Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

# OFFICIAL REPORT
(Hansard)

## Justice Bill: Informal Clause-by-Clause Consideration

27 January 2011

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**
Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Lord Empey
Mr Conall McDevitt
Ms Carál Ní Chuilín
Mr John O'Dowd

**Witnesses:**

| | |
|---|---|
| Mr Tom Haire | ) |
| Mr Gareth Johnston | ) Department of Justice |
| Ms Amanda Patterson | ) |
| Mr Billy Stevenson | ) |
| Ms Geraldine Fee | ) Northern Ireland Courts and Tribunals Service |

**The Chairperson (Lord Morrow):**

We will now continue the informal clause-by-clause consideration of the Justice Bill with Part 5, which is about the treatment of offenders. Part 6 relates to alternatives to prosecution. If members are content, I propose to move the discussion on that Part to Tuesday to give members a bit more time. Are members content?

*Members indicated assent.*

**The Chairperson:**

I welcome back Gareth Johnston, Tom Haire and Amanda Patterson. It has been a long wait, but we are back to deal with Part 5, which contains clauses 56 to 63. I invite comments on clause 56. Mr Johnston, do you or one of your colleagues wish to comment at this stage?

**Mr Gareth Johnston (Department of Justice):**

We have no comments on most of these clauses.

**The Chairperson:**

That brings us to clause 57, which is about penalties for certain knife offences. If no members wish to comment on that, we will move on to clause 58.

**Lord Empey:**

Can I ask officials for their response to Extern's comments?

**The Chairperson:**

Are you aware of those comments?

**Mr Johnston:**

We have the Extern response, but it would be helpful to be reminded.

**Lord Empey:**

Extern expressed the view that extension to the deferment period might require some level of support to be offered to the offender to maximise effectiveness and positive outcomes.

**Mr Johnston:**

The purpose of deferment of sentences is to see how offenders get on with a treatment regime or to address some of the underlying issues that contributed to the offending behaviour. Therefore, support is available and, in some cases, it is available from voluntary organisations that provide courses on getting off alcohol or dealing with drug addiction.

**Lord Empey:**

I understand that and I am happy with it. However, Extern seems to be saying that some level of support being offered to the offender obviously increases the workload on the bodies that have to provide that support. I presume that the officials would accept that.

**Mr Johnston:**

Of course, support is already being provided in a lot of those cases. The deferment of sentence provides a greater incentive to an offender to participate where that support is offered and make a success of the programmes that we are doing. Support will be provided, but I am not sure that we anticipate a lot of new support that is not already provided. This gives more incentives for offenders to comply with that, because they know that the decision on their sentence will depend on how well they have complied.

**Mr O'Dowd:**

I am sorry, Chairperson. I think that you have moved on to clause 58, have you?

**The Chairperson:**

Do you have a question about a previous clause?

**Mr O'Dowd:**

It is about the increase in penalties in clause 57. I take it that the penalties apply to juveniles as well as adults. It would mean that a pupil in a school who is in possession of a knife would face more robust penalties.

**Mr Johnston:**

It just completes a strengthening of the penalties for knife crime that began with the commencement of the Criminal Justice (Northern Ireland) Order 2008. This particular offence was not covered, so it is to be brought up to the level of the other offences, which, likewise, could be committed by young people as well as adults.

**Mr O'Dowd:**

For the sake of clarity: if a juvenile were to be found in possession of a knife on the street, would they, in the other codes, go through a similar adjudication process to that faced by an adult who was caught with a knife? Would they face the same penalties?

**Mr Johnston:**

They would face the same penalties, yes. The process would be different in that there would, potentially, be a youth conference.

**Mr O'Dowd:**

Would a youth conference be available under this scheme?

**Mr Johnston:**

The same arrangements would obtain as for any other offences.

**The Chairperson:**

We will move on to clause 59, which is about a breach of licence conditions by sex offenders. According to our summary document, the Probation Board for Northern Ireland (PBNI) asks that:

"the single jurisdiction boundary also applies to warrant applications before Lay Magistrates. In addition, it would be beneficial to extend the amendment (II) (a) to: Custody Probation Orders; and Probation Orders respectively."

Do you wish to comment on that, Mr Johnston?

**Mr Johnston:**

There is one comment to make, which is about the Department's proposed amendment.

**Mr Tom Haire (Department of Justice):**

There was an issue about extraterritoriality and the Probation Board's suggestion about making probation orders more generally. If we were to try to map probation orders onto this Bill, it would involve Westminster legislation. I think that we said that we would look at that and take it forward. However, for the purposes of this provision, we had to focus on only the Northern Ireland disposals.

**The Chairperson:**

That also deals with the PBNI's further recommendation, which, according to our document is that:

"legislative change is made to extend the provision of Article 26 Orders, to the Jurisdiction of England and Wales; and Scotland."

Is that correct?

**Mr Haire:**

That would be the same, yes. We have been in touch with our Westminster colleagues about being able to transfer article 26 cases formally.

**The Chairperson:**

We will move on to clause 60, which is entitled, "Sexual offences closure orders". Do members have any comments? If not, we will move on. Do members wish to comment on clause 61, which is about financial reporting orders? If not, we will move on to clause 62, which is entitled "Dangerous offenders: serious and specified offences". If there are no comments on that, we will move on to clause 63, which is entitled, "Supervised activity order in respect of certain financial penalties".

**Mr McDevitt:**

I am curious about the Department's feelings about what the Human Rights Commission said. According to our document, it said:

"Clarification is required as to when supervised activity orders will be piloted; what geographical area will be covered; and how long the pilot is envisaged to run prior to evaluation."

It seems to be an interesting point, so I wonder whether you have any thoughts on it.

**Mr Johnston:**

As yet, there have been no decisions on that. If we were to pilot, doing so on a geographical basis

would be useful, because this is something new for us, so it would be important to learn lessons. Nevertheless, it would be for a relatively short period, perhaps six months, nine months or a year, with a view to rolling it out. It is a matter of balancing being fair and making the orders available to everybody against being confident that we have dealt with all the issues and are able to offer them effectively.

**Mr McDevitt:**

Mr Johnston, you said "if" you were to pilot. What key criteria would you apply to the decision on whether to pilot?

**Mr Johnston:**

Resources are certainly an issue. In a way, the provision just fixes the bit of a hole that was left after the 2008 Order. We are looking separately at the whole gamut of responses to fine default. A workshop for the various agencies to think about our wider fine default strategy is being organised for the tail end of next month, and we will look at supervised activity orders in that context.

**Mr McDevitt:**

Fair enough.

**The Chairperson:**

That brings us to schedule 5, which is about transitional and saving provisions. Paragraph 4 is about the increase in penalties. Are there any comments around that? If not, we will move on. Paragraph 5 is about condition of sex offender licence. Paragraph 6 is about serious and specified offences. If there are no comments on those paragraphs, we will move on.

We will now hear from the departmental officials about the Department's proposed amendments.

**Ms Amanda Patterson (Department of Justice):**

This amendment is necessary because of a Supreme Court ruling, namely that certain parts of the sex offender notification requirements are incompatible with article 8 of the European

Convention on Human Rights (ECHR). The incompatibility relates to notification requirements attached to somebody on an indefinite basis. The ruling is that that is incompatible with the privacy rights in article 8. The Committee knows to expect the amendment. A response will have to be made by all jurisdictions in the UK. Scotland has an Order in place, and this is our response to the Supreme Court ruling.

I do not know whether you would like me to brief you on the clause and schedule that would put the review mechanism in place. Paragraph 1 of the schedule details the interpretation, telling you what sexual harm is. That is the barrier that an offender must reach in order to have notification requirements lifted. It is a review mechanism that will be exercised by the police. An offender who has indefinite notification requirements attached to his conviction can, after a period of 15 years following his release back into the community after serving his sentence, make an application. For anyone who was under 18 at the time of conviction, that period is reduced to eight years. If an offender is subject to any other requirements by virtue of a sexual offences prevention order or has a fixed period of notification attached to him following a conviction since the one that attached the indefinite notification period, he cannot apply to have the indefinite notification requirements removed. It is purely for offenders who have an indefinite notification requirement attached to one particular offence. If more than one offence is attached to the indefinite notification requirement, the 15 years will be taken from the latest of those convictions.

The determination on the application is made, in the first instance, by the police. Paragraph 3 of the draft schedule sets out that the Chief Constable must be satisfied that, on the balance of probabilities, the offender no longer poses a risk of sexual harm to the public or to any particular members of the public. That is the barrier that the offender has to get over. Sub-paragraph (2) of paragraph 3 sets out the entire criteria that the Chief Constable must take into account in reaching that judgement, including what the conviction was for; the age of the offender at the time; the age of the victim; any further convictions or findings made by a court; any outstanding criminal proceedings; and any assessments over the years on the risk that the person poses.

The police have duty to come to a decision within 12 weeks of the date on which they receive the application. They must then serve notice of their decision to either discharge or continue the offender's notification requirements. If notice is served that there will be no discharge of the

notification requirements, the offender will be informed that he can make an application to the Crown Court to ask the court to decide whether the notification requirement should be lifted or he can wait for a further five years. He in entitled to a further review after five years from when the notification requirements were not discharged.

That is, basically, the end of it. The final paragraph deals with the fact that, if he has been discharged from the notification requirements in Scotland, which could happen at the minute, it applies in Northern Ireland as well. It is a fairly straightforward procedure. The offender has to bring the application to the police, and the police have to make a determination on the basis of what is set out in statute. There is an opportunity for any offender who has been turned down by the police to go to the court, and there is a further review every five years after the initial review. That is the procedure that the amendment would put in place.

**The Chairperson:**

Your briefing paper states:

"In terms of the provisions we are now proposing, Section 82 of the Sexual Offences Act 2003 provides that all persons sentenced to 30 months' imprisonment or more for a sexual offence become subject to a lifelong duty to keep the police notified of personal details".

How is that done and how often?

**Ms Patterson:**

They have to make an initial notification and give the police those details within three days of leaving prison and going back in to the community. If their details change, they have to notify the police immediately or within three days of the change happening. They also have to notify the police annually confirming that their details are still the same. In addition, they have to notify the police if they have a change of address, travel abroad or anything like that.

**The Chairperson:**

Does this type of legislation apply to any other type of offender?

**Ms Patterson:**

No. It is for those on what people are inclined to call the sex offender register. Therefore, it is purely sex offenders who fall within this. The person has to be convicted of a sexual offence within the schedule attached to the Sexual Offences Act 2003.

**Mr McDevitt:**

How closely does this schedule mirror what has been done in Scotland? Is it very similar?

**Ms Patterson:**

It is very similar but not the same. The one thing that is the same and is likely to be the same in the three jurisdictions is the length of time before an offender can apply for a review. However, the details of the actual review mechanism are slightly different depending on the jurisdiction.

**Mr McDevitt:**

It was brought to our attention previously — I remember having a brief conversation about this some time ago — that this is a fulfilment of a Supreme Court ruling. However, from an equality point of view, do any screening issues need to be considered for the new schedule? If so, has that been completed and what stage is that at?

**Ms Patterson:**

We completed a screening exercise and did not find anything that needed to be taken any further than that. The provisions will apply to offenders who are already convicted, and we could not find any issues with them.

**Mr McDevitt:**

Just to play devil's advocate: when you are screening, there are obviously offenders, but there are also victims of, in this case, pretty serious sexual crimes. Will you just remind me how you factor in the victims' needs and rights in such a screening process?

**Mr Johnston:**

It is a matter of looking at the whole thing in the round. What is a particularly relevant consideration here is that the need to do this is coming out of the European Court of Human

Rights.

**Mr McDevitt:**

I accept that.

**Mr Johnston:**

We look at the impacts on offenders and victims across all section 75 categories. In this case, it does not really matter which section 75 category a victim falls in to, because they could still be a victim of sexual abuse. We, therefore, did not feel that there was any particular differential impact there.

**The Chairperson:**

The paper refers to "a lifelong duty" and then "an indefinite period". According to your paper, the indefinite period was challenged in the European Court of Human Rights. Is it, therefore, possible that the other term could be challenged? If "an indefinite period" can be challenged, could "a lifelong duty" be?

**Ms Patterson:**

That is just using different words. It means the same thing.

**The Chairperson:**

I thought that it meant the same thing, so I was going to ask you to explain the difference.

**Ms Patterson:**

There is no difference. An "indefinite period" is just a loose term like "lifelong" or "life notification". However, the correct terminology in the Act is "a period of indefinite notification", but it means the same thing.

**The Chairperson:**

It should, therefore, read, "become subject to an indefinite period of notification".

**Ms Patterson:**

Yes, that is right.

**Lord Empey:**

I think that there is a difference.

**The Chairperson:**

I did, too.

**Ms Patterson:**

"Indefinite" is the correct term. I must apologise; the use of "lifelong" was the result of my drafting.

**Lord Empey:**

Something that is "indefinite" is "indefinite" at a particular point, but it could change and have a timescale put on it. On the other hand, lifetime is clear cut and definitive.

**The Chairperson:**

OK. The correct term is "indefinite," is that correct?

**Ms Patterson:**

Yes.

**The Chairperson:**

No other member has indicated that they wish to comment. I thank the witnesses. We will return to the issue next Thursday when we will make a definitive decision.

We will now move on to our informal clause-by-clause consideration of Part 8 of the Bill. Part 8 comprises clauses 92 to 101 and deals with its miscellaneous provisions. We will retain Gareth Johnston and Tom Haire, and be joined by Geraldine Fee and Billy Stevenson. I welcome you both to the meeting.

Clause 92 relates to the compassionate grounds for bail. No members indicated that they want to comment on that clause, so we will move on. Clause 93 relates to repeat applications for bail. No members indicated that they wish to comment on that clause either. Clause 94 relates to the possession of an offensive weapon with the intent to commit an offence. There are no comments from members on that clause.

Clause 95 relates to the publication of material relating to legal proceedings. I draw members' attention to the table of responses, which shows that the Committee considered the view of the Examiner of Statutory Rules on this matter, and that it wrote to the Minister to seek his views. The Committee is still awaiting a response.

**Mr McDevitt:**

Could the officials provide us with a response?

**The Chairperson:**

I suspect not.

**Ms Geraldine Fee (Northern Ireland Courts and Tribunals Service):**

The Minister will write to the Committee next week. In broad principle, we have no problem with making either the Magistrate's Courts rules or the County Court rules subject to negative resolution, but whether that can be achieved in the timescale for this Bill remains to be seen. As the rule making procedures apply to rules that are in the transferred and excepted fields, we would need to contact the Ministry of Justice in England and Wales and the Westminster authorities. We would also need to speak to the chairpersons of the relevant committees as a matter of protocol and courtesy and there are also timetabling pressures around the Bill. However, the Minister's response will broadly support the change recommended by the Examiner.

**The Chairperson:**

Thank you. Clause 96 relates to membership of the Crown Court Rules Committee.

**Lord Empey:**

There was a little flurry of activity about that clause earlier.

**The Chairperson:**

Yes. The Committee's table of responses indicates that:

"The Department later indicated to the Committee that it proposed to make amendments to clauses 96 and 97 to reflect that the person nominated by the Attorney General will be a solicitor or barrister."

**Ms Fee:**

During the Committee's previous meeting, it was pointed out that the clause that we were proposing to amend regarding the Attorney General's nominee did not have the same categorisation of qualification as the other provisions.

We consulted the Attorney General, who indicated that his intention would be to nominate a practising barrister or solicitor. We feel that that is consistent with the requirements for other members of the committee. Therefore, the Department proposes to amend the provisions for both the Crown Court Rules Committee and the Court of Judicature Rules Committee.

**The Chairperson:**

Thank you. We move on to clause 97, "Membership of Court of Judicature Rules Committee", which deals with the same thing as the previous clause.

Clause 98 is entitled, "Appeals from Crown Court: Proceeds of Crime Act 2002". There was a small typographical error, but I think that it has been dealt with.

**Ms Fee:**

I believe so, Chairperson. We are examining whether we can deal with that through a printing change at the Bill Office. It is a numbering issue that does not affect the substance of the clause.

**The Chairperson:**

Clause 99 is entitled, "Witness summons in magistrates' court". Would members like to comment on that? MindWise recommends that:

"when the witness is a juvenile and vulnerable by virtue of age or a vulnerable person by reason of mental health

regardless of age they should be supported and assisted by a trained advocate."

Do departmental officials wish to comment on that?

**Ms Fee:**

We have noted the comments of MindWise. Any young or vulnerable witness attending court is already eligible for extra help through special measures. In addition, Victim Support and the National Society for the Prevention of Cruelty to Children (NSPCC) also operate witness services within quite a few of our courthouses, so the special measures assistance is there where necessary. The change made by the clause would be a procedural one to allow better access to material held by third parties. It would fit into the overall regime for anyone giving evidence in a Magistrate's Court or a Crown Court, and the same assistance would be available to a witness under what we call a third party summons, just as it would be under any other type of summons.

**The Chairperson:**

That sounds adequate, but does any member wish to comment?

We move on to clause 100, which is entitled, "Criminal conviction certificates to be given to employers". The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) said that:

""For Basic Disclosure certificates, while the employer is entitled to have sight of the information, they are not subject to the Code."

It also said that:

"Employers will continue to have access to basic disclosure information regarding an applicant, without being subject to regulation."

Does the Department wish to comment?

**Mr Johnston:**

The only change that this provision would make is that it would allow Access NI to send a certificate, if requested, to both the employer and the person who is applying for a job, which might speed things up for the applicant. It would just be an administrative change to speed things up a bit for people who need those certificates.

**The Chairperson:**

Let us move on to clause 101, "Accounts of the Law Commission". Members, I draw your attention to the proposed departmental amendments included in the papers, which I, like others, am struggling to get through. I have the paper now.

**Lord Empey:**

Hold on a minute; you have someone to get it for you. *[Laughter.]*

**The Chairperson:**

Help will be given to anyone who is under stress. Have all members found that paper now, with or without help? The paper reads as follows:

"**New clause**

After clause 94 insert—

**'Power of Department of Justice to make payments in relation to prevention of crime, etc**

"94A.—(1) The Department of Justice may, with the consent of the Department of Finance and Personnel, make such payments or grants to such persons as the Department of Justice considers appropriate in connection with measures intended to—

(a) prevent crime or reduce the fear of crime; or

(b) support the recovery of criminal assets and proceeds of crime.

(2) A grant under subsection (1) may be made on such conditions as the Department of Justice may, with the consent of the Department of Finance and Personnel, determine."

Clause 107, page 62, line 7, at end add 'or (*Power of Department of Justice to make payments in relation to prevention of crime, etc*)'*"*

Perhaps the officials will take us through this.

**Mr Billy Stevenson (Department of Justice):**

Thank you, Mr Chairman. The purpose of the amendment is to give the Department of Justice powers to make payments from criminal assets paid to the Northern Ireland Consolidated Fund, with the consent of DFP, to prevent crime, reduce the fear of crime, and to support the recovery of criminal assets. The need for the amendment follows from amendments to the Proceeds of Crime Act 2002 (POCA), the Administration of Justice Act (Northern Ireland) 1954, and to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010. In other words, it is a consequence of devolution.

Prior to the devolution Order, the value of all criminal assets, civil and criminal, recovered in Northern Ireland were remitted to the Home Office. The Home Office, under an agreement reached with Her Majesty's Treasury, retained 50% of those funds and returned the remaining 50% to agencies responsible for securing the assets, including agencies in Northern Ireland. That is known as the assets recovery incentivisation scheme (ARIS).

Following devolution, there is no longer authority for the proceeds from criminal confiscation orders imposed under POCA to be paid to the Home Office; instead, receipts of criminal confiscation orders are paid to the Northern Ireland Consolidated Fund. Civil recovery receipts are unaffected by the devolution of functions Order and continue to be paid to the Home Office.

DFP is engaged with the Treasury to agree arrangements whereby the Department of Justice might draw upon the proceeds of criminal confiscation receipts to the Consolidated Fund in Northern Ireland up to a certain limit. That would replicate agreements between the Treasury and the Home Office as well as agreements between the Treasury and the Scottish Government. In the interim —

**Lord Empey:**
I am sorry, Billy, but would you repeat the last bit as I missed it?

**Mr Stevenson:**
DFP is engaged with the Treasury to agree an arrangement whereby the Department of Justice may draw down funds from the Consolidated Fund.

**Lord Empey:**
You said "up to a certain limit".

**Mr Stevenson:**
Yes.

**Lord Empey:**
In the past, all confiscated criminal assets went to the Home Office; however, after devolution,

the Department of Justice will be given access to some of them.

**Mr Stevenson:**

It will be given access to criminal confiscation receipts but not to civil recovery assets. The Home Office has agreed a limit with the Treasury of, I believe, £300 million. The Scottish Government have a limit of £30 million, which I think is based on the Barnett formula. We are looking for a similar agreement whereby the Department of Justice can have access to such funds, in line with the rest of the UK.

In the interim, DFP has agreed, as a temporary measure only, to facilitate the payment of the assets recovery receipts in 2010-11 to give the Department of Justice authority to pay those funds by way of the Budget (No. 2) Act (Northern Ireland) 2010 as the sole authority. However, the Department of Justice has no authority to pay or allocate funding from criminal assets for the purposes mentioned in the amendment beyond the 2010-11 financial year, hence the need for an amendment to the Justice Bill.

**Mr McDevitt:**

We are talking about criminal assets seized in Northern Ireland.

**Mr Stevenson:**

Yes.

**Mr McDevitt:**

By the Serious Organised Crime Agency (SOCA)?

**Mr Stevenson:**

No, we are talking about criminal assets; SOCA does civil recovery. In Northern Ireland, criminal assets are recovered by the Northern Ireland courts on application by the PSNI etc.

**Mr McDevitt:**

Therefore, you are telling us that criminal assets seized in Northern Ireland by the Northern Ireland Courts and Tribunals Service go to the Home Office.

**Mr Stevenson:**

Prior to devolution, they went to the Home Office.

**Mr McDevitt:**

And we got 50% back.

**Mr Stevenson:**

The Department of Justice got nothing. Agencies such as the PSNI, the Court Service and the Public Prosecution Service (PPS) got half.

**Mr McDevitt:**

Therefore half came back to Northern Ireland.

**Mr Stevenson:**

Yes.

**Mr McDevitt:**

What will happen now?

**Mr Stevenson:**

We will get all of it, and that includes the 50% that the Home Office kept. That is what DFP is agreeing with the Home Office. It is new money that was not previously available.

**Mr McDevitt:**

However, half of it will still go to —

**Mr Stevenson:**

Half will go to the agencies, as it did before. If negotiations with the Treasury go well, we will get the 50% that was previously retained by the Home Office. It is a new funding stream.

**Mr McDevitt:**

It is a better deal for us. That is grand. I was a bit confused.

**Mr Stevenson:**

It is difficult to estimate how much it will be, as it varies year by year. However, we think that this year there will be about £2·8 million, which is £1·4 million extra — the half that the Home Office used to keep.

**Mr McDevitt:**

What happens to the SOCA money?

**Mr Stevenson:**

It is returned to the Home Office; it keeps half and returns half to the agencies.

**Mr McDevitt:**

Even though it was confiscated here?

**Mr Stevenson:**

Even though it was confiscated here.

**Mr McDevitt:**

And even though it was seized through the work of local SOCA agents?

**Mr Stevenson:**

Yes. You may be interested to know that the Minister wrote to the Home Secretary to ask that that money be returned to Northern Ireland, although that would require legislation. You may not be surprised to learn that we got a letter back yesterday in the negative. However, we think that we will be going back with an argument to pursue the matter, because we think that some of that money should come back to Northern Ireland.

**Lord Empey:**

The Home Office may be looking for money for customs officials and so on. Is that what the

argument is going to be?

**Mr Stevenson:**

SOCA would provide services here on a regional basis, and it will argue that, but there are some elements of the money that we could argue should be returned here. We will continue to pursue that matter.

**Mr McCartney:**

I have two questions. The previous amendment, which we received evidence on, was the result of a decision by the Supreme Court. You can understand why this amendment has been proposed. Is there any particular reason why —

**Mr Stevenson:**

We were informed in December 2010 by DFP that we needed to put the primary legislation through in order to give ourselves cover from 2011-12 onwards. I appreciate that it is very late coming through, but this is the first opportunity that we have had to put primary legislation through.

**Mr McCartney:**

Who has been consulted or has had access to consultation during the wider consultation on the Bill?

**Mr Stevenson:**

The consultation on this measure has not happened yet because of time considerations. In the future, the Minister of Justice will have to determine how those funds are allocated. That will be subject to bringing information to the Committee, which will be subject to consultation.

**Mr Johnston:**

In essence, the problem was that, if we missed the boat on this matter and did not use the Bill as a vehicle, we would lose out on the money next year.

**Mr McCartney:**

The wording of the proposed new clause uses the phrase "such persons". We discussed that when we were talking about organisations, and I understand that part of it. The clause deals:

"with measures intended to —

prevent crime or reduce the fear of crime; or

support the recovery of criminal assets and proceeds of crime."

Will there be a decision taken that 50% of any such grants should go to each measure?

**Mr Stevenson:**

The Minister has to make that decision. That provision would allow him, if required, to consider incentivising agencies that collect the money.

**Mr McCartney:**

How would those agencies do that? Would it be through employing more staff?

**Mr Stevenson:**

Currently, the agencies use it for various purposes. Some of them employ financial investigators, who, in turn, help to produce the assets. Other agencies, such as the PSNI, will give the money from the fund to communities. There is a mixture of uses.

**Mr McCartney:**

At present, how much would that be a year?

**Mr Stevenson:**

We estimate that about £2·8 million in total will come through in the current financial year. Half of that is going to the agencies. The amendment will give us the power to pay that out in future. We hope to have access to the other half, the £1·4 million on which DFP is negotiating with the Treasury, but that is not yet agreed. DFP has facilitated the payment of the 50% because that was what happened before. In the absence of a new scheme, the agencies fully expect that to happen.

**Mr McCartney:**

The Committee for Culture, Arts and Leisure received a presentation on something similar in Scotland. Is the application process by invitation or is it open?

**Mr Stevenson:**

We do not yet have a scheme in place. The agencies get their 50% on a pro rata basis; they do not apply for it, but get it as of right.

**Mr McCartney:**

Do you think that there will be an open application process, or will you decide that because a particular agency is doing a good job, you will issue an invitation to that agency?

**Mr Stevenson:**

I do not know how it will happen yet. The scheme has not been developed yet. That will be subject to consultation and will be brought to the Committee in due course.

**The Chairperson:**

We will move on to schedule 6, which deals with minor and consequential amendments. Do the departmental officials wish to comment on the schedule or explain it? Do members wish to ask anything of the officials? Are members completely clear about the ramifications of the schedule? Minor amendments may sometimes amount to changing a comma, but I am not sure whether schedule 6 goes beyond that or not. Does the Department wish to flag up anything and tell us that there is a big change, or are the amendments minor, as the title suggests?

**Mr Haire:**

Most of them are minor and consequential amendments. The only one to point out is amendment 13 about supervised activity orders, which Gareth mentioned earlier. It is a technical amendment to allow us to pilot the supervised activity order, which Mr McDevitt enquired about.

**The Chairperson:**

Paragraph 6 of schedule 6 says:

"In Article 15(5) (consequences of admitting video recording) in sub-paragraph (a)(i) for 'otherwise than by testimony in court" substitute "in any recording admissible under Article 16'."

Is that saying the same thing a different way round?

**Mr Haire:**

We can check that. I think that it slightly widens the scope to reflect the changes being made through the special measures earlier in the Bill. We will confirm that.

**The Chairperson:**

OK. I will move on. The Department officials will take us through schedule 7.

**Mr Johnston:**

Those are repeals, particularly to areas of district policing partnerships that are no longer relevant and are now covered by the Bill.

**The Chairperson:**

If members have no questions, we will move to Part 9, which deals with supplementary provisions. Clause 102 is entitled, "Supplementary, incidental, consequential and transitional provision, etc". No comments were received about that. If any member wishes to ask for clarification or explanation, now is the time to do it.

I thank the officials for their attendance.