

JUSTICE BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department of Justice in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and nor is it meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Bill gives effect to the Justice Minister's desire to improve the operation and effectiveness of the justice system. At its core are four key aims, which are:
 - a) to amend retention periods for DNA and biometric material;
 - b) to make changes to bail and custody arrangements for children and young people;
 - c) to improve services for victims and witnesses; and
 - d) to improve the efficiency and effectiveness of aspects of the justice system.
4. In practice, there is a degree of interaction between these aims and the provisions of the Bill that will often advance more than one of its core aims.
5. A more detailed description of the background and policy objectives for each of the constituent parts of the Bill is set out in the Overview section at pages 7 to 10 of this Memorandum.

CONSULTATION

6. The major components proposed for inclusion in the Bill have been the subject of public consultation exercises while a number of the more technical and procedural improvements were the subject of targeted or specialist consultation.
7. For each consultation exercise, the Justice Committee received presentations on summaries of responses and ways forward. The various consultation and response documents are available to view at the hyperlinks listed individually below.

Part 1: Biometric Data: Retention etc

8. A consultation on proposals to amend the legislation governing the retention of DNA and fingerprints in NI ran for 8 weeks from 3 July 2020 to 28 August 2020.
9. The consultation document is available to view at: <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/consultation-on-biometrics-provisions.pdf>.
10. The summary of responses document is available to view at: <https://www.justice-ni.gov.uk/sites/default/files/consultations/justice/biometrics-provisions-summary%20of%20responses.pdf>.

Part 3: Use of Live Links

11. A targeted consultation on proposals on the use of live links for police detention / interviews ran for 6 weeks from 20 April 2020 to 1 June 2020. The consultation period was shorter than the statutory 8 week maximum for public consultation exercises as it was only directed to key stakeholders.
12. The consultation document and summary of responses document are available to view at: [Live links consultation outcome - summary of responses | Department of Justice \(justice-ni.gov.uk\)](#).

Aspects where consultation was not considered necessary

13. A number of provisions were not consulted upon prior to inclusion in the Bill. This was because they had either been subject to full consultation or targeted consultation with key stakeholders previously – in anticipation of provisions being developed for inclusion in a suitable primary legislation vehicle – or because the provisions closed a lacuna in law for which no other legislative solution existed.
14. The individual circumstances for each of these aspects of the Bill are as set out below.

Part 2: Children; Bail and Custody

15. The provisions relating to children's bail and remand and custody are aimed at delivering on a range of recommendations from relevant reports and reviews carried out in relation to the youth justice system.
16. These were subject to public consultation at the time. The proposed changes have, therefore, been developed in order to assist with the implementation of the resulting recommendations and are not, in themselves, a new policy which requires a new or separate consultation.

Part 4: Administration of Justice:

Functions relating to the police

Delegation of functions of the Policing Board

17. The provisions seek to amend the Police (Northern Ireland) Act 2000 to provide the Northern Ireland Policing Board (NIPB) with the power to delegate certain matters to Board officials. The amendments are considered minor and uncontroversial administrative changes and as such did not require consultation.
18. This power is being sought in response to the judgment in the case of *McKee and Others v Charity Commission NI*

Removal of requirement to audit performance plans etc.

19. The provisions seek to amend the Police (Northern Ireland) Act 2000 (“the 2000 Act”) to remove the requirement on the Comptroller & Auditor General (C&AG) to audit the Northern Ireland Policing Board’s (NIPB) performance plan or performance summary.
20. This amendment is being made following a recommendation by the C&AG and would bring the position in Northern Ireland into line with that in England and Wales. The repeal of section 29 of the 2000 Act would remove some potential overlap and duplication in oversight activity and enable the C&AG to focus on financial accountability.
21. The Department considered the C&AG’s recommendation as part of a wider stocktake of policing oversight and accountability arrangements. The stocktake involved a series of meetings involving the Minister of Justice and key stakeholders, including the full membership of the Policing Board, and a public consultation, which ran from December 2021 to March 2022

Criminal Proceedings

Consent for prosecution in cases of conspiracy to commit offence outside Northern Ireland

22. No formal consultation has been held by the Department as this is not a new policy, rather it makes amendments to existing legislation relating to conspiracy to commit offences outside Northern Ireland to correct an error in the law. It provides that the consent of the Advocate General for Northern Ireland is required when instituting criminal proceedings in Northern Ireland, as intended.

Death of a child or vulnerable adult: limitation of power to “No Bill” alternative charge

23. No formal consultation has been held by the Department as this is not a new policy and is intended to close a gap in the law in relation to provide that a judge can enter a “No Bill” on a charge such as murder or manslaughter only if the judge also enters a “No Bill” on the related charge under section 5 of the Domestic Violence, Crime and Victims Act 2004 (*causing or allowing a child or vulnerable adult to die*).

Examination in criminal proceedings through intermediary

24. Paragraph (1) of Article 21BA (examination of accused through intermediary) of the Criminal Evidence (Northern Ireland) Order 1999 provides for the examination of the accused (whether in a Magistrates' Court, or before the Crown Court) against a person for an offence.
25. There is no provision in legislation for the use of a Registered Intermediary where a case then proceeds to an appeal hearing and the defendant has to give evidence at that court tier. It is proposed to amend paragraph (1) of Article 21BA to include the examination of the accused in the County Court on an appeal by a person under Article 140 or 141 of the Magistrates' Courts (Northern Ireland) Order 1981, and in the Court of Appeal on an appeal by a person under section 1 or 8 of the Criminal Appeal (Northern Ireland) Act 1980.
26. This was identified as a gap in provision by the DoJ-led Victim and Witness Steering Group, which is attended by all key stakeholders. It was agreed a vulnerable defendant with communication difficulties may not be able to participate effectively in the proceedings as a witness giving oral evidence in court without the assistance of a Registered Intermediary.
27. The VWSG is a strategic group, comprised of senior leaders across criminal justice organisations as well as victim representative groups. It was considered that no further consultation was necessary given the significant engagement with relevant stakeholders on the issue through VWSG as there is no other suitable option that would meet the policy intent of closing the gap in provision.
28. The provision in the Bill is needed to address this legislative gap and ensure that this assistance is available, without having to rely on inherent court powers to provide for this.

Legal aid

Land Registration Act 1970

29. This is a technical amendment to the Land Registration Act (Northern Ireland) 1970. It has been a long-standing policy of the Legal Services Agency that the legal aid fund be protected by applying a statutory charge to property recovered or preserved though funded civil proceedings.
30. The effect of the amendment is that the Legal Services Agency will be in a position to register true statutory charges against property recovered or preserved though proceedings funded by civil legal aid, rather than registering such charges on the folio of the property recovered or preserved.

Taxation

31. These provisions amend the Judicature (Northern Ireland) Act 1978 to impose a restriction on the circumstances in which an order for taxation of legal aid costs may be made and are being introduced to facilitate the envisaged future introduction of alternative methods of determining the remuneration payable in relevant legal aid cases.

32. The provisions will not be commenced, and will therefore have no effect, except where this is done, on a project-by-project basis, to enable the proper operation of any new remuneration systems as they are developed.
33. The Department has written to representatives of the principal affected stakeholders – that is, representative bodies of the legal profession – to make them aware that these provisions are being made, and to indicate that before any new system of remuneration is introduced, and therefore before these provisions are commenced, that the usual, statutorily required consultation processes will be undertaken, and that all relevant views and available evidence will be used to ensure that any new arrangements are fully compliant with all relevant statutory criteria.
34. The Department has engaged with the Lady Chief Justice’s Office and the Taxing Master to inform them of the intention of this provision.

Criminal Records Certificates

35. There was no consultation held in relation to these proposals for two reasons. The first is that the proposed change is as a direct result of the outcome of the Supreme Court case. The current legislation that restricts automatic reviews of “other disposals” to certificates where all information to be disclosed occurred when a person was under 18, would not comply with the judgment. Therefore, the legislation must be amended.
36. Secondly, the Department is aware that the Northern Ireland Children’s Commissioner and other groups representing young people and groups that represent ex-offenders, such as NIACRO, would prefer, as an alternative to any scheme to filter out old and minor youth non-court disposals to see the full implementation of Recommendation 21 of the 2011 Youth Justice Review system in Northern Ireland (YJR).
37. This recommendation stated that (a) diversionary disposals should not attract a criminal record or be subject to employer disclosure and (b) young offenders should be allowed to apply for a clean slate at age 18.
38. A previous Minister of Justice had determined rather than proceeding with Recommendation 21 of the YJR that a scheme of filtering out old and minor convictions and other disposals should be introduced, with specific safeguards built in for those with convictions and other disposals that occurred at a time when they were aged under 18.
39. In bringing forward an amendment to the legislation, the Minister of Justice considers that a blanket policy of not disclosing any other disposals occurring when a person was aged under 18 in any circumstances could potentially create safeguarding risks to vulnerable groups.
40. The proposed amendment will reduce the number of such disclosures and in all cases disclosure of any other disposal occurring from a time when a person was aged under 18 will only be made where the Independent Reviewer believes that it should be permitted. This is in line with a recommendation made by the Independent Reviewer in her 2020 Annual Report.

Court Security

41. The provisions are sought on foot of security recommendations and in consultation with the Chief Operating Officer of the Northern Ireland Courts and Tribunals Service and the President of the Appeal Tribunals. No formal consultation was considered necessary on this occasion.

OPTIONS CONSIDERED

Part 1: Biometric data: retention etc.

42. The options considered were:
- (1) Do nothing;
 - (2) Keep with original consultation proposals;
 - (3) Take on board feedback received as part of the consultation process and amend proposals.
43. It was not possible to do nothing as the current legislation is in violation of two European Court judgments.
44. Given the nature of the subject matter, there was a mix of views received in response to the consultation. Some respondents felt the proposals went too far, while others felt they did not go far enough in terms of ECHR compliance.
45. In response, the Department made some revisions to the original policy proposals, namely:
- around the criteria for inclusion of material within each maximum retention band; and
 - extending the scope of the Northern Ireland Commissioner for the Retention of Biometric Material, to include keeping under review the operation of the biometric retention framework.

Part 3: Use of Live Links

46. The options for the proposals on the use of live links for police detention / interviews were:
- (1) Do nothing;
 - (2) Limit what custody functions live links could be used for.
47. Live links have been in use in England & Wales for police detention and interviews since 2018. Both the Police Service of Northern Ireland (PSNI) and the Superintendents Association Northern Ireland (SANI) had requested the extension of these specific powers to Northern Ireland.

48. Doing nothing was not an option as both the Minister and Permanent Secretary had given commitments to PSNI and SANI include these provisions at the first legislative opportunity.
49. In terms of the second option, which was to limit what custody functions live links could be used for, i.e. to restrict the provision to the extension of detention only and to not include the extension of live link to police interviews, officials considered that it was beneficial to keep the live link interview provision to provide future flexibility options for the PSNI, giving particular consideration to the Covid-19 pandemic, supported by appropriate safeguards in the PACE codes of practice.

OVERVIEW

Part 1: Biometric Data: Retention etc.

50. The current law in Northern Ireland relating to the retention of DNA and fingerprints under the Police and Criminal Evidence (NI) Order 1989 (PACE NI) has been found in two separate judgments by the European Court of Human Rights (ECtHR) to be in contravention of Article 8 of the European Convention. The first judgment dates back to December 2008 (*Marper*), while the latest judgment was delivered in February 2020 (*Gaughran*).
51. Due to legacy issues, it has not been possible to commence legislation passed by the Northern Ireland Assembly in 2013 in response to the 2008 judgment, meaning that the latest judgment has resulted in elements of this legislation now becoming non-ECHR compliant.
52. The provisions in the Bill will make changes to domestic law which contain the component parts necessary to comply with the findings of the *Gaughran v UK* judgment by:
- replacing indefinite retention with maximum retention periods for biometric data in Northern Ireland, based on age, severity of offence, and disposal/sentence;
 - the introduction of a requirement for a review of long term retained material;
 - the introduction of a provision for convictions outside the United Kingdom to be treated in the same way as Northern Ireland convictions; and
 - the introduction of a provision to extend the role of the Northern Ireland Commissioner for the Retention of Biometric Material.

Part 2: Children

53. The Bill amends existing legislative provisions governing bail, remand and custody for children in order to enhance compliance with Article 37 of the United Nations Convention on the Rights of the Child (UNCRC) through:
- (1) Strengthening the existing presumption of bail for children, introducing unconditional bail as standard and a requirement that any conditions applied should be proportionate and necessary;

- (2) Introducing specific conditions which must be met before a child can be remanded into custody; and
- (3) Underpinning the current administrative arrangements which exist around the separation of children and adults in custodial settings.

54. Paragraph (3) above will be achieved through the replacing of two existing youth-specific custodial orders, which are also location-specific, with a new youth custody and supervision order. The provisions also set out in statute that where a court remands or commits a child to custody, the child must be detained in a child-appropriate location, i.e. a juvenile justice centre.

Part 3: Use of Live Links

55. These provisions will enable video-conferencing technology referred to as ‘live links’ to be used by police for a number of custody functions. These functions include the extension of detention by both police and the courts, and police interviews with a suspect. It also amends the Police and Criminal Evidence (NI) Order 1989 (PACE NI) to replace any references to ‘video-conferencing’ with the term ‘live link’. This will ensure the continuity of terminology throughout PACE NI.

Part 4: Administration of Justice

Functions relating to the police

Delegation of functions of the Policing Board

- 56. The provisions amend the Police (Northern Ireland) Act 2000 to provide the Northern Ireland Policing Board (NIPB) with the power to delegate certain matters to Board officials. In practice, it is intended to delegate a number of decision-making roles on matters such as pensions forfeiture, ill-health retirement, injury on duty and other miscellaneous benefits.
- 57. This arrangement was necessary for practical reasons, given the volume of casework involved and the number of decisions required to be made in a timely manner.
- 58. This power is being sought in response to the judgment in the case of *McKee and Others v Charity Commission NI*.

Removal of requirement to audit performance plans etc.

- 59. The provisions amend section 29 of the Police (Northern Ireland) Act 2000, which requires the Comptroller & Auditor General (C&AG) to audit the Policing Board’s performance plan and performance review. This amendment is being made following a recommendation by the C&AG and would bring the position in Northern Ireland into line with that in England and Wales.
- 60. However, the provisions at section 30 would remain in place, should an examination of the Board’s compliance with section 28 ever be required.

Criminal proceedings

Consent for prosecution in cases of conspiracy to commit offence outside Northern Ireland

61. This makes amendments to existing legislation relating to conspiracy to commit offences outside Northern Ireland to correct an error in the current provisions. It provides that the consent of the Advocate General for Northern Ireland is required when instituting criminal proceedings in Northern Ireland, as intended.

Death of child or vulnerable adult: limitation of power to “No Bill” alternative charge

62. This proposal amends section 7 of the Domestic Violence, Crime and Victims Act 2004 (“the 2004 Act”) to provide that a judge can enter a “No Bill” on a charge such as murder or manslaughter only if the judge also enters a “No Bill” on the related charge under section 5 of the 2004 Act (*causing or allowing a child or vulnerable adult to die*).

Examination in criminal proceedings through intermediary

63. Registered Intermediaries are communication specialists that assist vulnerable persons with communication difficulties to give evidence during the police investigation and at court. The extension of powers relating to the use of Registered Intermediaries will ensure there is provision not only for the giving of evidence at Magistrates’ Court and Crown Court (which is currently provided for in the Criminal Evidence (Northern Ireland) Order 1999) but also where there is an appeal from these court tiers to County Court or the Court of Appeal.
64. This will provide vulnerable defendants with communication difficulties with the assistance they need to participate effectively in appeal proceedings as a witness giving oral evidence in court.

Legal aid

Legal Aid charges to be registrable in the statutory charges register

65. The proposal is a technical amendment to Schedule 11 of the Land Registration Act (Northern Ireland) 1970 to include Legal Aid legislation. Schedule 11 allows for the registration of statutory charges in the Statutory Charge Register and so the proposed amendment would allow the Legal Services Agency which administers legal aid in Northern Ireland to register such charges created by the legal aid legislation in the Statutory Charges Register.
66. The purpose of the statutory charge is to ensure that legally-aided persons contribute toward the cost of funding their cases, so far as they are able. It provides LSA with revenue which LSA is allowed to keep and use for funding other future cases.
67. The person who receives legal aid, the assisted person, can become liable for the Statutory Charge should they gain money or property that they did not own before, or they keep money or property that someone has tried to take from them.

Restriction on ordering taxation of legal aid costs

68. An amendment is made to the Judicature (Northern Ireland) Act 1978 so that, where a basis for the determination of payment for legal aid work has been set out in a Remuneration Order made under the Access to Justice (Northern Ireland) Order 2003, the taxation process is not available as an alternative basis for that determination.

Criminal Records Certificates

69. Provisions in the Bill extend the powers of the Independent Reviewer (IR) of criminal record certificates, under Schedule 8A of the Police Act 1997 (“the 1997 Act”). They extend the scope of the automatic review by the IR to review criminal record information to be disclosed on all criminal record certificates or enhanced criminal record certificates issued under the 1997 Act, where that information relates to any “other disposal” given to a person when they were under 18 years of age.
70. The provisions are required in order to comply with a ruling made by the Supreme Court in January 2019, which determined that blanket disclosure of offences in respect of which such a disposal was given was unlawful.

Court Security

71. The purpose of the policy is to ensure that the exercise of court security officer powers may be extended to other buildings to be specified in regulations. These must be buildings owned or occupied by the Department where a judicial officer or a person exercising judicial or quasi-judicial functions sits.

COMMENTARY ON CLAUSES

Part 1: Biometric Data: Retention etc.

Clause 1: Retention of fingerprints and DNA profiles

Clause 1 and Schedules 1 and 2 amend Part 6 of Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) to insert new **Articles 63B to 63Z1**.

The new provisions set out a revised framework for the retention of DNA and fingerprints taken by police under PACE NI which will collectively implement the judgments by the European Court of Human Rights in the cases of *S and Marper v UK (2008)* and *Gaughran v UK (2020)* which found that the current law insofar as it applied to the retention of DNA and fingerprints in respect of non-convicted and convicted persons was in violation of Article 8 of the European Convention on Human Rights.

New Articles 63B to 63Z1 lay out a set of rules which will determine how long biometric material may be retained by police for the purposes of the prevention and detection of crime.

The periods of retention will vary depending on the seriousness of the offence; criminal history; and the age of a person at the time of an offence.

New Articles **63B** to **63Z1** are inserted by subsection (1) of Clause 1. They lay out a set of rules which will determine how long biometric material may be retained by police for the purposes of the prevention and detection of crime.

The periods of retention will vary depending on the seriousness of the offence; criminal history; and the age of a person at the time of an offence.

Article **63S** makes provision to enable the Chief Constable to apply to a district judge (magistrates' courts) in specific circumstances to retain material beyond the allocated destruction date. In Article **63T** there is a requirement for the Chief Constable to review material retained for ongoing investigations and in Article **63U** a requirement for the Department to make regulations to set out a review process for long term retained material.

Articles **63V** to **63X** set out the rules for the destruction of copies of material and of samples, and for the use of material.

Article **63Y** sets out the exclusions from the regime.

Articles **63Z** and **63Z1** set out the details for the appointment and functions of the Northern Ireland Commissioner for the Retention of Biometric Material.

The effect of the changes is detailed below, with reference to the new Article numbers.

Article 63B – Destruction of fingerprints and DNA profiles: introductory

This Article outlines the material which the new provisions apply to: fingerprints and DNA profiles (collectively referred to as Article 63B material) taken under the powers in Part 6 of PACE NI or taken with consent during the investigation of an offence.

Article 63C – Destruction of fingerprints and DNA profiles: basic rules

Paragraph (1) sets out the basic rule that Article 63B material must be destroyed unless it can be retained under the various new rules in Article 63D to 63U.

Paragraph (2) requires the Chief Constable to destroy Article 63B material if it appears that the material was taken (or derived) unlawfully or the arrest of the person was unlawful or based on mistaken identity. Paragraph (2) does not apply to material being retained under Article 63F (retention of Article 63B material pending investigation or proceedings).

This means that if Article 63B material is of potential evidential value, the material may be retained until the conclusion of any investigation or associated criminal proceedings and the effect of any illegality would be considered by the court as part of its decision on the admissibility of evidence.

The reason for this is that the destruction requirement could mean that potentially important evidence which had been obtained unlawfully due to some defect in procedure e.g. the taking had been authorised by a sergeant rather than an inspector, could be lost to the courts, when it might well be admissible under the current laws of evidence.

It is preferable in these situations to allow the court to consider the effect of the illegality as part of its decision regarding the admissibility of evidence.

Paragraph (3) allows a search of the fingerprint and DNA databases to be carried out on Article 63B material before its destruction if the Chief Constable considers this to be desirable. A search may be desirable to confirm the identity of an individual, to clarify whether an individual has been previously arrested under a different name, and to indicate a potential match of the person's biometric material to the fingerprints or DNA profile obtained from a crime scene.

Article 63D – Retention of consensual material

This article deals with Article 63B material provided by a person with their consent, for example, during the investigation of a major crime, the senior investigation officer may decide to carry out an intelligence led screen.

This means that the police request a large number of samples who the police think are similar to the person(s) they are looking for, for example people of a certain age or who live in a certain area. These will not be added to the DNA database.

This article also deals with samples taken from people presumed innocent to eliminate themselves from an inquiry. This material may be retained until it has fulfilled the purposes for which it was taken or derived and will not be added to the DNA database.

Article 63E – Retention of non-consensual material: overview and interpretation

This Article provides a general overview of the operation of the new retention framework regarding Article 63B material taken from a person under the powers in Part 6 of PACE NI i.e. non-consensual material.

The purpose of the retention regime is that once biometric material has been taken from an individual following their arrest or a conviction, that material can be kept for as long as the longest retention period associated with that individual, even if the material was not taken for that specific arrest or conviction.

The retention regime operates on an "all or nothing" basis e.g. all the individuals' fingerprints and DNA profile may be retained until there is no longer a reason to retain any of it. An individual may be under investigation for more than one offence (either at the same time or at different times) and this rule provides that their fingerprints and DNA can be retained until the end of the latest retention period applying to any offence for which they have been arrested/convicted.

The police will generally take a set of fingerprints at each arrest or following conviction (whichever is most appropriate), this is to confirm the identity of the individual but also because an individual's fingerprints can change over time (e.g. due to injury).

A DNA sample will generally only be taken once, and a profile generated from the sample. This is because DNA will not change.

Paragraphs (1) to (3) set out that non-consensual material may only be retained for the circumstances and retention periods set out in Articles 63F to 63U.

Paragraph (4) provides that non-consensual material retained under Articles 63G to 63S must be destroyed on the day after the last retention date.

Paragraph (5) provides that material retained under Article 63F (retention of Article 63B material pending investigation or proceedings) must be destroyed as soon as reasonably practicable but within 14 days beginning with the last retention date. This is to allow time for an acquittal decision at court to be communicated with the PSNI system and the resulting deletion to take place.

Paragraph (6) provides that non-consensual material retained under 63F to 63S may not be retained by virtue of any circumstances that occurs after the last retention date.

Paragraph (9) provides that an order for absolute or conditional discharge is to be treated as a conviction for the purposes of Articles 63F to 63U.

Paragraph (10) provides that a person being given a caution, by virtue of Article 53B(1)(a), includes reference to informed warnings and restorative cautions; these are to be treated as convictions for the purposes of Articles 63F to 63U.

Paragraph (11) provides the power for the Department to amend paragraph (8) by regulations to reflect any name changes to informed warnings or restorative cautions.

Article 63F – Retention of Article 63B material pending investigation or proceedings

This Article enables non-consensual Article 63B material taken from a person in connection with the investigation(s) of an offence(s) to be retained until the conclusion of the investigation(s) by the police or, where legal proceedings are instituted against a person or any other person for the offence(s), until the conclusion of those proceedings, for example, the point at which charges are dropped or upon the outcome of a prosecution.

Paragraph (2) (as read with paragraph (3)) deals with circumstances where material taken from a person in connection with one offence and the person is arrested for, charged with, or convicted of, an offence other than that in connection with which the material was taken. In such a case, the retention of the material will be governed by the rules applicable to the other offence.

The provisions enable all associated non-consensual material to be retained until the outcome of all pending investigations.

Paragraph (4) makes reference to Article 63T, which sets out the review process to be carried out by the police regarding the retention of non-consensual material retained under Article 63F in long running investigations (over 5 years).

Article 63G – Persons arrested for or charged with a qualifying offence

This Article sets out the retention periods applicable to non-consensual Article 63B material associated with persons arrested for or charged with, but not convicted of, a qualifying offence

(other than a terrorism-related qualifying offence or a national security-related qualifying offence).

A qualifying offence is an offence as set out in Article 53A of PACE NI.

Paragraph (2) provides that Article 63G does not apply to persons with a recordable offence count left on the books (Article 63I).

Paragraph (3) provides that Article 63B material from a person charged with a qualifying offence, but not convicted, may be retained for a period of 3 years. The retention period begins on the date the person is charged with the offence.

Paragraph (4) provides that material from a person arrested but not charged with a qualifying offence, may be retained for 3 years beginning on the date the person is arrested, but only if prescribed circumstances apply, and the Northern Ireland Commissioner for the Retention of Biometric Material consents to its retention.

An application will only be submitted under this provision if there is no other reason to retain the material e.g. a previous conviction with a retention period remaining.

Paragraph (5) provides that the Commissioner may consent to the retention of material under paragraphs (4)(a) and (b) if an application is made to the Commissioner and it is considered appropriate to retain the material.

Paragraph (6) provides that regulations (to be made by the Department) can set out the procedures to be followed when an application is submitted to the Commissioner.

Paragraph (7) provides interpretation of terms used within the Article including that ‘prescribed’ means prescribed by regulations made by the Department.

Article 63H – Court’s power to extend period under Article 63G

This Article provides the power for a court to extend a retention period for either an individual arrested but not charged with a qualifying offence or an individual charged but not convicted of a qualifying offence.

Paragraphs (2) & (3) provide that the police may apply within the last three months of the 3-year retention period to a district judge (magistrates’ court) for an order extending the retention period of material retained under Article 63G (3) and (4) by an additional two years. The retention period cannot be extended beyond five years in total under this process.

Paragraph (4) provides that the Chief Constable, or a person from whom the material was taken, can appeal to the county court against an extension order, or a refusal to make an order.

Paragraph (6) clarifies that, if the retention period ends before the application is finally determined, the material may continue to be retained until the proceedings are concluded and any period during which an appeal may ordinarily be made has ended.

Article 63I – Persons with recordable offence count left on books

This Article makes provision for the retention of Article 63B material in cases where a Crown Court judge orders that a count on an indictment is to be left on books and is not to be proceeded with unless with the consent of the Court or the Court of Appeal.

Under PACE NI, the retention of DNA and fingerprints is dependent on a prosecutorial outcome, whether it be conviction or no conviction.

A count on indictment which is left on books does not constitute either. Paragraphs (1) to (3) therefore provide that material may be retained, but only if there is no other legal basis for retention, for example, if the person is convicted of a recordable offence in the same proceedings.

Paragraph (4) provides that material may be retained for 3 years if the offence relates to a qualifying offence. The retention period begins on the date on which the Crown Court makes the order.

Paragraph (5) provides that material may be retained for 12 months for a recordable offence other than a qualifying offence. The retention period begins on the date on which the Crown Court makes the order.

Article 63J – Persons convicted of a qualifying offence

This Article provides for the retention of Article 63B material taken from a person (both adults and under 18s) who is convicted of a qualifying offence. (It does not matter whether the material is taken before or after the person is convicted).

The retention period is **75 years** beginning the date on which the person is convicted of the offence.

Article 63K – Persons aged 18 or over convicted of a recordable offence other than qualifying offence

This Article provides for the retention of Article 63B material taken from a person who is convicted of a recordable offence, other than a qualifying offence, and was 18 or over at the time of the offence.

Paragraphs (2) and (3) provide a retention period of **50 years** if the conviction involves a custodial sentence (including a suspended sentence), otherwise a **25 year** retention period will apply. The retention period begins the date on which the person is convicted of the offence.

Paragraph (4) clarifies that ‘custodial sentence’ means:

- a sentence of imprisonment.
- a sentence of detention under Article 13(4)(b), 13A(6), 14(5) or 15A(5) of the Criminal Justice (Northern Ireland) Order 2008.
- a sentence of detention under Article 45(1) or (2) of the Criminal Justice (Children) (Northern Ireland) Order 1998.

- an order under Article 30 of the Criminal Justice (Children) (Northern Ireland) Order 1998 sending the offender to a juvenile justice centre; and
- an order under Article 44A of the Criminal Justice (Children) (Northern Ireland) Order 1998 sending the offender to secure accommodation.

Article 63L – Persons under 18 convicted of recordable offence other than qualifying offence

This Article provides for the retention of Article 63B material taken from a person who is convicted of a recordable offence other than a qualifying offence and was under 18 at the time of the offence.

Paragraph (2) provides that this Article does not apply to a first minor offence (which is dealt with by Article 63M).

Paragraphs (3) and (4) provide that if the conviction results in a custodial sentence (including a suspended sentence) of 5 years or more, a retention period of **50 years** will be applied and that if the conviction results in a non-custodial sentence or a custodial sentence (including a suspended sentence) of less than 5 years, a **25 year** retention period will apply.

The retention period begins the date on which the person is convicted of the offence.

Article 63M – Exception for persons under 18 convicted of first minor offence

This Article provides for the retention of Article 63B material taken from a person who was under 18 at the time of the offence and is convicted of a first recordable offence, other than a qualifying offence.

In such cases, the retention period will be determined by whether or not a custodial sentence (including a suspended sentence) is imposed for the offence.

Paragraph (2) provides that a first offence means a person with no previous convictions for a recordable offence, no previous convictions for a recordable offence outside Northern Ireland, no previous cautions (including informed warnings and restorative cautions as per Article 63E(10)) in respect of a recordable offence, no previous completion of a diversionary youth conference process or a community-based restorative justice scheme process in respect of a recordable offence, and no previous penalty notices for a recordable offence.

Paragraph (3) provides that Article 63M is only applicable to a single offence i.e. if a person is convicted of another recordable offence in the same proceedings, Article 63M will not apply.

Paragraph (4) provides that where the person is given a custodial sentence of 5 years (including a suspended sentence) or more, a retention period of **50 years** will apply, beginning the date on which the person is convicted.

Paragraph (5) provides that where the person is given a custodial sentence (including a suspended sentence) of less than 5 years, a retention period of **5 years plus the length of the sentence will apply**, beginning the date on which the person is convicted.

Paragraph (6) provides that where paragraph (3) or (4) does not apply (no custodial sentence imposed), a retention period of **5 years** will apply beginning the date on which the person is convicted.

Paragraph (9) provides that, for the purposes of paragraph (5), the length of the sentence in the case of a juvenile justice centre order under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 is the period for which the person is detained under the order.

This will apply in the same way in the case of a youth custody and supervision order under Article 38A of the Criminal Justice (Children) (Northern Ireland) Order 1998 (see Clause 12, which inserts provisions relating to youth custody and supervision orders, paragraph 36 of Schedule 4, which amends this paragraph, and Clause 19, the effect of which is to preserve the unamended version of this paragraph in the case of juvenile justice centre orders).

Article 63N – Persons convicted of offence outside Northern Ireland: application of Articles 63J to 63M

This Article provides for the application of the retention periods outlined in Articles 63J to 63M in cases where there is existing Article 63B material and the person concerned has a conviction for an offence outside of Northern Ireland.

Paragraphs (2) to (4) provides that the provisions only apply to offences committed outside of Northern Ireland where that offence would constitute a recordable offence if committed in Northern Ireland.

The retention power does not apply in cases where the conviction elsewhere is for an act which is not an offence in Northern Ireland.

Paragraph (5) provides that where Articles 63J to 63M apply, any reference to a custodial sentence is to be read as a reference to a sentence of imprisonment or other form of detention.

Article 63O – Persons under 18 given a caution

This Article makes provision for the retention of Article 63B material regarding a person who has been given a caution (or an informed warning or a restorative caution as per Article 63E(10)) in connection with a recordable offence committed while under the age of 18.

Paragraph (2) provides that the retention period is **5 years** beginning with the date on which the person is given the caution.

For a person over 18 and given a caution, the caution is to be treated in the same way as a conviction as per Article 53B(1)(a) of PACE NI.

Article 63P – Persons completing diversionary youth conference or community-based restorative justice scheme

This Article makes provision for the retention of Article 63B material taken from a person who completes a diversionary youth conference or a community-based restorative justice scheme in connection with a recordable offence.

Paragraph (2) provides that a retention period of **5 years** will apply beginning with the date on which the process or plan is completed.

Paragraphs (3) and (4) define when a diversionary youth conference or a community-based restorative justice is deemed to have been completed.

Article 63Q – Persons given a penalty notice

This Article makes provision for the retention of Article 63B material taken from a person who has been arrested in connection with a recordable offence and has accepted a penalty notice under section 60 of the Justice Act (Northern Ireland) 2011 in connection with an offence.

Paragraph (2) provides that a retention period of **2 years** will apply beginning on the date on which the person was given the penalty notice.

Article 63R – Persons subject to notification requirements

This Article makes provision for the retention of Article 63B material taken from a person who is subject to notification requirements (for example notification requirements under the Sexual Offences Act 2003 to assist police in the management of the risk of harm to the public posed by sex offenders and the prevention of crime).

Article 63R will ensure that material relating to an individual who is subject to a notification order will have their material held until the end of the notification period. Of course, if any of Articles 63F to 63S provide for a later date, the material can be retained until that later date.

Paragraph (2) provides that retention is permitted until the person is no longer subject to notification requirements.

Paragraph (3) sets out the various legislation that contain notification requirements to which Article 63R applies.

Paragraph (4) provides the power for the Department to amend the list of notification requirements outlined in paragraph (3) by regulations.

Article 63S – Court's power to extend period

This Article provides the power for a court to extend the retention period of Article 63B material being held under Articles 63I to 63R. An example of such an application may be when there are extradition proceedings pending and the biometric material is required to confirm the identity of the person being extradited.

Paragraph (2) provides that the Chief Constable may apply to a district judge (magistrates' court) seeking permission to retain material beyond the initial date assigned for destruction.

Paragraph (3) provides that an extension application cannot be made if a national security determination under paragraph 7 of Schedule 1 to the Protection of Freedoms Act 2012 has been made. The appropriate process regarding the retention of Article 63B material for the purposes of national security is to apply under paragraph 7 of Schedule 1 to the Protection of Freedoms Act 2012.

Paragraphs (4) to (6) sets out the conditions, considerations, and the purposes of retention that the district judge has to examine in deciding whether to make an order.

Paragraph (7) provides that an order granted by a district judge must specify how long the material can be retained for, which should be for not more than 2 years. An order can be varied by a further order to extend retention of the material by not more than 2 years at a time.

Paragraph (8) provides that applications must be made to the court within the last 3 months of either the expiry of the initial retention period or the expiry of the extended retention period stipulated in a previous order.

Paragraph (9) provides that the Chief Constable or a person from whom the material was taken can appeal to the county court against an extension order, or a refusal to make an order.

Paragraph (11) provides that, if the retention period ends before the application is finally determined, the material may continue to be retained until the proceedings are concluded and any period during which an appeal may ordinarily be made has ended.

Article 63T – Review of retention where material retained for investigations

This Article requires the Chief Constable to review the continued need to retain material retained pending investigation of offences (Article 63F).

Paragraph (2) provides that a review must be carried out at least every 5 years.

Paragraphs (3) and (4) sets out the considerations the Chief Constable must make when carrying out a review.

If the Chief Constable upon review decides that material should no longer be retained under Article 63F, all material retained under Article 63F must be destroyed, unless the material can be retained under any other Article.

Paragraphs (5) and (6) give the Department powers to set out in regulations additional factors for consideration by the Chief Constable when carrying out a review.

The regulations may provide that material of a specified description or relating to persons of a specified description must, or must not, be retained following a review.

Paragraph (7) provides that ‘specified’ means specified in the regulations.

Paragraph (9) requires the Department to consult those it considers appropriate before making the regulations.

Article 63U – Review of retention where material retained for long term

This Article requires the Department to make regulations that will require the Chief Constable to conduct reviews of the continued retention of long-term retained material relating to a person.

Paragraph (1) clarifies that ‘long-term retained material’ is as follows:

- Article 63J(2) – persons convicted of a qualifying offence – **75 years** retention.
- Article 63K(2) – persons aged 18 or over and given a custodial sentence (including a suspended sentence) for a non-qualifying offence – **50 years** retention.
- Article 63K(3) – persons aged 18 or over, convicted, and no custodial sentence given for a non-qualifying offence – **25 years** retention.
- Article 63L(3) – persons under 18 and custodial sentence (including a suspended sentence) of 5 years or more given for a non-qualifying offence – **50 years** retention.
- Article 63L(4) – persons under 18 and custodial sentence (including a suspended sentence) of less than 5 years given for a non-qualifying offence – **25 years** retention.
- Article 63M(4) – persons under 18, first minor offence and custodial sentence (including a suspended sentence) of 5 years or more given for a non-qualifying offence – **50 years** retention.

Paragraph (2) requires that the review is to include all material relating to a person that is retained under Articles 63D, 63G to 63Q and 63S.

Paragraph (3) sets out what the regulations may make provision for, including when and in what circumstances the review must be carried out, enabling a person to request that a review be conducted, requiring a person (where they have requested a review) to be informed of the outcome of the review, and conferring a right of appeal.

Paragraph (4) provides that the regulations may set out factors that the Chief Constable must, may, or must not consider in conducting a review.

Paragraphs (5) and (6) provide that regulations may provide that material of a specified description or relating to persons of a specified description must, or must not, be retained following a review. ‘Specified’ means specified in the regulations.

Paragraph (7) provides that if a decision is made by the Chief Constable at the review to delete the material, all material relating to that person must be destroyed and the retention period ends when the Chief Constable determines.

Paragraph (8) requires the Department to consult those it consider appropriate before making the regulations.

Article 63V – Destruction of copies

Paragraph (1) provides that if fingerprints are required to be destroyed under Article 63B then any copies must also be destroyed.

Paragraph (2) provides that if a DNA profile is to be destroyed, no copy may be kept except in a form that does not identify the person to whom the profiles relates.

Article 63W – Destruction of samples

This Article requires DNA samples to be destroyed as soon as a DNA profile has been satisfactorily derived from the sample (including the carrying out of the necessary quality and

integrity checks), and no later than 6 months from the date on which it was taken (paragraph (2)).

Paragraph (3) provides that any other sample, for example, dental impressions or urine, must also be destroyed within six months of being taken.

Paragraphs (4) to (10) provide that samples may be retained for a longer period than six months in certain limited circumstances.

This could be where it appears to the Chief Constable that, in relation to a qualifying offence, retention is necessary to ensure that key evidence (in the form of DNA samples) remains available for disclosure to the defendant or to respond to an evidential challenge by the defendant.

The decision to extend the permissible retention period would fall to a District Judge (Magistrates' Court) following an *ex-parte* application made by the Chief Constable. If approved, the District Judge would authorise retention of the material for 12 months, extendable (on one or more occasions) following a further (inter partes) application by the Chief Constable.

Any material retained in this way would only be available for use in that case and the police would be under a duty to notify the person whose sample was to be retained, including any application for a subsequent order to retain and the outcome.

Paragraph (12) enables a person's DNA or other sample, which would otherwise fall to be destroyed, to be retained until a DNA profile has been derived from the sample and a speculative search of the relevant database has been carried out

Article 63X – Use of retained material

Paragraph (1) sets out restrictions on the use of fingerprints, DNA and other samples, and DNA profiles. Such material may only be used for purposes related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution, or for identification purposes, including of a deceased person.

Paragraph (2) provides that material which should otherwise have been destroyed in accordance with Articles 63C or 63W must not at any time after it is required to be destroyed, be used against the person to whom the material relates or for the purposes of the investigation of any offence.

Any evidence arising from the impermissible use of such material would therefore be likely to be ruled inadmissible in criminal proceedings.

Article 63Y – Exclusion for certain regimes

This Article provides that Articles 63B to 63X do not apply to biometric material taken under other legislation containing its own retention provisions.

Paragraphs (1) and (2) includes material taken from terrorist suspects under the Terrorism Act 2000.

Paragraph (3) includes material taken in response to a request from the International Criminal Court for assistance in obtaining evidence of identity.

Paragraph (4) includes material taken from terrorist suspects where a Terrorism Prevention and Investigation Measure notice has been imposed.

Paragraph (5) includes material taken under Schedule 3 of the Counter-Terrorism and Border Security Act 2019.

Paragraph (6) includes material taken under Schedule 6 or 12 of the National Security Act 2003.

Paragraph (7) disapplies the retention regime from any material which is, or may become, disclosable under the Criminal Procedure and Investigations Act 1996 or its associated code of practice.

Paragraphs (8) to (10) excludes biological matter that originates from one person but is recovered from another (e.g. a DNA profile obtained from a sample taken from a rape suspect which is found to relate to the victim), and hard copies of material on case files, in order to ensure that it remains available for examination by defence experts and potentially the Criminal Cases Review Commission, in accordance with the disclosure requirements of the Criminal Procedure and Investigations Act 1996.

Paragraph (11) includes those whose biometric material is held under immigration powers.

Article 63Z – Northern Ireland Commissioner for the Retention of Biometric Material

This Article deals with the appointment and office of the Northern Ireland Commissioner for the Retention of Biometric Material.

Paragraphs (1) and (2) requires the Department to appoint a commissioner. Schedule 2B makes provision about the Commissioner and the exercise of their functions.

Paragraph (3) requires the Commissioner to keep under review the operation of the PACE NI biometric retention framework, including the review process of long-term retained material to be set out in regulations made by the Department.

Paragraph (4) sets out that there will be a role for the Commissioner in keeping under review the development of existing and new biometric technologies, which may be in use, or capable of being used, by the Police Service of Northern Ireland and other law enforcement bodies (e.g. Police Ombudsman for Northern Ireland, National Crime Agency), for the prevention and detection of crime.

Paragraphs (5) and (6) provide that the Commissioner may issue guidance regarding the acquisition, handling, retention, and destruction of biometric material and that any person exercising powers in relation to biometric material, such as the Chief Constable, must have regard to any guidance issued by the Commissioner.

Paragraph (7) refers to the functions of the Commissioner to consider applications under Article 63G for the retention of material from persons arrested for, but not charged with, a qualifying offence, where prescribed circumstances apply.

The provision also provides a sign-post to the power for the Department to make regulations under Article 63U(3)(d) (review of long term retained material), which may confer functions on the Commissioner.

Article 63Z1– Reports by Commissioner

Paragraph (1) places a requirement on the Northern Ireland Commissioner for the Retention of Biometric Material to report to the Department on the carrying out of their functions every 12 months.

Paragraphs (2) and (3) provide that the Commissioner may also make reports at any time to the Department on any matter relating to their functions and that the Department can also require a report on any matter relating to the Commissioner’s functions.

Paragraph (4) requires the Department to publish reports made by the Commissioner and lay a copy of them before the Northern Ireland Assembly.

Paragraph (5) enables the Department, after consultation with the Commissioner, to exclude any part of a report from publication if it considers it not to be in the public interest.

Subsection (2) of Clause 1 inserts new Schedule 2B into PACE NI. That new Schedule makes further provision about the Commissioner.

Clause 2: Retention of fingerprints and DNA profiles: amendments

This provision gives effect to Schedule 2. Part 1 of Schedule 2 makes new provision for the retention of biometric material for certain sentencing disposals.

Part 2 of the Schedule makes minor and consequential amendments.

Clause 3: Retention of fingerprints and DNA profiles: supplementary

Paragraph (1) stipulates that the amendments made by Clause 1, Schedule 1 and Schedule 2 do not affect Article 63DA, which was inserted by paragraph 5(3) of Schedule 2 of the Counter-Terrorism and Border Security Act 2019.

This is an excepted provision that covers the retention of Article 63B material from persons arrested for a terrorism-related qualifying offence.

Paragraph (2) makes provision that the new biometric retention framework applies to biometric material taken before and after the commencement of the new provisions, apart from the circumstances set out in paragraphs (3) to (9).

Paragraphs (3) to (5) relate to the particular arrangements for biometric material that was taken with the consent of an individual in connection with the investigation of an offence, before commencement of the new provisions.

Paragraph (4) provides that if the person was not a suspect, the material is to be treated as consensual material and retained in accordance with Article 63D.

Paragraph (5) provides that if the person was a suspect, the biometric material is to be treated as non-consensual material and retained in accordance with new Articles 63F to 63U.

Paragraph (6) provides for a 6-month transitional period regarding the destruction of fingerprints from the day the new biometric retention framework is commenced, to enable the police to resolve any difficulties that may arise with the implementation of the new retention system.

Paragraph (6)(a) provides for a longer 2-year transitional period for the deletion of hard copy fingerprints. This is because the identification and destruction of hard copy fingerprints will be a manual exercise for the police.

Paragraph (7) provides for a 6-month transitional period regarding the destruction of DNA samples and profiles from the day the new biometric retention framework is commenced, to enable the police to resolve any difficulties that may arise with the implementation of the new retention system.

Paragraph (8) provides that applications cannot be made to retain biometric material under Articles 63G(4) to (6), 63H, 63S and 63W where the material was taken before commencement and would (but for subsections (6) and (7)) be required to be destroyed in the 6-month or 2-year transitional period.

Paragraph (9) relates to biometric material taken before commencement of the new provisions and which is being retained pending investigation or proceedings (Article 63F). The review requirements at Article 63T(2)(a) are replaced by a requirement to carry out the first review 4 years from the commencement of the new provisions.

Paragraph (10) provides the Department with a regulation making power to make further transitional, transitory or saving provisions, should this be necessary.

Paragraph (11) clarifies that the power created in paragraph (10) includes a provision to modify any of the provision contained within paragraphs (3) to (9).

Part 2: Children

Clause 4: Duties of custody officer after charge

This clause, amends Article 39(2A) of the Police and Criminal Evidence (Northern Ireland) Order 1989 by inserting a new sub-paragraph (e), which requires custody officers to take account of additional factors when deciding whether to release a child, either with or without bail. These additional factors replicate those that must be considered by a court under 10H of the Criminal Justice (Children) (Northern Ireland) Order 1998 (to be inserted by clause 6 of the Bill).

Clause 5: Police bail after arrest

This clause amends Article 48 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and inserts a new Article 48ZA after that Article.

Subsections (2) and (3) amend Article 48(3D) and (3F) to insert a fourth ground for attaching conditions to police bail: to prevent a serious threat to public order. Subsection (4) amends that Article to insert a signpost to new Article 48ZA

Subsection (5) inserts new Article 48ZA, which requires custody officers to have regard to certain youth-specific considerations when granting bail to or varying the conditions of bail of a person who appears to be under the age of 18.

These include considerations such as age and maturity and the capacity to understand and comply with conditions of bail.

This replicates the considerations that the court is required to take account of under Article 10H of the Criminal Justice (Children) (Northern Ireland) Order 1998 (to be inserted by clause 6 of the Bill).

Clause 6: Court bail

This clause inserts a new Part 3B into the Criminal Justice (Children) (Northern Ireland) Order 1998. Part 3B comprises Articles **10E** to **10I**, which apply when a court is deciding whether a child accused of an offence is to be released on bail or remanded in custody.

Existing Articles 12 and 13 of that Order ('release on bail' and 'remand in custody') are being repealed as a consequence.

Article 10E places a duty on courts to release on bail a child to whom the Article applies, subject specified exceptions.

Paragraph (1) sets out the duty and includes an exception where the court has a power to refuse bail under Article 10F.

Paragraph (2) states that the Article applies to children arrested for, or charged with, an offence in all court proceedings for that offence, including in relation to the imposition or varying of bail conditions, up to the point of conviction and provides detail on what should be treated as a conviction.

Paragraph (3) sets out further exceptions in cases where a child is already either remanded in custody for a separate offence or is serving a custodial sentence. Paragraphs (4) and (5) set out what may be treated as a conviction for the purpose of paragraph (3)(a).

Paragraph (6) states that nothing in the Article affects any power of a court to release a child without bail or on compassionate grounds.

Paragraph (7) states that the Article is subject to Article 38 of the Magistrates' Courts (Northern Ireland) Order 1981, which deals with bail in the case of treason and related offences.

Article 10F establishes the circumstances under which a court can refuse to release a child on bail.

Paragraph (1) sets out the power to refuse bail, which applies when two conditions are met.

Paragraph (2) sets out the first condition: if the child is convicted of the offence, there must be a strong likelihood of the child being sentenced to a custodial order.

Paragraph (3) sets out the second condition: there must be substantial grounds for believing that it is necessary to remand the child in custody to prevent: committal of further offences; interfering with witnesses; failure to surrender to custody; or their release would cause a serious threat to public order.

Article 10G sets out rules relating to the imposition, variance and removal of conditions attached to bail decisions.

It allows for conditions to be imposed or varied, but only if they are necessary for specific purposes set out in paragraph (2).

Paragraph (3) states that a court must not impose a condition that is more onerous than necessary for the purpose for which it is imposed.

Paragraph (4) places a duty on courts to remove a condition of bail if it is no longer necessary for a purpose specified in paragraph (2) or is more onerous than is necessary for that purpose.

Paragraph (5) sets out exceptions relating to curfew requirements, electronic monitoring requirements and conditions relating to inquiries into physical or mental conditions. In these cases, paragraphs (3) and (4)(b) continue to apply.

Article 10H introduces a number of considerations which a court must take into account when deciding whether or not to release a child on bail, or impose, vary or remove conditions of bail.

Paragraph (2) sets out the considerations, which include the child's age, maturity and understanding as well as the nature and seriousness of the current offence and any previous offending history.

Article 10I requires that the reasons for decisions relating to the refusal of bail, or the imposition, varying or removal of bail conditions are stated openly in court and that a record of them is kept and can be made available to the child upon request.

Clause 7: Arrest for absconding or breaking conditions of bail

This clause amends Article 6 of the Criminal Justice (Northern Ireland) Order 2003.

Subsection (2) inserts paragraph (3ZA), which requires a constable to consider the seriousness of any breach or likely breach of bail conditions before deciding to arrest a child under existing paragraph (3)(b).

Subsection (2) also inserts new paragraph (3ZB), which applies where a constable decides not to arrest a child under paragraph (3)(b) and requires the constable to make a record of the breach to be provided to the court at the next scheduled hearing.

Clause 8: Considerations relevant to bail: accommodation

Subsection (1) amends Article 39 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

New paragraph (2B) provides that where a custody officer is taking certain decisions regarding the release of a child on bail under that Article, the custody officer may consider the child's accommodation needs but must not refuse bail solely because of the absence of any, or adequate, accommodation.

Subsection (2) amends Article 10H of the Criminal Justice (Children) (Northern Ireland) Order 1998 (to be inserted by clause 6 of the Bill) to include similar provision in respect of a court's power to refuse to release a child on bail under Article 10F of that Order.

Clause 9: Place of detention following sentencing

This clause inserts new Article 46BA into the Criminal Justice (Children) (Northern Ireland) Order 1998.

Paragraph (1) states that where a child is sentenced to imprisonment or detention, that period of detention will be served in a juvenile justice centre and not in any other custodial establishment.

Paragraph (2) makes clear that the rule in paragraph (1) applies while the child remains under the age of 18 and is detained under the relevant sentence.

Paragraph (3) defines "detention" for the purpose of paragraph (1).

Clause 10: Powers to sentence child to detention: amendment

This clause amends existing provision relating to specific custodial sentences to ensure children serving such sentences are always held in a juvenile justice centre, and while restating the current law as to where individuals over the age of 18 can be held.

The existing provisions are Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998, and Articles 13 and 14 of the Criminal Justice (Northern Ireland) Order 2008.

Clause 11: Powers to sentence child to detention: removal

This clause removes certain sentencing powers relating to under 18s.

Subsection (1) amends section 5(1)(a) of the Treatment of Offenders Act (Northern Ireland) 1968 to remove children from the scope of orders of detention in a young offenders centre by raising the lower age limit of that order from 16 to 18 years.

Subsection (2) omits Articles 39 to 44 of the Criminal Justice (Children) (Northern Ireland) Order 1998. Those Articles make provision relating to the current main youth custodial order – the juvenile justice centre order – which is being replaced in its entirety.

Subsection (3) omits section 56 of the Justice (Northern Ireland) Act 2002, which inserts provisions relating to custody care orders to the Criminal Justice (Children) (Northern Ireland) Order 1998.

Those provisions were intended to be introduced for younger children aged 10-13 years but have never been commenced and there are no plans in the future to commence them.

Clause 12: Youth custody and supervision orders

This clause inserts Articles **38A** to **38G** into the Criminal Justice (Children) (Northern Ireland) Order 1998, which make provision relating to youth custody and supervision orders.

Article 38A provides for the making of youth custody and supervision orders.

Paragraphs (1), (2) and (6) set out when a court can sentence a child aged 14 or older to a youth custody and supervision order.

Paragraph (3) specifies that a youth custody and supervision order is a two-part order split between custody and supervision in the community.

Paragraph (4) contains ancillary provision regarding where a person who turns 18 during proceedings should be detained under a youth custody and supervision order.

Paragraph (5) grants the court power to impose a curfew requirement or electronic monitoring requirement during the period of supervision under a youth custody and supervision order.

Article 38B sets out the rules on the duration of youth custody and supervision orders, including the split between custody and supervision periods.

Paragraphs (1) and (2) provide that an order is to have effect for the period specified in it, but will be a minimum of six months in duration, and generally a maximum of two years.

Paragraph (3) sets out exceptions for those aged 16 or over where the maximum can be up to four years, including for specific offences where a statutory minimum exists.

Paragraphs (4) and (5) provide that the split between the custodial and supervision elements of the order will be flexible, but the custodial period cannot be less than three months, nor can it be more than one half of the order.

Paragraphs (6) and (7) provide for the period in detention to be reduced by any period which is a relevant period within the meaning of section 26(2) and (2A) of the Treatment of Offenders Act (Northern Ireland) 1968 (periods of detention prior to conviction).

Article 38C deals with the practicalities of taking a child to a juvenile justice centre when they have been sentenced to a youth custody and supervision order by the court.

Paragraphs (2) and (3) provide for the order to be delivered to the person in charge of the juvenile justice centre.

Paragraphs (4) and (5) provide for a record of the child, including any information that may assist the manager of the centre, to be sent to the managers or the persons in charge of the juvenile justice centre.

Paragraphs (6) to (11) set out related offences and penalties, and powers of the court.

Article 38D sets out how the supervision element of a youth custody and supervision order will operate.

Paragraph (1) sets out who will supervise the offender.

Paragraphs (2) to (4) require that, whilst still in custody, a child is informed about the date they will be released, under whose supervision they will be, and any requirements they will be expected to comply with.

Paragraphs (6) and (7) provide for the making of rules regulating the supervision of offenders under a youth custody and supervision order, which will be subject to negative resolution.

Paragraph (8) provides for the payment of expenses to a person supervising an offender under a youth custody and supervision order.

Article 38E introduces Schedule 1B in the Criminal Justice (Children) (Northern Ireland) Order 1998 (to be inserted by clause 12(3) and Schedule 3), which makes provision for how breaches of the supervision requirements under a youth custody and supervision order should be dealt with.

Article 38F prevents a court from making more than one youth custody and supervision order at any time for two or more associated offences, whether those offences occurred at the same time or on separate occasions.

Article 38G sets out how a court should deal with a situation whereby it intends to impose a custodial sentence on an individual already serving a youth custody and supervision order. In such a case, paragraph (2) requires that the existing order is revoked to ensure only one order is in force at any one time. This is to make the landscape clearer for the individual being sentenced.

Paragraph (3) requires the court to take account of the period the original order would have remained in force, both the custodial and supervision elements, when determining the duration of the new order to be served.

Paragraph (4) applies where the court decides to make a further youth custody and supervision order and modifies Article 38B so that the court is not restricted by the minimum durations set out in Article 38B(2) and (5), which allows the court appropriate flexibility in making the new order.

Clause 13: Place of detention following remand in custody

This clause inserts new Article 10J into the Criminal Justice (Children) (Northern Ireland) Order 1998, which establishes a rule.

Paragraph (1) provides that where a court remands or commits to custody a child arrested for, charged with or convicted of an offence, the child must be held in a juvenile justice centre.

Paragraph (2) provides that the rule applies while the child remains under the age of 18 and is remanded or detained in custody.

Paragraph (4) sets out an exception for children remanded to customs detention under section 152 of the Criminal Justice Act 1988.

Clause 14: Remand in custody exceeding three months

This clause inserts new Article 10K into the Criminal Justice (Children) (Northern Ireland) Order 1998,

Paragraph (1) provides that the Article applies in circumstances where a court is considering remanding a child in custody with the result that the child will be remanded for a period exceeding three months.

Whilst a court is not prevented from remanding a child so that the total period on remand exceeds three months, paragraph (2) requires the court to take into account the likely sentence the offence(s) would attract and whether the remand time already served would likely exceed any custodial part of a sentence.

Where the court so remands the child, paragraph (3) requires the court to state the reasons for its decision in open court.

Clause 15: Consideration of time spent on remand in custody

This clause inserts new Article 32A into the Criminal Justice (Children)(Northern Ireland) Order 1998, which requires a court to give consideration to the time a child has already spent in custody on remand when deciding on the appropriate sentence upon a finding of guilt.

Clause 16: Place of detention in custody for contempt of court

This clause amends Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998 to insert a new paragraph (3).

That paragraph provides that any child who is ordered to be detained in custody for contempt of court in reliance on Article 47(2) is held in a juvenile justice centre.

It covers a circumstance not already dealt with by previous clauses 9 and 13 above.

Clause 17: Removal of powers to remand or commit a child to custody

This clause amends certain powers of the court to remand or commit a child to custody.

Subsection (1) amends sections 2(a)(ii) and (5)(3)(a) of the Treatment of Offenders Act (Northern Ireland) 1968 to ensure a child can no longer be committed to or remanded in a young offenders centre by raising the age applicability of the relevant sections of that Act to 18 years.

Subsection (2) removes Article 31 of the Criminal Justice (Children) (Northern Ireland) Order 1998, which allowed a court to detain a child on remand solely for the purpose of obtaining information about them.

Clause 18: Minor and consequential amendments

This clause introduces Schedule 4, which sets out a number of consequential amendments to existing legislation made necessary by the new provisions.

Part 1 of this new Schedule makes amendments relating to bail, and Part 2 makes amendments relating to sentencing, remand and committal to custody.

Clause 19: Transitional provisions and savings: custody of children

This clause contains transitional provision and savings relating to clauses 9 to 17, clause 18(b) and Part 2 of Schedule 4 (custody on sentencing, remand or committal).

Subsection (1) provides that the amendments made by those provisions apply to a sentence, remand or committal ordered by the court after commencement of those provisions, whether the proceedings began before or after commencement.

Subsection (2) contains an exception relating to the amendments made by clause 11(1) and paragraph 7(3)(a) of Schedule 4, which concern a courts power to order detention in a young offenders centre.

To ensure no child is treated more harshly under the new provisions at the point of commencement, this subsection preserves sentencing options for offences committed pre-commencement. Subsection (6) is related and provides instructions on how to deal with a scenario where a court cannot determine whether the offence was committed before or after commencement.

Subsection (3) preserves the existing law for sentences, remands and committals that were ordered by a court before commencement, but this is subject to the exception in subsection (4).

Subsection (5) modifies the operation of section 5(1) of the Treatment of Offenders Act (Northern Ireland) 1968 to permit children detained subject to orders made under that provision prior to commencement to be detained in a juvenile justice centre.

Part 3: Use of Live Links

Clause 20: Interviews

This clause amends Article 40 of PACE NI, which concerns the responsibilities of the police to persons detained under PACE NI. Article 40 requires that all detainees are treated in accordance with PACE NI and the relevant codes of practice and that, where required, records must be made in relation to the detained person on their custody record. The aim of these amendments is to enable remote interviewing using live link so that a police officer can interview a suspect from a different location.

The clause also permits a custody officer to transfer physical custody of a detained person to an officer who is not involved in the investigation and whose responsibility would be to facilitate the live link interview with the investigating officer.

Article 40(3) of PACE NI places a duty on the investigating officer, in whose custody the detainee is, to report to the custody officer how Article 40 of PACE NI and the codes of practice were adhered to upon return of the individual to the custody officer. The new clause imposes the same responsibilities regarding the treatment of the detainee on the interviewing officer on the other end of the live link.

Clause 21: Detention

This clause amends Part 5 of PACE NI by inserting new Articles 46ZA (functions of extending detention: use of live links) and 46ZB (warrants for further detention: use of live links), which make provision for the use of video conferencing technology, termed 'live link', in connection with the authorisation of extensions of pre-charge detention.

Article 46ZA(7) disapplies the Article 59 right to legal advice on the basis that the detained person will have exercised their right to legal advice as a precondition for the use of the live link.

Part 4: Administration of Justice:

Clause 22: Delegation of functions of the Policing Board

This clause inserts a new provision into the Police (Northern Ireland) Act 2000 to provide the Northern Ireland Policing Board with the power to delegate functions of the Board to Board officials.

It is intended to use the new power to delegate a number of decision-making roles on matters such as pensions forfeiture, ill-health retirement, injury on duty and other miscellaneous benefits. This arrangement is necessary for practical reasons, given the volume of casework involved and the number of decisions required to be made in a timely manner.

This power is being made in response to the judgment in the case of *McKee and Others v Charity Commission N.I.*

Clause 23: Removal of requirement to audit performance plans etc.

This clause repeals section 29 of the Police (Northern Ireland) Act 2000, which currently requires the Comptroller & Auditor General (C&AG) to audit the Policing Board's performance plan and performance review.

However, the provisions at section 30 of that Act (examination of compliance with requirements under section 28 relating to economy, efficiency and effectiveness) would remain in place, should an examination of the Board's compliance with section 28 ever be required.

This amendment is being made following a recommendation by the C&AG and would bring the position in Northern Ireland into line with that in England and Wales.

Clause 24: Consent for prosecution in cases of conspiracy to commit offence outside Northern Ireland

This clause makes amendments to existing legislation relating to conspiracy to commit offences outside Northern Ireland. It provides that the consent of the Advocate General for Northern Ireland is required when instituting criminal proceedings in Northern Ireland.

This will bring Northern Ireland into line with England and Wales, where the consent of the Attorney General for England and Wales (who is also the Advocate General for Northern Ireland) is required for the institution of criminal proceedings in respect of conspiracy to commit offences outside the United Kingdom.

Clause 25: Death of child or vulnerable adult: limitation of power to “No Bill” alternative charge

This clause closes a gap in the law in relation to the offence of causing or allowing a child or vulnerable adult to die (under section 5 of the Domestic Violence, Crime and Victims Act 2004) and section 7 of the 2004 Act which provides special rules for trials in Northern Ireland where a defendant is charged, within the same proceedings, with the section 5 offence and also with murder or manslaughter in relation to the same death.

If not addressed, it is considered that this gap could lead to a charge of murder or manslaughter being subject to an entry of “No Bill” so that the defendants would not have to face criminal proceedings in relation to that charge, even where the judge is not satisfied that the related section 5 offence, i.e. the lesser offence, should also be no billed.

The amendment will mean that a judge can enter a “No Bill” on a charge such as murder or manslaughter only if the judge also enters a “No Bill” on the related charge under section 5 of the Domestic Violence, Crime and Victims Act 2004.

Clause 26: Examination in criminal proceedings through intermediary

This clause substitutes a new paragraph (1) of Article 21BA (examination of accused through intermediary) of the Criminal Evidence (Northern Ireland) Order 1999. The effect is to extend the provision of Registered Intermediaries beyond the Magistrates’ Court and Crown Court to the County Court and the Court of Appeal on an appeal. This will provide vulnerable defendants with communication difficulties with the assistance they need to participate effectively in appeal proceedings as a witness giving oral evidence in court.

Clause 27: Legal aid charges to be registrable in the statutory charges register

This clause amends Schedule 11 to the Land Registration Act (Northern Ireland) 1970 to include certain charges created by Article 12(5) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or created in favour of the Department of Justice by Article 17(7) of the Access to Justice (Northern Ireland) Order 2003.

This allows the Legal Services Agency to register such charges in the Statutory Charges Register.

Clause 28: Restriction on ordering taxation of legal aid costs

This clause will insert a new section 59A of the Judicature (Northern Ireland) Act 1978. It will preclude the High Court and Court of Appeal from granting orders for taxation of legal aid costs where the Department has the necessary legislation and administration in place to determine payment for those services.

This amendment will allow for the reform of the taxation of legal aid costs, the basic principle being that if the Department is paying, then the Department determines the amount.

Section 59A(4) however allows for the practice to continue where the Department will step in and pay the costs of a winning (legally-assisted) party in instances where the losing party has been ordered to pay the winner's costs, those costs have been taxed, and the losing party has defaulted on payment.

Clause 29: Automatic review of certain criminal records certificates

Clause 29 amends paragraph 6 of Schedule 8A to the Police Act 1997 to introduce two new sub-paragraphs as follows.

The heading before paragraph 6 is amended to reflect the fact that all certificates containing spent convictions or other disposals of a person under 18 can be automatically considered by the Independent Reviewer.

Paragraph 6(1)(b) is amended to extend the conditions under which an automatic review of a certificate would take place, by adding two new sub-paragraphs.

New sub-paragraph (1A) is inserted to require the automatic review of certificates containing only spent convictions for offences that occurred at a time when a person was aged under 18.

New sub-paragraph (1B) is inserted to require an automatic review of a certificate to take place where that certificate contains details of non-court disposals which occurred at a time when a person was aged under 18.

New sub-paragraph (1B) is inserted to enable the automatic review of certificates containing spent convictions or other disposals by the Independent Reviewer to those that occurred at a time when a person was aged under 18 only.

Paragraph 6(3)(a) and (b) is amended to provide that the Independent Reviewer must, when reviewing any certificate as required by paragraph 6, only review spent convictions and other disposals that occurred at a time when a person was aged under 18.

Clause 30: Security at buildings used for courts and tribunals etc.

The clause amends Schedule 3 to the Justice (Northern Ireland) Act 2004 to provide the Department of Justice with regulation-making powers to add to the list of 'relevant buildings' to ensure that the Department has the power to extend the use of court security officers to areas of business that are not covered by existing legislation.

The power to specify a building includes a power to specify so much of that building as is used for the purposes of, or in connection with, the sittings of a judicial officer.

For clarity, judicial officer is defined for the purposes of this provision only, namely a “listed judicial office” within the meaning given by section 2 of the Justice (Northern Ireland) Act 2002, or a person exercising judicial or quasi-judicial functions.

Part 5: Final provisions

Clause 31: Further provision

This clause enables the Department to bring forward regulations to make any supplementary, incidental, consequential, transitional, transitory or saving provision considered necessary for the purposes of giving the full intended effect of the provisions of the Bill; and specifies the Assembly control of any such regulations: if the regulations amend primary legislation, a draft of the instrument must be laid before and approved by a resolution of the Assembly; other regulations are subject to negative resolution.

Clause 32: Interpretation

This clause provides that for the purpose of this Act, ‘statutory provision’ has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Clause 33: Commencement

This clause sets out the commencement arrangements for the provisions of the Bill, specifying those provisions that are to come into operation immediately after Royal Assent; those what will come into operation 2 months after Royal Assent; and those that are to come into operation on days to be appointed by order made by the Department of Justice.

Clause 34: Short title

This clause sets out the short title for the Act.

SCHEDULES

Schedule 1: Northern Ireland Commissioner for the Retention of Biometric Material

Schedule 1 inserts new Schedule 2B into PACE NI, which makes provision for the appointment of the Northern Ireland Commissioner (the Commissioner) for the Retention of Biometric Material.

Paragraphs 2 and 3 sets out that the initial appointment may not exceed four years and that the Commissioner may not be appointed for more than two terms. The maximum length of appointment permitted will be eight years.

Paragraph (4) sets out the circumstances in which the Department may remove the Commissioner from office. This includes circumstances such as undeclared criminal convictions and criminal convictions after being appointed Commissioner.

Paragraph (5) confers power on the Department regarding the payment of allowances and expenses to the Commissioner and enables the Department to provide staff, accommodation, equipment and other facilities to support the work of the Commissioner.

Paragraph (6) gives the Commissioner the power to authorise another person to perform certain functions of the Commissioner. It is expected that this power would be utilised either during a period when the post is vacant or where the Commissioner is unable to perform their functions e.g. where the Commissioner is unwell for a period of time.

Schedule 2: Retention of fingerprints and DNA profiles: amendments

Part 1: Further provision in relation to certain disposals

Paragraph (2) amends Article 63E(10) to include conditional cautions under section 71 of the Justice Act (Northern Ireland) 2011. This will be commenced when section 71 is commenced.

Paragraph (3) adds a new Article 63PA “persons given a prosecutorial fine notice”. This will be commenced when section 18 of the Justice Act (Northern Ireland) 2015 is commenced.

Part 2: Minor and consequential amendments

Paragraph (5) makes consequential amendments to Article 53 of PACE NI.

Paragraph (5)(2) adds the definitions of ‘DNA profile’ and ‘DNA sample’ to the interpretation of Part 6 in Article 53(1) of PACE NI.

Paragraph 5(3) inserts new paragraphs (3A) and (3B) into Article 53 of PACE NI.

Paragraph (3A) provides that a sample is not “insufficient” just because it has been destroyed under Article 63W (and so destruction for this reason cannot be grounds for the police to take a fresh DNA sample).

Paragraph (3B) provides that the definition of a person who is ‘charged with an offence’ includes a person who is informed that they will be reported for an offence.

Paragraph (6) adds the offence of robbery and assault with intent to rob (section 8 of the Theft Act (Northern Ireland) 1969 to the list of qualifying offences in Article 53A(2) of PACE NI.

Paragraph 7 inserts a new Article 53B into PACE NI, which provides at paragraph (1) that for the purposes of biometric retention a person convicted of an offence also includes a caution (which is admitted and which was committed when the person was over 18), a person found not guilty by reason of insanity, and a person found to be unfit to be tried and to have done the act charged in respect of the offence.

Article 53B(2) provides that the retention rules in Part 6 of PACE NI, as amended, are to apply irrespective of the provisions of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

Paragraphs (8) to (23) deal with consequential amendments and repeals.

In particular, paragraph (12) adds a new paragraph to Article 89 of PACE NI (orders and regulations) regarding the requirement for regulations under Articles 63G(4), 63R(4), 63T or 63U to be approved by a resolution of the Northern Ireland Assembly before being made (draft (affirmative resolution procedure)).

Schedule 3: Youth custody and supervision orders: breach of supervision requirements

Schedule 3 inserts Schedule 1B into the Criminal Justice (Children) (Northern Ireland) Order 1998. It makes provision for dealing with breaches of supervision requirements under a youth custody and supervision order.

Schedule 4: Child bail and custody: Minor and consequential amendments

Schedule 4 sets out a number of minor and consequential amendments to existing legislation made necessary by the new youth provisions in Part 2 of the Bill. Part 1 of this Schedule covers amendments relating to bail, and Part 2 covers those relating to sentencing, remand and committal to custody.

FINANCIAL EFFECTS OF THE BILL

72. In terms of financial effects, the Bill as a whole will primarily be delivered within existing resources.
73. Some provisions will be the subject of individual costs and benefits analysis and subsequent proportionate business case requiring appropriate approvals, which will be requested from the Department of Finance as required by individual policy and business areas as and where appropriate.

HUMAN RIGHTS ISSUES

74. All proposals have been screened and are considered to be Convention compliant.

EQUALITY IMPACT ASSESSMENT

75. All of the constituent parts of the proposed Bill have been screened as not having an adverse impact on any of the section 75 categories in the Northern Ireland Act 1998.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

76. The Department considers that no direct costs will be created for the private or voluntary sectors as a result of the provisions of the Bill.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

77. Data Protection screening exercises have been carried out in respect of each of the constituent parts of the Bill. This noted that the Department of Justice will not collect, use, store or share any personal data arising from the provisions contained in the Bill.
78. However, criminal justice agencies investigating and prosecuting offences and applying the new arrangements contained in the provisions of the Bill will need to collect and process personal data on victims, witnesses and the accused.
79. The data will be processed in line with the robust procedures and protocols already in place for investigating and prosecuting other existing criminal offences.
80. For legal aid purposes, personal information is also collected as part of the process of applying for and determining remuneration. The screening exercise for these provisions confirmed that provisions will not affect how data is collected, handled or processed, and the Legal Services Agency's current data protection policies and procedures will continue to apply.

RURAL NEEDS IMPACT ASSESSMENT

81. Rural screening exercises have been carried out in respect of each of the constituent parts of the Bill. This noted that all of the provisions in the Bill were screened out as having no impact on rural needs as all of the provisions of the Bill will apply equally to all areas of Northern Ireland, both urban and rural.

LEGISLATIVE COMPETENCE

82. At Introduction, the Minister for Justice had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Justice Bill would be within the legislative competence of the Northern Ireland Assembly."

SECRETARY OF STATE CONSENT

83. A statement is required under section 8 of the Northern Ireland Act 1998, on Secretary of State consent:

"The Secretary of State has consented under section 10(3)(b) of the Northern Ireland Act 1998 to the Assembly considering this Bill."



**Northern Ireland
Assembly**

Published by the Northern Ireland Assembly under the Open Northern
Ireland Assembly Licence (<http://data.niassembly.gov.uk/licence.aspx>)

The information contained in this document is available online
www.niassembly.gov.uk

For more information please contact:

Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

Telephone: 028 90 521137
Textphone: 028 90 521209

E-mail: info@niassembly.gov.uk

ISBN: 978-1-78619-689-7