

FOI 57-26

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FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

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Caroline Perry
Clerk to the Justice Committee
Northern Ireland Assembly
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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.



DALO

Enc: Appendix A – Biometrics 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’



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FROM:



DATE:

16 DECEMBER 2024

TO:

CAROLINE PERRY

Business Area:

Criminal Justice Policy and Legislation Division

Issue:

Access to Justice Directorate

Justice Bill Amendments – Supporting Briefing for the Oral Briefing Session

Restrictions:

None.

Action Required:

The Committee is asked to note this written briefing ahead of the oral briefing on 16 January 2025

Officials Attending:

[Redacted] (Biometrics Amendments)

[Redacted] (Restorative Justice Amendments)

[Redacted] (Serious Organised Crime Amendments)

[Redacted] (AccessNI filtering Amendments)

Introduction

This briefing provides an overview of the four sets of proposed Justice Bill amendments due to be discussed at the oral briefing session on 16 January 2025.

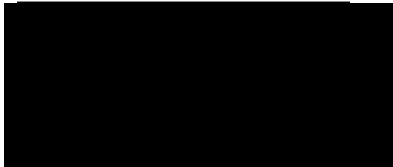
We have provided background on each of the policy areas, along with further detail on what the amendments aim to do and why they are needed in the form of separate appendices to this letter, as follows:

- Appendix A – Biometrics
- Appendix B – Restorative Justice



- Appendix C – Serious Organised Crime
- Appendix D – AccessNI filtering.

I trust this information is helpful to Committee Members ahead of the oral briefing.



DALO

APPENDIX A

Biometrics Amendments

Background

1. Part 1 of the Justice Bill provides for a new DNA and fingerprint retention and destruction framework for Northern Ireland that will comply with both the *S and Marper v UK* and *Gaughran v UK* European Court of Human Rights judgments.
2. The new framework involves 75/50/25 maximum retention periods, based on the nature / seriousness of the offence, the age of the person concerned, criminal history, and whether the person is convicted or not convicted. The new framework will also support the Data Protection Act 2018 by setting out in regulations a requirement to review long-term retained DNA and fingerprint material. The 75/50/25 retention periods are maximum retention periods, with the review mechanism providing an appropriate safeguard to ensure that long-term retained material is subject to a scheduled review to assess the continuing need to retain DNA and fingerprints in each individual case.
3. The Justice Bill also contains provision for the appointment and functions of the Northern Ireland Commissioner for the Retention of Biometric Material, which will provide important independent oversight of the new retention system.

Amendments

4. Officials alongside PSNI colleagues have been involved in stress testing the DNA and fingerprints provisions contained in the Justice Bill. During this process, a small number of issues were identified that would benefit from some adjustment to improve the operation of the new framework and ensure they operate as intended.
5. There were also a small number of additional provisions that were identified that would assist with the operation of the new framework.

6. Details of the amendments are as follows:

- Replacement of the term ‘reported’ – Part 6 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) contains multiple references to a person being ‘charged with an offence or informed that he will be reported for such an offence’.

Being ‘reported for an offence’ is commonly understood within the Northern Ireland criminal justice system to mean the stage at which a police officer informs a person that they are being reported to the Public Prosecution Service (PPS) in respect of an offence i.e. a police file will be submitted to the PPS for a decision, following a criminal investigation.

The PSNI highlighted to the Department the ambiguity regarding the references to ‘informed that he will be reported’ with differing interpretations being used for the taking of DNA and fingerprints and the retention of DNA and fingerprints. The PSNI sought legal advice which indicated that it is only at the point where a complaint is laid, once the PPS make a decision to prosecute, that a person is deemed to have been informed that they are to be reported.

The Department also sought legal advice and following consideration of this advice it is deemed necessary to provide legislative clarity by removing the references to ‘reported’ and instead providing that a person being ‘charged with an offence’ includes ‘where a complaint has been laid against the person’. This amendment would broadly reflect similar changes that were made in England and Wales by virtue of Section 18(3) of the Protection of Freedoms Act 2012.¹

- Community Based Restorative Justice Schemes – new Article 63P provides for a 5-year retention period for any person who has completed a community-based restorative justice scheme (CBRJ) for an offence. Following the finalising of the provisions, it became apparent that stand-alone CBRJs are available for both adults and under 18s and that they are directed by the PPS and considered to be on a similar level as a caution.

An amendment is, therefore, being made to distinguish that stand-alone CBRJs attract the same retention period as a caution for adults (i.e. 75 years or 25 years) and 5 years for an under 18.

¹ The explanatory notes provide that the definition of persons who are ‘charged with an offence’ includes those who are informed that they will be reported to a magistrates’ court for the issue of a summons to begin criminal proceedings

- Grace period for DNA and fingerprints being held for individuals under investigation – New Article 63E provides for a grace period of 14 days for DNA and fingerprints being held for individuals under investigation. A grace period is necessary to allow adequate time for PSNI systems to be updated following the conclusion of an investigation and for DNA and fingerprints to be deleted from the databases. It became apparent that 14 days would be insufficient if the PSNI needed to make an application to the Biometrics Commissioner under Article 63G.

The PSNI need time to consider the outcome of the investigation, consider the risk to the public of deleting the DNA and fingerprints and submit an application to the Biometrics Commissioner for continued retention. Therefore, an amendment is being made to Article 63E(5) to increase the grace period from 14 days to 28 days which is considered to be a more appropriate period to ensure that the PSNI have sufficient time to lawfully process the deletion of the DNA and fingerprints or submit an application.

- Applications to the NI Biometrics Commissioner – new Article 63G provides that the PSNI can apply to the Biometrics Commissioner for a 3-year retention period for individuals arrested but not charged and where prescribed circumstances apply (regulations setting out the prescribed circumstances will require the approval of the Assembly).

An adjustment is being made to Article 63G to ensure that the DNA and fingerprints of an individual arrested but not charged can be lawfully retained by the PSNI until the outcome of the application to the Biometrics Commissioner is known.

- The power to photograph individuals in specified circumstances at a police station – Article 64A of PACE NI provides the PSNI with a power to take photographs from a person who has been detained in a police station and/or arrested.

Without amendments being made to the legislation, if a person is arrested, charged or convicted without a photograph being taken, or has been interviewed by way of a voluntary interview (the PSNI are increasingly using voluntary interviews in investigations), there is no power in the legislation for the PSNI to require a person to attend a police station at a later stage for a photograph to be taken. If an amendment is not made it could result in opportunities to take

photographs being missed. The proposed amendment will put photographs on the same footing as fingerprints and DNA in terms of recall powers.

- The power to specify a date of attendance at a police station for the taking of DNA samples, fingerprints and photographs – Individuals who are arrested and taken to a custody suite can have DNA samples, fingerprints and a photograph taken straight away. If this is not done, or if the person has been interviewed by means of a voluntary interview, PACE NI (upon commencement of the new legislative framework) contains a recall power to require those who have been arrested, charged or convicted to attend a police station to have fingerprints, non- intimate samples and a photograph (see amendment 5 above) taken. Without amendments being made, the legislation states that a person can be required to attend a police station at a particular time but not a particular day, only any day within a seven-day period, which would be operationally difficult for the PSNI to resource.

A similar amendment was made to the legislative framework in England and Wales following feedback from their police forces that it was difficult to always have an officer or member of staff available just in case an individual attended on foot of the recall notice, which resulted in opportunities to take fingerprints, DNA and photographs being missed. The proposed amendment will enable the PSNI to stipulate a specific date and time to require people to attend the relevant police station and to better manage this process.

FROM THE OFFICE OF THE JUSTICE MINISTER



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JCP\25\230

Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

1 October 2025

Dear Kathy,

**JUSTICE BILL: REPRINT OF JUSTICE BILL AND DEPARTMENTAL AMENDMENTS
IN NEW SOFTWARE**

You may be aware that Assembly authorities and the Office of Legislative Counsel began using new drafting software earlier this year with the result that the Justice Bill – and associated draft amendments – have been converted from the existing software into the new software.

The text of the Bill and the Department's planned amendments is untouched, but page numbers and line numbers have changed due to the transposition exercise.

As a result, the Committee will not be able to apply the "old" amendments to the "new Bill", which the Bill Office is currently in the process of reprinting.

The Department is happy to share the text of the refreshed amendments – in the new software with line numbers to match the new version of the Bill - with the Committee to assist with their ongoing scrutiny of the Bill.

FROM THE OFFICE OF THE JUSTICE MINISTER



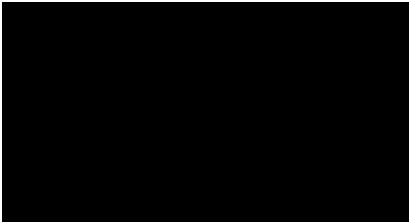
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The Minister of Justice trusts that the Committee finds this information useful as they continue to review and take evidence on the Bill.



DALO

Enc: Revised text of Departmental amendments to the Justice Bill

Justice Bill — Consideration Stage
Biometrics amendments

Clause 33, Page 43, Line 17

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.’

Minister of Justice

Schedule 2, Page 46, Line 21

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

Minister of Justice

Schedule 2, Page 46, Line 22

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.”.’

Minister of Justice

Schedule 2, Page 47, Line 9

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)’

Minister of Justice

Schedule 2, Page 47, Line 10

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”.’

Minister of Justice

Schedule 2, Page 47, Line 12

Leave out paragraph (a) and insert—

‘(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”;

Minister of Justice

Schedule 2, Page 47, Line 17

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”.’

Minister of Justice

Schedule 2, Page 48, Line 4

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”.

Minister of Justice

Clause 1, Page 8, Line 36

At end insert—

‘Person 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.’

Minister of Justice

Clause 1, Page 9, Line 4

Leave out ‘or community-based restorative justice scheme’.

Minister of Justice

Clause 1, Page 9, Line 6

Leave out from ‘either’ to end of line 9 and insert ‘the diversionary youth conference process with respect to a recordable offence.’.

Minister of Justice

Clause 1, Page 9

Leave out lines 22 to 33.

Minister of Justice

Clause 1, Page 3, Line 15

Leave out ‘14’ and insert ‘28’.

Minister of Justice

Clause 1, Page 4, Line 21

Leave out ‘If’ and insert ‘Paragraphs (4A) and (6A) apply where’.

Minister of Justice

Clause 1, Page 4, Line 23

At end insert ‘and’.

Minister of Justice

Clause 1, Page 4, Line 24

Leave out from ‘and’ to end of line 27 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,’

Minister of Justice

Clause 1, Page 4, Line 32

Leave out ‘(4)’ and insert ‘(4A)’.

Minister of Justice

Clause 1, Page 4, Line 38

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.’

Minister of Justice

Clause 1, Page 16, Line 31

Leave out ‘63G(4)(c)’ and insert ‘63G(4A)’.

Minister of Justice

Schedule 1, Page 45, Line 7

Leave out ‘63G(4)(c)’ and insert ‘63G(4A)’.

Minister of Justice

New Clause

After clause 23 insert—

‘Powers to photograph certain persons at a police station

23A Schedule 5 makes provision conferring powers to photograph certain persons at a police station.’

Minister of Justice

New Schedule

After Schedule 4 insert—

‘SCHEDULE

Section 23A

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”.’

Minister of Justice

New Clause

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”.’.

Minister of Justice

Clause 3, Page 18, Line 18

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

Minister of Justice



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FROM:

DALO

DATE:

26 MAY 2026

TO:

KATHY O'HANLON

CLERK TO THE COMMITTEE FOR JUSTICE

AMENDMENT TO THE JUSTICE BILL – BARRED AND ADVISORY LISTS AND FORMER OFFICER MISCONDUCT PROCEEDINGS

Summary

Business Area:

Policing Policy and Strategy Division (PPSD)

Issue:

Draft of the clauses that will create a police barred and advisory list for Northern Ireland, through a tabled amendment to the Justice Bill at Consideration Stage.

Restrictions:

None

Action Required:

To Note

Officials Attending:

N/A

BACKGROUND

I am writing to share with the Committee a copy of the draft clauses that will create a police barred and advisory list for Northern Ireland and make provision relating to discipline of former officers.

As you are aware from previous correspondence, the Minister is progressing proposals to create a barred and advisory list for policing in Northern Ireland. The barred list will hold the details of all officers and staff members who have been dismissed from policing

after investigations under the relevant disciplinary regulations or process. Individuals will remain on the list indefinitely, unless they either, win an appeal against their dismissal or make a successful review application, where they would have to provide clear evidence as to why they were now suitable to re-join policing. Similarly, the advisory list will hold the details of individuals who retire or resign while subject of a disciplinary investigation, or who leave before an allegation comes to light.

Provision has also been made that will enable police officers who retire/resign while subject of an allegation, and who have been added in the interim period to the advisory list, to be brought back for misconduct proceedings which may also be concluded in the former officer's absence. If it is found that the former officer would have been dismissed, were they still serving, they will be removed from the advisory list and added to the barred list.

STAKEHOLDER ENGAGEMENT

A targeted stakeholder consultation was conducted which closed on 2 October 2025. The consultation was sent to eight stakeholders in total, these were Chief Police Officers' Staff Association (**CPOSA**), Northern Ireland Policing Board (**the Board**), Office of the Police Ombudsman for Northern Ireland (**OPONI**), Police Federation for Northern Ireland (**PFNI**), Public Prosecution Service (**PPS**), Police Service of Northern Ireland (**PSNI**), Northern Ireland Retired Police Officers Association (**NIRPOA**), and the Superintendents Association of Northern Ireland (**SANI**). Five stakeholders provided responses to the consultation: PSNI, the Board, OPONI, SANI and PFNI.

There was unanimous support among the stakeholders who responded for provisions that will enable disciplinary proceedings to be conducted for former officers.

Four out of the five stakeholders who responded were in favour of the creation of a barred and advisory list for Northern Ireland. Only PFNI expressed reticence about the introduction of such lists in Northern Ireland, stating they are of the opinion that mechanisms to minimise the risk are already in place.

Specifically, PFNI raised concerns over the disclosure of officer names should the Northern Ireland lists mirror those in England and Wales by being publicly available. There is no intention to make the Northern Ireland lists publicly available through these provisions, and steps have been taken within the clauses to ensure that the names of officers and any other information held on the Northern Ireland lists is only available to UK law enforcement bodies and it will not be published.

IMPACT ASSESSMENTS

Equality Screening

Officials are in the process of conducting the Section 75 screening of the provisions.

Human Rights

Officials have engaged with the Northern Ireland Human Rights Commission (NIHRC), at the outset on the proposed provision and will now provide them with the draft clauses and invite comment.

Data Protection Assessment

The Department has responded to the Information Commissioner's Office (ICO) initial assessment of the provisions and officials will now provide the draft clauses to the ICO for their further consideration.

Regulatory Impact Assessment

No direct costs will be created for the private or voluntary sectors.

NEXT STEPS

I am sharing the draft clauses, which have been tabled as an amendment at Consideration Stage and will proceed in line with the passage of the Justice Bill.

RECOMMENDATION

This correspondence seeks to provide members with an update and sight of the draft clauses.

It is recommended that you:



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

www.justice-ni.gov.uk

- Note the update.

Yours sincerely,

[SIGNED]

[Redacted signature]

DALO

ENC.

[OLC76] **New clause**

After clause 23 insert—

‘Police discipline

Disciplinary proceedings concerning former police officers

23A.—(1) The Police (Northern Ireland) Act 1998 is amended as follows.

(2) In section 25 (regulations for Police Service of Northern Ireland)—

(a) after subsection (3) insert—

“(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the Chief Constable, the Board or the Ombudsman,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Police Service of Northern Ireland, and
- (c) condition A, B or C is satisfied in relation to the person.

(3B) Condition A is that the person ceases to be a member of the Police Service of Northern Ireland after the allegation first comes to the attention of a person mentioned in subsection (3A)(a).

(3C) Condition B is that—

- (a) the person had ceased to be a member of the Police Service of Northern Ireland before the allegation first came to the attention of a person mentioned in subsection (3A)(a), and
- (b) the period between the person having ceased to be a member of the Police Service of Northern Ireland and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) does not exceed the period specified in regulations under this section.

(3D) Condition C is that—

- (a) the person had ceased to be a member of the Police Service of Northern Ireland before the allegation first came to the attention of a person mentioned in subsection (3A)(a),
- (b) the period between the person having ceased to be a member of the Police Service of Northern Ireland and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) exceeds the period specified for the purposes of condition B, and
- (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Police Service of Northern Ireland.

(3E) Regulations made by virtue of subsection (3A) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Ombudsman determines that taking such proceedings would be reasonable and proportionate having regard to—

- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
- (b) the impact of the allegation on public confidence in the police, and
- (c) the public interest.

(3F) Regulations made by virtue of subsection (3A) may make provision about matters to be taken into account by the Ombudsman for the purposes of subsection (3E)(a) to (c).

(3G) Regulations made by virtue of subsection (3A) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation that begins within the period specified in the regulations.

(3H) The period referred to in subsection (3G) must begin with the date when the person ceased to be a member of the Police Service of Northern Ireland.”;

(b) in subsection (4)—

(i) after “reduced in rank” insert “or former members where there is a finding that the person would have been dismissed, or required to resign, if the person had still been a member;”

(ii) in paragraph (a), after “(3)” insert “or (3A)”.

(3) In section 26 (regulations for Police Service of Northern Ireland Reserve)—

(a) after subsection (3) insert—

“(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

(a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the Chief Constable, the Board or the Ombudsman,

(b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a reserve constable, and

(c) condition A, B or C is satisfied in relation to the person.

(3B) Condition A is that the person ceases to be a reserve constable after the allegation first comes to the attention of a person mentioned in subsection (3A)(a).

(3C) Condition B is that—

(a) the person had ceased to be a reserve constable before the allegation first came to the attention of a person mentioned in subsection (3A)(a), and

(b) the period between the person having ceased to be a reserve constable and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) does not exceed the period specified in regulations under this section.

(3D) Condition C is that—

(a) the person had ceased to be a reserve constable before the allegation first came to the attention of a person mentioned in subsection (3A)(a),

(b) the period between the person having ceased to be a reserve constable and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) exceeds the period specified for the purposes of condition B, and

(c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a reserve constable.

(3E) Regulations made by virtue of subsection (3A) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Ombudsman determines that taking such proceedings would be reasonable and proportionate having regard to—

(a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,

- (b) the impact of the allegation on public confidence in the police, and
- (c) the public interest.

(3F) Regulations made by virtue of subsection (3A) may make provision about matters to be taken into account by the Ombudsman for the purposes of subsection (3E)(a) to (c).

(3G) Regulations made by virtue of subsection (3A) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation that begins within the period specified in the regulations.

(3H) The period referred to in subsection (3G) must begin with the date when the person ceased to be a reserve constable.”;

(b) in subsection (4)—

- (i) after “reduced in rank” insert “or former reserve constables where there is a finding that the person would have been dismissed, or required to resign, if the person had still been a reserve constable;”
- (ii) in paragraph (a), after “(3)” insert “or (3A)”.

(4) In section 27 (members of Police Service of Northern Ireland engaged on other police service)—

- (a) in subsection (5), after “section 25(3)” insert “or (3A)”;
- (b) in subsection (6A)—
 - (i) after “section 25(3)” (in the first place) insert “, (3A)”;
 - (ii) after “section 25(3)” (in the second place) insert “or (3A)”;
- (c) in subsection (9)(c)—
 - (i) after “section 25(3)” insert “or (3A)”;
 - (ii) after “or 26(3)” insert “or (3A)”.

(5) In section 32 (Police Association for Northern Ireland), in subsection (2)—

- (a) after “section 25(3)” insert “or (3A),”;
- (b) after “or 26(3)” insert “or (3A)”.

(6) In section 59 (steps to be taken after investigation – disciplinary proceedings), in subsection (8)—

- (a) after “section 25(3)” insert “or (3A),”;
- (b) after “or 26(3)” insert “or (3A)”.

(7) In section 65 (guidance concerning discipline, complaints, etc), in subsection (3)—

- (a) after “section 25(3)” insert “or (3A),”;
- (b) after “or 26(3)” insert “or (3A)”.

(8) Regulations made in pursuance of section 25(3A) or 26(3A) of the Police (Northern Ireland) Act 1998 (as inserted by subsections (2) and (3))—

- (a) may not make provision in relation to a person who ceases to be a police officer before the coming into operation of subsections (2) and (3);
- (b) may make provision in relation to a person who ceases to be a police officer after the coming into operation of this section even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into operation of subsections (2) and (3), but only if the condition in subsection (9) is satisfied.

(9) The condition referred to in subsection (8)(b) is that the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed, or required to resign, if the person had still been a police officer.

(10) In subsections (8) and (9), “police officer” has the meaning given by section 77(1) of the Police (Northern Ireland) Act 2000. ’

Minister of Justice

[OLC73] **New Clause**

After clause 23A insert—

‘Police barred list and police advisory list

23B. Schedule 5 inserts new Part 7A into the Police (Northern Ireland) Act 1998, relating to a police barred list and police advisory list.’

Minister of Justice

[OLC74] **New Schedule**

After Schedule 4 insert—

‘SCHEDULE 5

Section 23B.

PART TO BE INSERTED AS PART 7A OF THE POLICE (NORTHERN IRELAND) ACT 1998

1. In the Police (Northern Ireland) Act 1998, after Part 7 insert—

“PART 7A

POLICE BARRED LIST AND POLICE ADVISORY LIST

Police barred list

65A Duty to maintain barred list

(1) The Chief Constable must maintain a list of persons to be known as the police barred list for Northern Ireland (“the barred list”).

(2) The barred list must include such information in relation to a person included in the list as is specified in regulations made by the Department of Justice.

(3) Regulations under this section may confer a discretion on the Chief Constable.

65B Inclusion of certain police officers and police support staff

(1) The Chief Constable must include a person in the barred list where—

- (a) the person ceases to be a member of the police force by virtue of being dismissed, or required to resign, at proceedings conducted under regulations made pursuant to section 25(3) or 26(3);
- (b) the person is a former member of the police force and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed, or required to resign, if the person had still been a member of the police force;
- (c) the person ceases to be a member of the police support staff by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness.

(2) But subsection (1) does not apply where the person ceases to be a senior officer of the Police Service of Northern Ireland, is a former senior officer of the Police Service of Northern Ireland, or ceases to be a senior employee of the Board (as to which, see section 65C).

(3) In subsection (1)(b), “disciplinary proceedings” means proceedings conducted under regulations made in pursuance of section 25(3A) or 26(3A).

(4) A person is dismissed for the purposes of subsection (1)(c) if the circumstances in which the person ceases to be a member of the police support staff amount to dismissal within the meaning of Part 10 of the Employment Rights (Northern Ireland) Order 1996 (see Article 127 of that Order).

65C Inclusion of senior officers and senior police support staff

(1) The Chief Constable must include a person in the barred list where the person is reported to the Chief Constable under subsection (2).

(2) The Board must report a person to the Chief Constable where—

- (a) the person ceases to be a senior officer of the Police Service of Northern Ireland by virtue of being dismissed, or required to resign, at proceedings conducted under regulations made in pursuance of section 25(3);
- (b) the person is a former senior officer of the Police Service of Northern Ireland and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed, or required to resign, if the person had still been a member of the police force;
- (c) the person ceases to be a senior employee of the Board by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness.

(3) A report under subsection (2) must—

- (a) be made within such period as is specified in regulations made by the Department of Justice;
- (b) include such information as is so specified.

(4) In subsection (2)(b), “disciplinary proceedings” means proceedings conducted under regulations made in pursuance of section 25(3A).

(5) A person is dismissed for the purposes of subsection (2)(c) if the circumstances in which the person ceases to be a member of the police support staff amount to dismissal within the meaning of Part 10 of the Employment Rights (Northern Ireland) Order 1996 (see Article 127 of that Order).

65D Inclusion of airport police, harbour police and support staff

(1) The Chief Constable must include a person in the barred list where the person is reported to the Chief Constable under subsection (2).

(2) The relevant transport authority must report a person to the Chief Constable where the person ceases to be a member of any of the following by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness—

- (a) any airport police;
- (b) any airport police support staff;
- (c) any harbour police;
- (d) any harbour police support staff.

(3) A report under subsection (2) must—

- (a) be made within such period as is specified in regulations made by the Department of Justice;
- (b) include such information as is so specified.

(4) In subsection (2), “the relevant transport authority” means—

- (a) in relation to a person who was a member of any airport police, the airport operator with control over the airport police;
- (b) in relation to a person who was a member of any airport police support staff, the airport operator who employed the person;
- (c) in relation to a person who was a member of any harbour police, the harbour authority with responsibility for maintaining the harbour police;
- (d) in relation to a person who was a member of any harbour police support staff, the harbour authority who employed the person.

(5) An airport operator or harbour authority may delegate the function of making a report under this section or any of sections 65G, 65L and 65P.

(6) A person is dismissed for the purposes of subsection (2) if the circumstances in which the person ceases to be a member of a body referred to in subsection (2) amount to dismissal within the meaning of Part 10 of the Employment Rights (Northern Ireland) Order 1996 (see Article 127 of that Order).

65E Inclusion of other employees, seconded staff and contracted staff

(1) The Chief Constable must include a person in the barred list where the person is reported to the Chief Constable under subsection (2).

(2) The relevant employer must report a person to the Chief Constable where—

- (a) the person ceases to be a person designated under section 31 of the Police (Northern Ireland) Act 2003 by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness.
- (b) the person ceases to be a member of any of the following by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness—
 - (i) the staff of the Board;
 - (ii) the staff of the Ombudsman;
- (c) the person ceases to be an employee of the civil service by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness during a period when the person was engaged under—
 - (i) paragraph 3(2) of Schedule 3 to provide administrative, secretarial or other assistance to the Ombudsman;

- (ii) section 4(4) of the Police (Northern Ireland) Act 2000 to provide assistance to the police;
 - (iii) paragraph 13(2) of Schedule 1 to that Act to provide administrative, secretarial or other assistance to the Board.
- (3) A report under subsection (2) must—
- (a) be made within such period as is specified in regulations made by the Department of Justice;
 - (b) include such information as is so specified.
- (4) In subsection (2), “the relevant employer” means—
- (a) in relation to a person who was designated under section 31 of the Police (Northern Ireland) Act 2003, the person by whom the designated person was employed;
 - (b) in relation to a person who was a member of staff of the Board, the Board;
 - (c) in relation to a person who was a member of staff of the Ombudsman, the Ombudsman;
 - (d) in relation to a person who was an employee of the civil service, the government department, officer or body under or for whose purpose the person was employed.
- (5) A person is dismissed for the purposes of any of subsection (2)(a) to (c) if the circumstances in which the person ceases to hold a position referred to in the paragraph amount to dismissal within the meaning of—
- (a) in the case of a person who ceases to be an employee of the civil service of the United Kingdom, Part 10 of the Employment Rights Act 1996 (see section 95 of that Act), or
 - (b) in any other case, Part 10 of the Employment Rights (Northern Ireland) Order 1996 (see Article 127 of that Order).

65F Effect of inclusion in barred list

- (1) Before employing or appointing any person, a law enforcement employer must check the barred list to ascertain whether the proposed employee or proposed appointee is a barred person.
- (2) A law enforcement employer may not employ a barred person or otherwise appoint a barred person to any position.
- (3) For the purposes of this section a person who is to be seconded to work for a law enforcement employer, and who will not be employed by that person, is to be regarded as being appointed by that person.
- (4) Before designating a person under section 31 of the Police (Northern Ireland) Act 2003, the Chief Constable must check the barred list to ascertain whether the person is a barred person.
- (5) The Chief Constable may not designate a barred person under section 31 of the Police (Northern Ireland) Act 2003.
- (6) The Chief Constable, the Board or the Ombudsman may not enter into a contract for the provision of services if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions.
- (7) For the meaning of “law enforcement employer” and “relevant public functions” see section 65R.

65G Removal from barred list

- (1) The Chief Constable must remove a person from the barred list where—
 - (a) the person is included in the barred list by virtue of section 65B(1) and subsection (2) applies in respect of the person, or

- (b) the Chief Constable receives a further report in relation to the person under subsection (3), (4) or (5).
- (2) This subsection applies in respect of a person where—
 - (a) in the case of a person falling within section 65B(1)(a), the decision to dismiss the person, or to require the person to resign, is set aside at proceedings conducted under regulations made pursuant to section 25 or 26;
 - (b) in the case of a person falling within section 65B(1)(b), the finding that the person would have been dismissed, or required to resign, is set aside at proceedings conducted under regulations made pursuant to section 25 or 26;
 - (c) in the case of a person falling within section 65B(1)(c), the dismissal is found to have been an unfair dismissal—
 - (i) following a complaint under Article 145 of the Employment Rights (Northern Ireland) Order 1996, and
 - (ii) whether by an employment tribunal or on appeal.
- (3) The Board must make a further report to the Chief Constable in relation to a person included in the barred list by virtue of section 65C(1) where—
 - (a) in the case of a person falling within section 65C(2)(a), the decision to dismiss the person, or to require the person to resign, is set aside at proceedings conducted under regulations made pursuant to section 25;
 - (b) in the case of a person falling within section 65C(2)(b), the finding that the person would have been dismissed, or required to resign, is set aside at proceedings conducted under regulations made pursuant to section 25;
 - (c) in the case of a person falling within section 65C(2), the dismissal is found to have been an unfair dismissal—
 - (i) following a complaint under Article 145 of the Employment Rights (Northern Ireland) Order 1996, and
 - (ii) whether by an employment tribunal or on appeal.
- (4) The relevant transport authority must make a further report to the Chief Constable in relation to a person included in the barred list by virtue of section 65D(1) where the dismissal is found to have been an unfair dismissal—
 - (a) following a complaint under Article 145 of the Employment Rights (Northern Ireland) Order 1996, and
 - (b) whether by an employment tribunal or on appeal.
- (5) The relevant employer must make a further report to the Chief Constable in relation to a person included in the barred list by virtue of section 65E(1) where the dismissal is found to have been an unfair dismissal—
 - (a) following a complaint under Article 145 of the Employment Rights (Northern Ireland) Order 1996 or section 111 of the Employment Rights Act 1996, and
 - (b) whether by an employment tribunal or on appeal.
- (6) A report under subsection (3), (4) or (5) must—
 - (a) be made within such period as is specified in regulations made by the Department of Justice;
 - (b) include such information as is so specified.

(7) The Department of Justice may by regulations make provision in connection with the removal of a person from the barred list otherwise than under subsection (1).

(8) Regulations under subsection (7) may confer functions on the Chief Constable including functions which involve the exercise of a discretion.

(9) In this section—

“the relevant employer” has the meaning given by section 65E(4).

“the relevant transport authority” has the meaning given by section 65D(4);

65H Power to disclose information in barred list

(1) The Chief Constable may, if the Chief Constable considers it to be in the public interest to do so, disclose to a person listed in subsection (2) information included in the barred list which relates to a particular person who is included in that list.

(2) The persons referred to in subsection (1) are—

- (a) the Board;
- (b) the Ombudsman;
- (c) a harbour authority with responsibility for maintaining harbour police;
- (d) an airport operator with control over airport police;
- (e) a person of a description specified in regulations made by the Department of Justice.

(3) A person may be specified in regulations under subsection (2)(e) only if the person has relevant public functions (as to which, see section 65R).

Police advisory list

65I Duty to maintain advisory list

(1) The Chief Constable must maintain a list of persons be known as the police advisory list for Northern Ireland (“the advisory list”).

(2) The advisory list must include such information in relation to a person included in the list as is specified in regulations made by the Department of Justice.

(3) Regulations under this section may confer a discretion on the Chief Constable.

65J Inclusion of certain police officers and police support staff

(1) The Chief Constable must include a person in the advisory list if the person falls within subsection (2) or (4) (but this is subject to subsection (5)).

(2) A person falls within this subsection if the person ceases to be a member of the police force or the police support staff by resigning or retiring—

- (a) after a relevant allegation about the person came to the attention of the Chief Constable, but
- (b) before disciplinary proceedings in respect of the allegation are brought or, if brought, before they are concluded.

(3) But a person does not fall within subsection (2) if, before the person resigned or retired, it was determined that no disciplinary proceedings would be brought against the person in respect of the allegation.

(4) A person falls within this subsection if—

- (a) the person ceases to be a member of the police force by resigning or retiring, and
 - (b) a relevant allegation about the person comes to the attention of the Chief Constable after the person resigned or retired.
- (5) Subsection (1) does not apply where the person ceases to be a senior officer of the Police Service of Northern Ireland, or a senior employee of the Board (as to which, see section 65K).
- (6) For the purposes of this section an allegation about a person is a relevant allegation if—
- (a) it relates to the conduct, efficiency or effectiveness of the person, and
 - (b) it is of a type that, if proved and if the person had not resigned or retired, might have resulted in the person being dismissed, or required to resign, as described in section 65B(1)(a) or (c).
- (7) In this section, “disciplinary proceedings” means—
- (a) in relation to a person who has ceased to be a member of the police force by resigning or retiring, proceedings conducted under regulations made in pursuance of section 25 or 26;
 - (b) in relation to a person who has ceased to be a member of the police support staff by resigning or retiring, any proceedings that are identified as disciplinary proceedings in relation to such a person by regulations made by the Department of Justice.

65K Inclusion of senior officers and senior police support staff

- (1) The Chief Constable must include a person in the advisory list if the person is reported to the Chief Constable under subsection (2) or (4).
- (2) The Board must report a person to the Chief Constable if the person ceases to be a senior officer of the Police Service of Northern Ireland or a senior employee of the Board by resigning or retiring—
- (a) after a relevant allegation about the person came to the attention of the Board, but
 - (b) before disciplinary proceedings in respect of the allegation are brought or, if brought, before they are concluded.
- (3) But the duty in subsection (2) does not apply if, before the person resigned or retired, it was determined that no disciplinary proceedings would be brought against the person in respect of the allegation.
- (4) The Board must report a person to the Chief Constable if—
- (a) the person ceases to be a senior officer of the Police Service of Northern Ireland by resigning or retiring, and
 - (b) a relevant allegation about the person comes to the attention of the Board after the person resigned or retired.
- (5) A report under subsection (2) or (4)—
- (a) must be made within such period as is specified in regulations made by the Department of Justice;
 - (b) must include such information as is so specified.
- (6) For the purposes of this section, an allegation about a person is a relevant allegation if—
- (a) it relates to the conduct, efficiency or effectiveness of the person, and
 - (b) it is of a type that, if proved and if the person had not resigned or retired, might have resulted in the person being dismissed, or required to resign, as described in any of section 65C(2)(a), or (c).
- (7) In this section, “disciplinary proceedings” means—

- (a) in relation to a person who has ceased to be a senior officer of the Police Service of Northern Ireland by resigning or retiring, proceedings conducted under regulations made in pursuance of section 25;
- (b) in relation to a person who has ceased to be a senior employee of the Board by resigning or retiring, any proceedings that are identified as disciplinary proceedings in relation to such a person by regulations made by the Department of Justice.

65L Inclusion of airport police, harbour police and support staff

- (1) The Chief Constable must include a person in the advisory list if the person is reported to the Chief Constable under subsection (2).
- (2) The relevant transport authority must report a person to the Chief Constable if—
 - (a) the person, by resigning or retiring, ceases to be a member of—
 - (i) any airport police;
 - (ii) any airport police support staff;
 - (iii) any harbour police;
 - (iv) any harbour police support staff; and
 - (b) the condition in subsection (3) is met in relation to the person.
- (3) The condition is that the resignation or retirement took place—
 - (a) after a relevant allegation about the person came to the attention of the relevant transport authority, but
 - (b) before disciplinary proceedings in respect of the allegation were brought or, if brought, before they concluded.
- (4) But the condition in subsection (3) is not met if, before the person resigned or retired, it was determined that no disciplinary proceedings would be brought against the person in respect of the allegation.
- (5) A report under subsection (2)—
 - (a) must be made within such period as is specified in regulations made by the Department of Justice;
 - (b) must include such information as is so specified.
- (6) For the purposes of subsection (3)(a), an allegation about a person is a relevant allegation if—
 - (a) it relates to the conduct, efficiency or effectiveness of the person, and
 - (b) it is of a type that, if proved and if the person had not resigned or retired, might have resulted in the person being dismissed as described in any of section 65D(2).
- (7) In this section—
 - “disciplinary proceedings” means any proceedings that are identified as such by regulations made by the Department of Justice;
 - “relevant transport authority” has the meaning given by section 65D(4).

65M Inclusion of employees, seconded staff and contracted staff

- (1) The Chief Constable must include a person in the advisory list if the person is reported to the Chief Constable under subsection (2).
- (2) The relevant employer must report a person to the Chief Constable if—

- (a) the person, by resigning or retiring, ceases to be—
 - (i) a person designated under section 31 of the Police (Northern Ireland) Act 2003;
 - (ii) a member of the staff of the Board;
 - (iii) a member of staff of the Ombudsman;
 - (iv) an employee of the civil service; and
- (b) the condition in subsection (3) is met in relation to the person.
- (3) The condition is that the resignation or retirement took place—
 - (a) after a relevant allegation about the person came to the attention of the relevant employer, but
 - (b) before disciplinary proceedings in respect of the allegation were brought or, if brought, before they concluded.
- (4) But the condition in subsection (3) is not met if, before the person resigned or retired, it was determined that no disciplinary proceedings would be brought against the person in respect of the allegation.
- (5) A report under subsection (2)—
 - (a) must be made within such period as is specified in regulations made by the Department of Justice;
 - (b) must include such information as is so specified.
- (6) For the purposes of subsection (3)(a), an allegation about a person is a relevant allegation if—
 - (a) it relates to the conduct, efficiency or effectiveness of the person, and
 - (b) it is of a type that, if proved and if the person had not resigned or retired, might have resulted in the person being dismissed as described in any of section 65E(2).
- (7) Subsection (6) applies in respect of a person who ceases to be an employee of the civil service as if the reference to the conduct, efficiency or effectiveness of the person were a reference to the conduct, efficiency or effectiveness of the person during a period when the person was engaged under—
 - (a) paragraph 3(2) of Schedule 3 to provide administrative, secretarial or other assistance to the Ombudsman;
 - (b) section 4(4) of the Police (Northern Ireland) Act 2000 to provide assistance to the police;
 - (c) paragraph 13(2) of Schedule 1 to that Act to provide administrative, secretarial or other assistance to the Board.
- (8) In this section—
 - “disciplinary proceedings” means any proceedings that are identified as such by regulations made by the Department of Justice;
 - “relevant employer” has the meaning given by section 65E(4).

65N Effect of inclusion in advisory list

- (1) Before employing or appointing any person, a law enforcement employer must check the advisory list to ascertain whether the proposed employee or proposed appointee is included in the list.

(2) For the purposes of this section a person who is to be seconded to work for a law enforcement employer, and who will not be employed by that person, is to be regarded as being appointed by that person.

(3) Before designating a person under section 30, 30A or 31 of the Police (Northern Ireland) Act 2003, the Chief Constable must check the advisory list to ascertain whether the person is included in the list.

(4) For the meaning of “law enforcement employer”, see section 65R.

65P Removal from advisory list

(1) The Chief Constable must remove a person from the advisory list if—

- (a) the person was included in the list by virtue of section 65J(1) and subsection (2) applies in respect of the person,
- (b) the Chief Constable receives a further report in relation to the person under subsection (3), or
- (c) the person is included in the barred list.

(2) This subsection applies in respect of a person if—

- (a) it is determined that no disciplinary proceedings will be brought against the person,
- (b) the disciplinary proceedings brought against the person are withdrawn, or
- (c) the disciplinary proceedings brought against the person are concluded without there being a finding that the person would have been dismissed or required to resign.

(3) The relevant authority must make a further report to the Chief Constable in relation to a person where—

- (a) the relevant authority has reported a person to the Chief Constable under section 65K(2) or (4), 65L(2), or 65M(2), and
- (b) subsection (2) applies in respect of the person.

(4) A report under subsection (3) must—

- (a) be made within such period as is specified in regulations made by the Department of Justice;
- (b) include such information as is so specified.

(5) The Department of Justice may by regulations make provision in connection with the removal of a person from the advisory list otherwise than under subsection (1).

(6) Regulations under subsection (5) may confer functions on the Chief Constable including functions which involve the exercise of a discretion.

(7) In this section—

“disciplinary proceedings” means—

- (a) in relation to a person who has ceased to be a member of the police force by resigning or retiring, proceedings conducted under regulations made in pursuance of section 25 or 26;
- (b) in any other case, any proceedings that are identified as such by regulations made by the Department of Justice;

“the relevant authority” means the Board, the relevant transport authority or the relevant employer;

“the relevant employer” has the same meaning as in section 65E(4);

“the relevant transport authority” has the meaning given by section 65D(4).

65Q Power to disclose information in advisory list

(1) The Chief Constable may, if the Chief Constable considers it to be in the public interest to do so, disclose to a person listed in subsection (2) information included in the advisory list which relates to a particular person who is included in that list.

(2) The persons referred to in subsection (1) are—

- (a) the Board;
- (b) the Ombudsman;
- (c) a harbour authority with responsibility for maintaining harbour police;
- (d) an airport operator with control over airport police;
- (e) a person of a description specified in regulations made by the Department of Justice.

(3) A person may be specified in regulations under subsection (2)(e) only if the person has relevant public functions (as to which, see section 65R).

Supplementary

65R Meaning of “law enforcement employer” and “relevant public functions”

(1) In this Part, “law enforcement employer” means—

- (a) the Chief Constable;
- (b) the Board;
- (c) the Ombudsman;
- (d) a harbour authority with responsibility for maintaining harbour police, when exercising functions relating to the harbour police;
- (e) an airport operator with control over airport police, when exercising functions relating to the airport police;
- (f) a person of a description specified in regulations made by the Department of Justice.

(2) A person may be specified in regulations under subsection (1)(f) only if the person has relevant public functions exercisable in, or in relation to, Northern Ireland.

(3) If a person has both relevant public functions and other functions, the person may be specified only—

- (a) in relation to the exercise of the person's relevant public functions, or
- (b) in relation to the exercise of such of those relevant public functions as are of a description specified in the regulations.

(4) In this Part, “relevant public functions” means functions of a public nature that relate to policing or law enforcement.

65S Interpretation

In this Part—

“advisory list” has the meaning given by section 65I(1);

“airport operator” has the meaning given by Article 2(2) of the Airports (Northern Ireland) Order 1994;

“airport police” means any body of constables appointed under Article 19 of the Airports (Northern Ireland) Order 1994, and a reference to a member of any airport police is to a constable so appointed;

“barred list” has the meaning given by section 65A(1);

“barred person” means a person who is included in the barred list by virtue of section 65B(1), 65C(1), 65D(1) or 65E(1);

“harbour authority” has the meaning given by section 38(2) of the Harbours Act (Northern Ireland) 1970;

“harbour police” means—

(a) any body of special constables appointed in Northern Ireland under section 79 of the Harbours, Docks, and Piers Clauses Act 1847, or

(b) any body of constables appointed under an order made under section 1 of the Harbours Act (Northern Ireland) 1970;

and a reference to a member of any harbour police is to a constable so appointed;

“law enforcement employer” has the meaning given by section 65R(1);

“member of a harbour police support staff” means a person employed by a harbour authority, and under the direction and control of a chief of harbour police who is not a member of the harbour police;

“member of an airport police support staff” means a person employed by an airport operator, and under the direction and control of a chief of airport police who is not a member of the airport police;

“member of the staff of the Board” means a person employed under paragraph 13(1) of Schedule 1 to the Police (Northern Ireland) Act 2000;

“member of the staff of the Ombudsman” means a person employed under paragraph 3(1) of Schedule 3;

“relevant public functions” has the meaning given by section 65R(4);

“senior employee of the Board” means an employee of such class or description as may be specified in regulations made under section 4(7) of the Police (Northern Ireland) Act 2000.”’

Minister of Justice

[OLC95] **Long Title**

After ‘functions;’ insert ‘to amend the law to make provision about collaboration between bodies with functions relating to policing and law enforcement;’

Minister of Justice

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref: JCP\24\245
4 December 2024

Dear Caroline,

JUSTICE BILL: SHARING TEXT OF PLANNED AMENDMENTS

I am pleased to be able to share the text of a further three sets of planned amendments to the Bill with Committee members.

The repeal of vagrancy amendments are attached at Appendix A, Serious Organised Crime amendments are attached at Appendix B and the AccessNI amendments are attached at Appendix C.

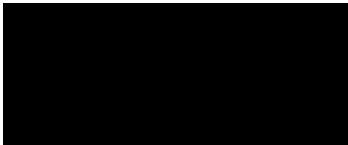
I would be grateful if you could advise Committee members that although the AccessNI amendments run to several pages, the provisions do not represent wholesale new policy but rather, primarily, restate the current law in a more straightforward way, making it easier to understand, administer and maintain.

Whilst we were able to deliver the repeal of vagrancy amendments ahead of the indicated timeframe, there is a possibility that, due to the Christmas period and circumstances outside our control, we may not be able to share the text of the live links in courts and tribunals amendment with the Committee until early January. Whilst we are still working to share them in December if possible, we wanted to mention this at the earliest

FROM THE OFFICE OF THE JUSTICE MINISTER

opportunity. In any case, we are hopeful that the Committee will have all amendments ahead of their first meeting in January.

I trust this is helpful to Members of the Committee.



DALO

Enc: Appendix A – Repeal of Vagrancy Amendments
Appendix B – Serious Organised Crime Amendments
Appendix C – AccessNI Amendments

JUSTICE BILL
CONSIDERATION STAGE

Repeal of public order offences

New clause

After clause 23 insert—

‘Repeal of public order offences

Repeal of public order offences

23A.—(1) Section 4 of the Vagrancy Act 1824 is repealed.

(2) The Vagrancy (Ireland) Act 1847 is repealed.

(3) In Schedule 5—

(a) Part 1 makes consequential amendments relating to the repeal of section 4 of the Vagrancy Act 1824;

(b) Part 2 makes consequential amendments relating to the repeal of the Vagrancy (Ireland) Act 1847.

(4) The amendments made by this section and Schedule 5 do not apply in relation to an offence committed before this section comes into operation.’

New Schedule

After Schedule 4 insert—

‘SCHEDULE 5

Section 23A.

REPEAL OF PUBLIC ORDER OFFENCES: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO SECTION 4 OF THE VAGRANCY ACT 1824

Public Health Acts Amendment Act 1907

1. In section 81 of the Public Health Acts Amendment Act 1907, omit the words from “shall”, in the first place it occurs, to “public place, and”.

Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935

2. Section 57 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 is repealed.

House to House Charitable Collections Act (Northern Ireland) 1952

3. In section 2(3) of the House to House Charitable Collections Act (Northern Ireland) 1952, omit paragraph (c).

Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958

4. Section 18 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958 is repealed.

New Towns Act (Northern Ireland) 1965

5. In section 20(4) of the New Towns Act (Northern Ireland) 1965, omit “or against section 4 of the Vagrancy Act 1824”.

Theft Act (Northern Ireland) 1969

6. In Schedule 2 to the Theft Act (Northern Ireland) 1969, omit the entry relating to the Vagrancy Act 1824.

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

7. Article 7 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 is repealed.

Magistrates' Courts Rules (Northern Ireland) 1984

8. In Rule 122(1) of the Magistrates' Courts Rules (Northern Ireland) 1984, omit sub-paragraph (a).

Education and Libraries (Northern Ireland) Order 1986

9. In Article 37(3) of the Education and Libraries (Northern Ireland) Order 1986, omit “or against section 4 of the Vagrancy Act 1824”.

Recreation and Youth Service (Northern Ireland) Order 1986

10. In Article 10(4) of the Recreation and Youth Service (Northern Ireland) Order 1986, omit “or against section 4 of the Vagrancy Act 1824”.

Museums and Galleries (Northern Ireland) Order 1998

11.—(1) The Museums and Galleries (Northern Ireland) Order 1998 is amended as follows.

(2) In Article 7(2) omit—

- (a) the “or” at the end of sub-paragraph (a);
- (b) sub-paragraph (b).

(3) In Article 13(2), omit “or against section 4 of the Vagrancy Act 1824”.

Justice Act (Northern Ireland) 2011

12. In Schedule 7 to the Justice Act (Northern Ireland) 2011, omit paragraph 1 and the italic heading immediately before that paragraph.

PART 2

AMENDMENTS RELATING TO THE REPEAL OF THE VAGRANCY (IRELAND) ACT
1847

Magistrates' Courts Rules (Northern Ireland) 1984

13. In Rule 122(1) of the Magistrates' Courts Rules (Northern Ireland) 1984, omit sub-paragraph (b).

Police (Northern Ireland) Act 2003

14. —(1) Schedule 2A to the Police (Northern Ireland) Act 2003 is amended as follows.

(2) In paragraph 2(4), omit paragraph (a).

(3) In paragraph 4—

(a) omit sub-paragraph (4);

(b) in sub-paragraphs (5) and (6), omit “or (4)”.

Justice Act (Northern Ireland) 2015

15. In Schedule 1 to the Justice Act (Northern Ireland) 2015, omit paragraph 17 and the italic heading before that paragraph.’

Long Title

After ‘functions;’ insert ‘to repeal certain offences relating to public order;’

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FROM: [REDACTED]
DATE: 8 January 2025
TO: KATHY O'HANLON

Business Area: Criminal Justice Policy and Legislation Division
Access to Justice Directorate

Issue: Justice Bill Amendments – Supporting Briefing for the Oral Briefing Session

Restrictions: None.

Action Required: The Committee is asked to note this written briefing ahead of the oral briefing on 23 January 2025

Officials Attending: [REDACTED] Head of Criminal Justice Policy and Legislation Division
[REDACTED] (Reform of Rehabilitation Periods Amendments)
[REDACTED] (Repeal of Vagrancy Amendments)
[REDACTED] (Live Links Amendments)

Introduction

This briefing provides an overview of the three sets of proposed Justice Bill amendments due to be discussed at the oral briefing session on 23 January 2025.

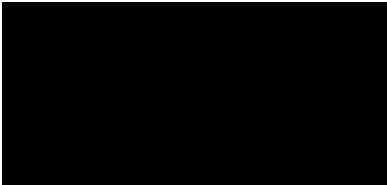
2. We have provided background on each of the policy areas, along with further detail on what the amendments aim to do and why they are needed in the form of separate appendices to this letter, as follows:

- Appendix A – Reform of Rehabilitation Periods
- Appendix B – Repeal of Vagrancy

FROM THE OFFICE OF THE JUSTICE MINISTER

- Appendix C – Live Links (Courts & Tribunals)

3. I trust this information is helpful to Committee Members ahead of the oral briefing.



DALO

Encs: Appendices A-C

APPENDIX B

Repeal of Vagrancy Amendments

Background

1. Currently, section 4 of the Vagrancy Act 1824 ('the 1824 Act') and section 3 of the Vagrancy (Ireland) Act 1847 ('the 1847 Act') are used by PSNI to address criminal behaviours perpetrated by those who are rough sleeping or begging.
2. Section 4 of the 1824 Act has been repealed in Scotland and repeal provision has been made for England and Wales, but not yet commenced. Section 3 of the 1847 Act has been repealed in the Republic of Ireland.

Why are the amendments needed

3. There has been considerable criticism, by the media, some MLAs and homeless support organisations, of the use of what is considered 'outdated' legislation, alleging that it is being used to criminalise homelessness.
4. Begging and rough sleeping are often linked to underlying issues such as homelessness, poverty, alcohol and drug addiction, poor mental health, sexual and domestic abuse and family breakdown.
5. Typically, they involve some of the most vulnerable people in our society. These are complex and cross cutting issues which the Department considers require a multi-agency and multi-societal response of support rather than criminalising people simply because of their personal circumstances.

Review/Consultation

6. A review of the current vagrancy legislation for Northern Ireland was carried out by the Department, in conjunction with PSNI, to determine whether it should be repealed and, if repealed, whether there was an identifiable gap in the law which would require replacement legislation.
7. The findings of this review are reflected in the public consultation which was launched by the Department on 11 November 2024.

8. It seeks views on repeal of the current vagrancy legislation, in so far as it would decriminalise rough sleeping and begging in Northern Ireland, and whether respondents consider that this would leave any significant gaps in the criminal law, taking into account the range of other offences available to deal with public order, disorderly behaviour and harassment in public places.
9. To ensure the best possible opportunity for receipt of responses, additional time was factored into the consultation timeframe to account for the Christmas holiday period. Responses were requested by 21 January, and the Department will provide an update to the Committee once these have been analysed and considered.

What the amendments do

10. The proposals for legislative change are intended to repeal section 4 of the Vagrancy Act 1824 and section 3 of the Vagrancy (Ireland) Act 1847.
11. We do not propose the introduction of any replacement legislation upon repeal, on the basis this would essentially have the effect of re-criminalising people in a similar way to the provisions that are to be repealed.
12. We consider that where relevant behaviour reaches the criminal threshold, there are existing harassment, disorderly behaviour and public order offences available that can be used in helping the police to deal with those incidents, regardless of an individual's personal circumstances.

Justice Bill — Consideration Stage
Repeal of public order offences

New Clause

After clause 23 insert—

‘Repeal of public order offences

Repeal of public order offences

23A—(1) Section 4 of the Vagrancy Act 1824 is repealed.

(2) The Vagrancy (Ireland) Act 1847 is repealed.

(3) In Schedule 5—

(a) Part 1 makes consequential amendments relating to the repeal of section 4 of the Vagrancy Act 1824;

(b) Part 2 makes consequential amendments relating to the repeal of the Vagrancy (Ireland) Act 1847.

(4) The amendments made by this section and Schedule 5 do not apply in relation to an offence committed before this section comes into operation.’

Minister of Justice

New Schedule

After Schedule 4 insert—

‘SCHEDULE

Section 23A.

REPEAL OF PUBLIC ORDER OFFENCES: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO SECTION 4 OF THE VAGRANCY ACT 1824

Public Health Acts Amendment Act 1907

1. In section 81 of the Public Health Acts Amendment Act 1907, omit the words from “shall”, in the first place it occurs, to “public place, and”.

Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935

2. Section 57 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 is repealed.

House to House Charitable Collections Act (Northern Ireland) 1952

3. In section 2(3) of the House to House Charitable Collections Act (Northern Ireland) 1952, omit paragraph (c).

Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958

4. Section 18 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1958 is repealed.

New Towns Act (Northern Ireland) 1965

5. In section 20(4) of the New Towns Act (Northern Ireland) 1965, omit “or against section 4 of the Vagrancy Act 1824”.

Theft Act (Northern Ireland) 1969

6. In Schedule 2 to the Theft Act (Northern Ireland) 1969, omit the entry relating to the Vagrancy Act 1824.

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

7. Article 7 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 is repealed.

Magistrates' Courts Rules (Northern Ireland) 1984

8. In Rule 122(1) of the Magistrates' Courts Rules (Northern Ireland) 1984, omit sub-paragraph (a).

Education and Libraries (Northern Ireland) Order 1986

9. In Article 37(3) of the Education and Libraries (Northern Ireland) Order 1986, omit “or against section 4 of the Vagrancy Act 1824”.

Recreation and Youth Service (Northern Ireland) Order 1986

10. In Article 10(4) of the Recreation and Youth Service (Northern Ireland) Order 1986, omit “or against section 4 of the Vagrancy Act 1824”.

Museums and Galleries (Northern Ireland) Order 1998

- 11.—(1) The Museums and Galleries (Northern Ireland) Order 1998 is amended as follows.

- (2) In Article 7(2) omit—

- (a) the “or” at the end of sub-paragraph (a);
- (b) sub-paragraph (b).

- (3) In Article 13(2), omit “or against section 4 of the Vagrancy Act 1824”.

Justice Act (Northern Ireland) 2011

12. In Schedule 7 to the Justice Act (Northern Ireland) 2011, omit paragraph 1 and the italic heading immediately before that paragraph.

PART 2

AMENDMENTS RELATING TO THE REPEAL OF THE VAGRANCY (IRELAND) ACT 1847

Magistrates' Courts Rules (Northern Ireland) 1984

13. In Rule 122(1) of the Magistrates' Courts Rules (Northern Ireland) 1984, omit sub-paragraph (b).

Police (Northern Ireland) Act 2003

14.—(1) Schedule 2A to the Police (Northern Ireland) Act 2003 is amended as follows.

(2) In paragraph 2(4), omit paragraph (a).

(3) In paragraph 4—

(a) omit sub-paragraph (4);

(b) in sub-paragraphs (5) and (6), omit “or (4)”.

Justice Act (Northern Ireland) 2015

15. In Schedule 1 to the Justice Act (Northern Ireland) 2015, omit paragraph 17 and the italic heading before that paragraph.”

Minister of Justice

Long title

After ‘functions;’ insert ‘to repeal certain offences relating to public order;’

Minister of Justice

FROM THE OFFICE OF THE JUSTICE MINISTER

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JCPI26\44

Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

3 March 2026

Dear Kathy,

JUSTICE BILL AMENDMENT – ADDITION OF CLAUSE 27A TAXATION REFORM

This update follows my letter of 9 February 2026, which informed the Committee that the Department had received the first draft of a proposed amendment to the Justice Bill relating to taxation reform, and that it was anticipated that Clause 28 of the Bill would be removed. I am now writing to provide the Committee with the text of the finalised amendment and a short written brief on the purpose of the amendment.

The Minister advised the Committee Chair and Vice Chair in October 2025, and officials briefed the committee on 20 November 2025, that a revised approach was being taken with regards to taxation reform, which seeks to expedite reform by setting legal aid rates and arrangements in secondary legislation (remuneration orders) for all High Court and Court of Appeal proceedings currently subject to taxation, whilst retaining the Taxing Master in an assessment role. To facilitate this approach, the Minister and officials advised that an amendment to the Justice Bill was being developed which would ensure that legal aid rates and arrangements for legal aid expenditure subject to taxation would be applied by the Taxing Master.

Officials have been working with Office of the Legislative Counsel and have now finalised the text of the proposed amendment which I have attached at **Annex A**. The Department

will also be sharing the amendment and engaging with the Lady Chief Justice, Taxing Master, the Law Society and the Bar.

Clause 27A

Clause 27A is a new clause which amends the Access to Justice (Northern Ireland) Order 2003 (“the 2003 Order”) by inserting Articles 12(3A) and 24(3A).

Article 12(3A) supplements Article 12(3). Article 12(3) of the 2003 Order gives the Department the power to make provision about the payment of remuneration to persons who provide civil legal services:

“12(3) The Department may by order make provision about the payment of remuneration by the Department to persons who provide civil legal services”.

The new Article 12(3A) clarifies that any remuneration order made under Article 12(3) may include provision about how any person who is assessing legal aid costs under the remuneration order may, or must, determine the amount. Therefore, when the Taxing Master is determining costs, they will do so in line with the relevant fees, rates and arrangements set out in a remuneration order.

Article 24(3A) supplements Article 24(3)(a) in the same manner. Article 24(3)(a) of the 2003 Order gives the Department the power to make provision about payments to persons who provide representation for criminal defence services, which at present relates to representation in the Criminal Court of Appeal:

“24(3)(a) The Department shall by order make provision about the payments which may be made by the Commission in respect of any representation provided by non- contracted private practitioners”.

The new Article 24(3A) then clarifies that any remuneration order made under Article 24(3)(a) for representation in the Criminal Court of Appeal may include provision about how any person who assesses legal aid costs under the remuneration order may, or must, determine the amount. Therefore, when the Taxing Master is determining costs, they will do so in line with the relevant fees, rates and arrangements set out in a remuneration order.

Commencement

Clause 27A will commence on the day after the day on which the Act receives Royal Assent, so Clause 33 of the Bill is amended to reflect this.

Clause 28

Finally, as previously advised, Clause 28 will be withdrawn. An amendment has been drafted to leave out the clause.

Remuneration Orders

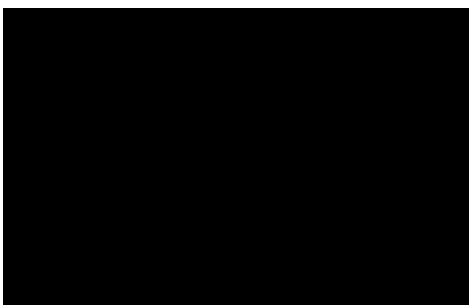
It is our intention to make the necessary remuneration orders by the end of the current mandate. Before making any remuneration order under the 2003 Order, the Department is required to consult with the Lady Chief Justice, the Law Society, the General Council of the Bar of Northern Ireland and, if the order relates to criminal defence services, the Director of Public Prosecutions. In addition, when making any remuneration order the Department shall have regard to:

- the time and skill which the provision of services of the description to which the order relates requires;
- the number and general level of competence of persons providing those services;
- the cost to public funds of any provision made by the regulations; and
- the need to secure value for money.

We will of course update the committee at relevant stages of the development of the legal aid rates and arrangements to be included in any remuneration order.

I trust that the Committee will find this information of assistance.

Yours sincerely



DALO

Enc. Annex A

New Clause

After clause 27 insert—

‘Power to require legal aid remuneration to be determined as set out in regulations

27A.—(1) The Access to Justice (Northern Ireland) Order 2003 is amended as follows.

(2) After Article 12(3) (provision about remuneration for funded services) insert—

“(3A) An order under paragraph (3) may include provision about how any person who, in accordance with the order, is to determine the amount of remuneration may, or must, determine that amount in any case.”.

(3) After Article 24(3) (provision about payments in respect of funded representation) insert—

“(3A) An order under paragraph (3) may include provision about how any person who, in accordance with the order, is to determine the amount of any payment may, or must, determine that amount in any case.”.’

Minister of Justice

Clause 33, Page 43, Line 15

After ‘27’ insert ‘, 27A’

Minister of Justice

Clause 28

Leave out clause 28

Minister of Justice