northern Ireland Assembly
Parliament Buildings
Stormont
Belfast BT4 3XX

28 October 2024

Dear Caroline,

JUSTICE BILL: SHARING TEXT OF PLANNED AMENDMENTS

Officials had previously agreed to share the text of the planned Departmental amendments to the Justice Bill with the Justice Committee as these become available.

I am now pleased to be able to share the text of the first two sets of planned amendments to the Bill with Committee members.

The biometrics amendments are attached at Appendix A, along with the restorative justice services amendments at Appendix B.

The amendments relating to reform of rehabilitation periods are essentially complete but a little extra time is needed to consider and include provision to specify the rehabilitation period to apply to the new Youth Custody and Supervision Order at Clause 12 of the Bill, and we hope to be able to share the text of these provisions with the Committee during the week commencing Monday 4 November.

**DAVID GRAHAM
DALO**

Enc: Appendix A – Biometrics Amendments
Appendix B – Restorative Justice Amendments

JUSTICE BILL

CONSIDERATION STAGE

“Informed that he would be reported”

Clause 33, page 42, line 15

At end insert—

‘(c) the following paragraphs of Schedule 2 (and section 2 so far as it relates to those paragraphs)—

- (i) paragraph 4(3) so far as it inserts Article 53(3C) of the Police and Criminal Evidence (Northern Ireland) Order 1989;
- (ii) paragraphs 7(a), 7A, 8(a) and 8A.’

Schedule 2, page 45, line 12

Leave out ‘a person being informed that the person will be reported’ and insert ‘a complaint being laid against the person’

Schedule 2, page 45, line 13

At end insert—

‘(3C) In this Part, references to a complaint being laid against a person for an offence are references to a complaint being made, as mentioned in Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981, that the person has (or is suspected of having) committed the offence, without the person having been charged with that offence.’

Schedule 2, page 45, line 35

After ‘(fingerprinting)’ insert—

- ‘(a) in paragraph (4)(a), for “or informed that he will be reported” substitute “or a complaint has been laid against him”;
- (b) in paragraph (5B) (as inserted by section 8(2) of the Crime and Security Act 2010), for “or informed that he will be reported” substitute “or a complaint has been laid against him”;
- (c)’

Schedule 2, page 45, line 37

At end insert—

‘7A. In Article 61A (impressions of footwear), in paragraph (3)(a), for “or informed that he will be reported” substitute “or a complaint has been laid against him”.’

Schedule 2, page 45, line 39

For paragraph (a) substitute—

- ‘(a) in paragraph (3A) (as substituted by Article 11(2) of the Police (Amendment) (Northern Ireland) Order 1995), in sub-paragraph (a), for “or informed that he will be reported” substitute “or a complaint has been laid against him”;
- (aa) in paragraph (3A) (as substituted by section 8(6) of the Crime and Security Act 2010)—
 - (i) for “or informed that he will be reported” substitute “or a complaint has been laid against him”;
 - (ii) in sub-paragraph (c), for “64ZA” substitute “63W”;

Schedule 2, page 46, line 1

At end insert—

- ‘8A. In Article 63A (fingerprints and samples: supplementary provisions)—
 - (a) in paragraph (1), for “or has been informed that he will be reported” substitute “or a complaint has been laid against him”;
 - (b) in paragraph (4)(a), for “or informed that he will be reported” substitute “or a complaint has been laid against him”;
 - (c) in paragraph (5)(a), after “date of the charge” insert “or the date on which the complaint is laid.”;
 - (d) in paragraph (8)(a), for “as to which he was informed that he would be reported” substitute “in relation to which the complaint was laid”.’

Schedule 2, page 46, line 22

At end insert—

- ‘11A.—(1) Schedule 2A (inserted by section 12(2) of the Crime and Security Act 2010) is amended as follows.
 - (2) In paragraph 2 (fingerprinting: persons charged etc)—
 - (a) in sub-paragraph (2)(a), for “or informed that he would be reported” substitute “or the complaint was laid”;
 - (b) in sub-paragraph (3), for “or informed that he would be reported” substitute “or in relation to which the complaint was laid”.
 - (3) In paragraph 10 (non-intimate samples: persons charged etc)—
 - (a) in sub-paragraph (2), for “or informed that he would be reported” substitute “or the complaint was laid”;
 - (b) in sub-paragraph (4), for “or informed that he would be reported” substitute “or in relation to which the complaint was laid”.’

Restorative justice schemes

Clause 1, page 8, line 36

At end insert—

‘Persons completing [community-based] restorative justice process

63NA.—(1) This Article applies where P has completed the [community-based] restorative justice process with respect to a recordable offence.

(2) If—

(a) P was aged 18 or over at the time of the offence, and

(b) the offence is a qualifying offence,

P's material may be retained until the end of the period of 75 years beginning with the date on which P completed the process.

(3) If—

(a) P was aged 18 or over at the time of the offence, and

(b) the offence is a recordable offence other than a qualifying offence,

P's material may be retained until the end of the period of 25 years beginning with the date on which P completed the process.

(4) If P was aged under 18 at the time of the offence, P's material may be retained until the end of the period of 5 years beginning with the date on which P completed the process.

(5) For the purposes of this Article, P completes the [community-based] restorative justice process with respect to an offence if (and only if)—

(a) P has completed a plan, or any other requirements for successful completion, established with respect to that offence by an accredited provider of [community-based] restorative justice services within the meaning of [section 43 of the Justice and Security (Northern Ireland) Act 2007], and

(b) the Director of Public Prosecutions, having been informed by the Chief Constable of that completion, has determined not to institute proceedings against P in respect of the offence or, as the case may be, not to continue proceedings already instituted against P in respect of the offence.'

Clause 1, page 9, line 1

Leave out 'or community-based restorative justice scheme'

Clause 1, page 9, line 3

Leave out from 'either' to end of line 6 and insert 'the diversionary youth conference process with respect to a recordable offence.'

Clause 1, page 9, leave out lines 19 to 30

Retention of material while application to Commissioner is being contemplated / considered

Clause 1, page 3, line 14

Leave out '14' and insert '28'

Clause 1, page 4, line 22

Leave out 'If' and insert 'Paragraphs (4A) and (6A) apply where'

Clause 1, page 4, line 24

At end insert 'and'

Clause 1, page 4, line 25

Leave out from 'and' until end of line 28 and insert—

'(4A) If the Northern Ireland Commissioner for the Retention of Biometric Material (see Article 63Z) has consented under paragraph (5) to the retention of the material,'

Clause 1, page 4, line 33

Leave out '(4)' and insert '(4A)'

Clause 1, page 4, line 39

At end insert—

'(6A) If an application is made under paragraph (5) in relation to P's material and (apart from this paragraph) the material would be required to be destroyed before the application is finally determined, the material may be retained until proceedings on the application have been concluded.'

Clause 1, page 16, line 18

Leave out '63G(4)(c)' and insert '63G(4A)'

Schedule 1, page 44, line 5

Leave out '63G(4)(c)' and insert '63G(4A)'

Fingerprints and photographs

After clause 23 insert—

'Powers to photograph certain persons at a police station

23A. Schedule [*Power to photograph certain persons at a police station*] makes provision conferring powers to photograph certain persons at a police station.'

After Schedule 4 insert—

POWER TO PHOTOGRAPH CERTAIN PERSONS AT A POLICE STATION

1. Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.

2. —(1) In Article 64A (photographing of suspects), after paragraph (1B) insert—

“(1C) A person to whom paragraphs (1) and (1A) do not apply may be photographed at a police station without the appropriate consent if that person falls within paragraph (1D), (1F) or (1H).

(1D) A person falls within this paragraph if—

- (a) the person has been arrested for a recordable offence and released,
- (b) the person has been charged with a recordable offence, or
- (c) a complaint has been laid against the person for a recordable offence;

and either of the conditions in paragraph (1E) is met.

(1E) The conditions referred to in paragraph (1D) are—

- (a) that the person has not been photographed in the course of the investigation of the offence by the police;
- (b) that the person has been so photographed but the photograph (or, if there is more than one photograph, any of them) is unavailable or inadequate.

(1F) A person falls within this paragraph if the person has been—

- (a) convicted of a recordable offence, or
- (b) given a caution in respect of a recordable offence which, at the time of the caution the person has admitted;

and either of the conditions in paragraph (1G) is met.

(1G) The conditions referred to in paragraph (1F) are—

- (a) that the person has not been photographed since being convicted or cautioned;
- (b) that the person has been so photographed but the photograph (or, if there is more than one photograph, any of them) is unavailable or inadequate.

(1H) A person falls within this paragraph if—

- (a) under the law in force in a country or territory outside Northern Ireland the person has been convicted of an offence under that law (whether or not the person has been punished for it),
- (b) the act constituting the offence would constitute a qualifying offence if done in Northern Ireland (whether or not it constituted such an offence when the person was convicted), and
- (c) either of the conditions in paragraph (1I) is met.

(1I) The conditions referred to in paragraph (1H) are—

- (a) that the person has not been photographed on a previous occasion by virtue of being a person falling within paragraph (1H);
- (b) that the person has been so photographed but the photograph (or, if there is more than one photograph, any of them) is unavailable or inadequate.

(1J) In paragraphs (1E), (1G) and (1I)—

- (a) references to a photograph being unavailable include references to it being lost or destroyed, and
- (b) references to a photograph being inadequate include references to it—
 - (i) being unclear;
 - (ii) being an incomplete photograph of the subject;
 - (iii) being no longer an accurate representation of the subject’s appearance;
 - (iv) failing to meet quality or technical standards.

(1K) A person may be photographed under paragraph (1C) only with the authorisation of an officer, of at least the rank of inspector, who is satisfied that taking the photograph is necessary to assist in the prevention or detection of crime.

(1L) In paragraph (1K) the reference to crime includes a reference to any conduct which—

- (a) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
- (b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences.

(1M) Where a person is photographed without the appropriate consent by virtue of any power conferred by this Article—

- (a) before the photograph is taken, an officer must inform the person of—
 - (i) the reason for taking the photograph;
 - (ii) the power by virtue of which it is taken; and
 - (iii) in a case where the authorisation of an officer is required under paragraph (1K) for the exercise of the power, the fact that the authorisation has been given; and
- (b) those matters shall be recorded as soon as practicable after the photograph is taken.

(1N) The reason referred to in paragraph (1M)(a)(i) must include, except in a case where the photograph is taken under paragraph (1F) or (1H), a statement of the nature of the offence in which it is suspected that the person has been involved.”

(2) For the purposes of the references in paragraphs (1D), (1F) and (1H) of Article 64A (as inserted by sub-paragraph (1)) to a person—

- (a) being arrested for, or charged with, a recordable offence,
- (b) being convicted of a recordable offence or being given a caution for one, or
- (c) being convicted of an offence under the law in force in a country or territory outside Northern Ireland,

it does not matter whether that event occurs before or after the coming into operation of this paragraph.

3. In Schedule 2A (power to require attendance at police station), after paragraph 14 insert—

“PART 3A PHOTOGRAPHS

Persons arrested and released

14A.—(1) A constable may require a person who falls within Article 64A(1D)(a) to attend a police station to be photographed under Article 64A(1C).

(2) Where Article 64A(1E)(b) applies (photograph taken on a previous occasion unavailable or inadequate), the power under this paragraph may not be exercised after the end of the period of six months beginning with the day on which the appropriate officer was informed that the photograph in question was unavailable or inadequate.

(3) In sub-paragraph (2) the “appropriate officer” means the officer investigating the offence for which the person was arrested.

Persons charged etc

14B.—(1) A constable may require a person who falls within Article 64A(1D)(b) or (c) to attend a police station to be photographed under Article 64A(1C).

(2) Where Article 64A(1E)(a) applies (photograph not previously taken), the power under this paragraph may not be exercised after the end of the period of six months beginning with the day on which the person was charged or the complaint was laid.

(3) Where Article 64A(1E)(b) applies (photograph taken on a previous occasion unavailable or inadequate), the power under this paragraph may not be exercised after the end of the period of six months beginning with the day on which the appropriate officer was informed that the

photograph in question was unavailable or inadequate.

(4) In sub-paragraph (3) the “appropriate officer” means the officer investigating the offence in question.

Persons convicted of an offence etc in Northern Ireland

14C.—(1) A constable may require a person who falls within Article 64A(1F) to attend a police station to be photographed under Article 64A(1C).

(2) Where Article 64A(1G)(a) applies (photograph not previously taken), the power under this paragraph may not be exercised after the end of the period of two years beginning with—

- (a) the day on which the person was convicted or cautioned, or
- (b) if later, the day on which this Part comes into force.

(3) Where Article 64A(1G)(b) applies (photograph taken on previous occasion unavailable or inadequate), the power under this paragraph may not be exercised after the end of the period of two years beginning with—

- (a) the day on which an appropriate officer was informed that the photograph in question was unavailable or inadequate, or
- (b) if later, the day on which this Part comes into force.

(4) In sub-paragraph (3)(a), “appropriate officer” means an officer of the police force which investigated the offence in question.

(5) Sub-paragraphs (2) and (3) do not apply where the offence is a qualifying offence (whether or not it was such an offence at the time of the conviction or caution).

Persons convicted of an offence etc. outside Northern Ireland

14D. A constable may require a person falling within Article 64A(1H) to attend at a police station to be photographed under Article 64A(1C).”.

4.—(1) Schedule 2A is further amended as follows.

(2) In the heading, for “and samples” substitute “, samples and photographs”.

(3) In the italic heading before paragraph 15 (requirement to have power to take fingerprints or sample), for “or sample” substitute “, sample or photograph”.

(4) In paragraph 15—

- (a) for “or a sample” substitute “, a sample or a photograph”, and
- (b) for “or sample”, in both places it occurs, substitute “, sample or photograph”.

(5) In paragraph 16(2) (date and time of attendance), for “or sample” substitute “, sample or photograph”.’

After clause 23 insert—

‘Power to specify date of attendance at police station for fingerprinting etc

23B.—(1) Paragraph 16 of Schedule 2A to the Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.

(2) For paragraphs (a) and (b) of sub-paragraph (1) substitute—

- “(a) must direct the person to attend the police station on a specified date, and
- (b) may either direct the person to attend at a specified time on that date or direct the person to attend between specified times on that date.”

(3) In sub-paragraph (2), for “period or time or times of day” substitute “date, time or times”.

(4) Omit sub-paragraphs (3) and (4).

(5) In sub-paragraph (5), for “any period within which, or date or time at which,” substitute “any date, time at which or times between which”.’

Drafting

Clause 3, page 18, line 3

Leave out ‘, 63S and 63W’ and insert ‘and 63S’

JUSTICE BILL

CONSIDERATION STAGE

Transfer of functions related to restorative justice schemes

After clause 26 insert—

‘Accredited providers of restorative justice services

26A.—(1) The Department of Justice must—

- (a) determine requirements for the accreditation of persons to provide restorative justice services, and
- (b) maintain a register of persons who are accredited in accordance with those requirements.

(2) The requirements must include a requirement that accredited persons cooperate with the Chief Inspector of Criminal Justice in Northern Ireland.

(3) The requirements may include—

- (a) in the case where an accredited person is a body, a requirement to be a registered charity;
- (b) in the case where an accredited person employs other persons, requirements to be met by some or all of the person’s employees or other staff;
- (c) requirements that a person is required to comply with during the period that the person is accredited;
- (d) additional requirements which must be met by persons providing restorative justice services in particular kinds of case;
- (e) requirements to establish procedures for dealing with complaints made to the person about the provision of restorative justice services;
- (f) requirements as to the submission of reports about work undertaken, and as to the provision of information and documents demonstrating that other requirements are met.

(4) The Department must add a person to the register if—

- (a) the person applies to be added, and
- (b) the Department determines that the person meets the requirements for accreditation.

(5) The Chief Inspector may carry out inspections of accredited persons; and—

- (a) the Chief Inspector must from time to time make a report to the Department on inspections carried out by virtue of this subsection, and
- (b) section 49(1A) to (1L) of the Justice (Northern Ireland) Act 2002 (laying of Chief Inspector’s reports before the Assembly) apply in relation to a report under paragraph (a) as they apply in relation to a report under subsection (1) of that section.

(6) The Department may remove a person from the register if the Department determines that the person no longer meets the requirements for registration.

(7) The Department may make other provision about registration, including—

- (a) provision that a person’s accreditation expires after a specified period of time (unless the person applies for it to be renewed);

- (b) provision about applications for re-accreditation by persons who have been removed from the register under subsection (6) (including conditions which must be met before such an application may be made);
- (c) provision for appeals against decisions of the Department.

(8) The Department must make arrangements for the publication of the register and of the requirements and other provision determined under this section.

(9) Section 43 of the Justice and Security (Northern Ireland) Act 2007 is repealed.’

Clause 1, page 7, line 30

Leave out ‘community-based’

Leave out ‘scheme’