



Northern Ireland  
Assembly

Justice (No. 2) Bill

Notice of Amendments tabled on  
2 February 2016 for Consideration Stage

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**Clause 1**, Page 2, Line 1

Leave out subsection (3)

*Minister of Justice*

**Clause 4**, Page 3, Line 32

Leave out 'sum due' and insert 'outstanding amount'

*Minister of Justice*

**Clause 4**, Page 3, Line 33

Leave out 'sum due' and insert 'outstanding amount'

*Minister of Justice*

**Clause 5**, Page 4, Line 34

After 'applies' insert 'or which is treated by a provision of that section as if it were a benefit to which that section applies'

*Minister of Justice*

**Clause 6, Page 5, Line 20**

Leave out '(2)(a) or (b)' and insert '(2)'

*Minister of Justice*

**Clause 6, Page 5, Line 39**

Leave out from 'is' to 'amount' on line 40 and insert '(if sold) would be sufficient to discharge the outstanding amount and the amount of any charges likely to be imposed and costs likely to be incurred in connection with executing a vehicle seizure order in relation to the vehicle'

*Minister of Justice*

**Clause 7, Page 6, Line 34**

At end insert -

'(3) The collection officer's report is admissible in proceedings before a court as evidence of the facts stated in it; and a court may, for example, take the report into account in deciding whether to issue a warrant under section 9A.'

*Minister of Justice*

**Clause 9, Page 8, Line 20**

At end insert -

'(8A) Where the court issues a warrant of committal under subsection (1)(i), the length of the period of committal as pronounced by the court is to be reduced by the length of any period during which the debtor has, in the case to which the hearing under this section relates, been remanded or committed in custody under section 9C (but not under subsection (7) of that section).'

*Minister of Justice*

**New Clause**

After clause 9 insert -

**'Power to issue arrest warrant where debtor fails to attend hearing referral of case**

**9A.—**(1) This section applies where, in the case of a debtor who is an individual—

- (a) a summons is issued under section 6(10) or 8(3), but
- (b) the debtor does not appear before court as required by the summons.

(2) The court before which the debtor was required to appear may issue a warrant for the debtor's arrest if—

- (a) it is not satisfied that the summons was served on the debtor or that the debtor is evading service but is satisfied that a reasonable attempt has been made to serve the summons on the debtor,
- (b) it is satisfied that the debtor is aware of the liability to pay the sum due and of the possible consequences of defaulting on the payment,

- (c) it is considering the possibility of issuing a warrant to commit the debtor to prison under section 9(1)(i), and
- (d) it is satisfied that issuing a warrant for the debtor's arrest instead of reissuing the summons is proportionate to the objective of securing the debtor's appearance before the court.

(3) On issuing a warrant under this section, the court must endorse the warrant for bail so as to direct that, once arrested, the debtor must be released on entering into the recognizance specified in the endorsement.

(4) A warrant under this section may be executed only by a constable.

(5) A warrant under this section is not to be regarded for the purposes of Article 19(1)(a)(i) of the Police and Criminal Evidence (Northern Ireland) Order 1989 as a warrant issued in connection with or arising out of criminal proceedings.'

*Minister of Justice*

## **New Clause**

After clause 9 insert -

### **'Arrest under warrant under section 9A**

**9B.**—(1) This section applies where a debtor is arrested in reliance on a warrant issued under section 9A.

(2) If the debtor enters into the recognizance specified in the endorsement to the warrant, it is not necessary for the debtor to be taken to a police station; and if the debtor is taken to a police station without having entered into the recognizance, he or she must be released from custody on entering into it.

(3) If the debtor enters into the recognizance, the hearing of the debtor's case under section 9 on the referral under section 6 or 8 is to take place at the time and place specified in accordance with provision made in the recognizance.

(4) If the debtor does not enter into the recognizance, the debtor must as soon as is practicable be brought before either a magistrates' court or the Crown Court, whichever is next sitting; and, pending that, the debtor may be kept in custody at a police station.

(5) If the debtor is brought before a magistrates' court and it is the responsible court in the debtor's case, it—

- (a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or
- (b) if it not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 9C.

(6) If the debtor is brought before a magistrates' court but the Crown Court is the responsible court in the debtor's case, it must commit the debtor to the Crown Court in accordance with section 9C.

(7) If the debtor is brought before the Crown Court and it is the responsible court in the debtor's case, it—

- (a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or
- (b) if it not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 9C.

(8) If the debtor is brought before the Crown Court but it is not the responsible court in the debtor's case, it must remit the debtor's case to the magistrates' court which is the responsible court and must remand the debtor in accordance with section 9C.

(9) Where a debtor has entered into the recognizance, the outstanding amount may, before the hearing on the referral of the debtor's case, be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.

(10) Where the debtor has not entered into the recognizance, the outstanding amount may, before the debtor is brought before the court under this section, be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.

(11) Where the debtor has been dealt with as mentioned in subsections (5) to (8) pending the hearing on the referral of the debtor's case, the outstanding amount may, before the hearing on the referral, be paid to the court.

(12) The police, on receiving a payment under subsection (9) or (10), must send it to the court.

(13) If, at the time of the commencement of this section, Part 1 of the Justice Act (Northern Ireland) 2015 (single jurisdiction for county courts and magistrates' courts) has yet to come into force, this section, pending the commencement of that Part, has effect as if after subsection (5) there were inserted—

“(5A) If the debtor is brought before a magistrates' court but another magistrates' court is the responsible court in the debtor's case, it must adjourn the hearing on the referral to that other court at such time and place as it specifies and must remand the debtor in accordance with section 9C.”.

*Minister of Justice*

## **New Clause**

After clause 9 insert -

### **‘Remand or committal under section 9B**

**9C.—**(1) For the purposes of the remand or committal of a debtor under section 9B(5) to (8), the court must either—

- (a) remand or commit the debtor in custody, by committing the debtor to custody to be brought before the responsible court at the end of the period specified by the court (but see also subsection (7)), or
- (b) remand or commit the debtor on bail, by remanding the debtor on bail subject to such conditions as the court may specify for the debtor's subsequent appearance before the responsible court.

(2) A reference in this section to being remanded or committed in custody is to be read in accordance with subsection (1)(a); and a reference in this section to being remanded or committed on bail is to be read in accordance with subsection (1)(b).

(3) If the debtor is remanded or committed in custody, the court may give its consent to the debtor being remanded or committed on bail.

(4) The period for which the debtor may be remanded or committed in custody must not exceed—

- (a) in a case where the debtor consents, 28 days;
- (b) in any other case, 8 days.

(5) The period for which the debtor may be remanded or committed on bail must not exceed 28 days.

(6) If the debtor is aged under 18, he or she may not be remanded or committed in custody.

(7) If the debtor is aged 21 or over, the remand or committal of the debtor in custody may, on an application made by a police officer not below the rank of inspector, be made by—

- (a) committing the debtor to detention at a police station, or
- (b) committing the debtor to the custody of a constable (otherwise than at a police station).

(8) The period for which the debtor may be committed under subsection (7)(a) must not exceed 3 days beginning with the day following that on which the debtor was committed.

(9) The debtor may not be committed to detention at a police station under subsection (7)(a) unless there is a need for him or her to be so detained for the purposes of inquiries into a criminal offence; and if the debtor is committed to such detention—

- (a) the debtor must, as soon as that need ceases, be brought back before the court;
- (b) the debtor is to be treated as a person in police detention to whom the duties under Article 40 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (responsibilities in relation to persons detained) relate, and
- (c) the detention of the debtor is to be subject to periodic review at the times set out in Article 41 of that Order.

(10) The debtor may not be committed to the custody of a police officer under subsection (7)(b) unless there is a need for him or her to be kept in such custody for the purposes of inquiries into a criminal offence; and if the debtor is committed to such custody, he or she must, as soon as that need ceases, be brought back before the court.

(11) The court may order the debtor to be brought before it at any time before the expiration of the period for which the person has been remanded or committed.’

*Minister of Justice*

## **New Clause**

After clause 9 insert -

### **‘Costs relating to referral of debtor’s case**

**9D.**—(1) The costs of the hearing of a debtor’s case under section 9 (including any costs incurred in connection with any matter preliminary or incidental to the hearing, but not including any costs incurred by the debtor) are to be defrayed in the first instance by the Department of Justice.

(2) The costs to be defrayed under subsection (1) are to be such rates or such amounts as may be generally or specifically approved by the Department of Finance and Personnel.

(3) The court hearing the debtor’s case under section 9 may, in addition to any other order which it may make at the hearing, order the debtor to pay the whole or any part of the costs referred to in subsection (1); but, if the debtor is an individual aged under 18, the amount of any costs ordered under this subsection may not exceed the outstanding amount.

(4) The payment of an amount imposed by an order under subsection (3) is enforceable in the same manner as a fine or other sum adjudged to be paid by or imposed on a conviction of the court (and this Chapter applies in relation to that amount accordingly).

(5) The costs of any proceedings under section 9B involving the debtor are to be regarded for the purposes of this section as costs of the hearing of the debtor’s case under section 9.’

*Minister of Justice*

## **Clause 11, Page 9, Line 15**

After ‘make’ insert ‘further provision about applications for deductions from benefits; and the regulations may in particular make’

*Minister of Justice*

## **New Clause**

After clause 12 insert -

### **‘Disclosure of information**

**12A.**—(1) The Department for Social Development, or a person providing services to that Department, may disclose social security information to a court or a collection officer for the purpose of—

- (a) facilitating a decision by the court or officer whether or not to make an application for deduction from benefits, or
- (b) facilitating the making of the application by the court or officer.

(2) In subsection (1), “social security information” means—

- (a) information which is held by the Department for the purposes of functions relating to social security,
- (b) information which is held by a person providing services to the Department in connection with the provision of those services, or
- (c) information which is held with information of the description given in paragraph (a) or (b).

(3) A person to whom information is disclosed under this section commits an offence if the person—

- (a) discloses the information to another person, or
- (b) uses the information for a purpose other than a purpose referred to in subsection (1).

(4) It is not an offence under subsection (3)—

- (a) to disclose any information in accordance with a statutory provision or with an order of a court or of a tribunal established by or under a statutory provision or for the purposes of any proceedings before a court,
- (b) to disclose or use any information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it, or
- (c) to disclose or use any information which has previously been lawfully disclosed to the public.

(5) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed that the disclosure or use was lawful.

(6) A person guilty of an offence under subsection (3) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

(7) Nothing in this section authorises the making of a disclosure which contravenes the Data Protection Act 1998.

(8) In this section, “information” means information held in any form.’

*Minister of Justice*

### **Clause 13, Page 10, Line 32**

Leave out ‘regarded’ and insert ‘treated’

*Minister of Justice*

**Clause 18, Page 14, Line 14**

After ‘require’ insert ‘(even though the collection officer’s report is, by virtue of section 7(3), admissible at the hearing)’

*Minister of Justice*

**Clause 18, Page 14, Line 14**

At end insert -

‘(3A) Before making a vehicle seizure order, the responsible court must, in satisfying itself that the order would be justified, reasonable and proportionate in all the circumstances of the case, have particular regard to the likely effect of the order on the debtor’s ability to earn a living.’

*Minister of Justice*

**Clause 18, Page 14, Line 36**

Leave out paragraph (b)

*Minister of Justice*

**Clause 22, Page 16, Line 27**

At end insert -

“‘statutory provision’” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;’

*Minister of Justice*

**Clause 23, Page 17, Line 9**

At end insert -

‘(2) The Department of Justice may by order make such consequential, supplementary or incidental provision as it considers appropriate in consequence of, or for giving full effect to, this Chapter.

(3) An order under subsection (2) may amend, repeal, revoke or otherwise modify any statutory provision.’

*Minister of Justice*

**Clause 24, Page 17, Line 19**

Before ‘either’ insert ‘the individual’

*Minister of Justice*

**Clause 24**, Page 18, Line 25

At end insert -

‘(10A) But the references in this Article to a sum adjudged to be paid by or imposed on a conviction do not include a reference to an amount payable under a confiscation order under Part 4 of the Proceeds of Crime Act 2002.’

*Minister of Justice*

**Clause 24**, Page 18, Line 26

Leave out from ‘means’ to end of line 28 and insert ‘, in relation to a supervised activity order, means a probation officer with responsibility for supervising the carrying out of the requirements of the order.’

*Minister of Justice*

**Clause 25**, Page 20, Line 22

At end insert -

‘(5A) In section 5(3) of the Treatment of Offenders (Northern Ireland) Act 1968 (power of court to detain young person in youth offenders centre for default), for “Article 47” substitute “Article 46C”.’

*Minister of Justice*

**Clause 27**, Page 21, Line 23

Leave out ‘1998’ and insert ‘2008’

*Minister of Justice*

**Clause 29**, Page 22, Line 14

At end insert ‘or on the Ombudsman’s own initiative (see sections 35A and 35B)’

*Minister of Justice*

**Clause 30**, Page 23, Line 11

Leave out from ‘at’ to end of line 19 and insert -

‘at any time if it appears to the Ombudsman that—

- (a) a criminal investigation might be adversely affected by the Ombudsman’s investigation;
- (b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman’s investigation;
- (c) it is appropriate to do so because of any proceedings for judicial review; or
- (d) it is appropriate to do so for any other reason.’

*Minister of Justice*



**Clause 30, Page 23, Line 39**

At end insert -

- ‘(15) At any time in the course of an investigation under this section the Ombudsman may—
- (a) draw to the attention of the police any matter which in the Ombudsman’s opinion is relevant to any criminal investigation;
  - (b) draw to the attention of any body or person any matter which in the Ombudsman’s opinion calls for action to be taken by that body or person.’

*Minister of Justice*

**Clause 32, Page 25, Line 3**

Leave out from ‘at’ to end of line 11 and insert -

- ‘at any time if it appears to the Ombudsman that—
- (a) a criminal investigation might be adversely affected by the Ombudsman’s investigation;
  - (b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman’s investigation;
  - (c) it is appropriate to do so because of any proceedings for judicial review; or
  - (d) it is appropriate to do so for any other reason.’

*Minister of Justice*

**Clause 34, Page 26, Line 9**

Leave out subsection (1) and insert -

- ‘(1) The Department—
- (a) shall request the Ombudsman to investigate any custody-related matter if any of the events to which it relates is of such a nature or description, or occurs in such circumstances, as may be prescribed;
  - (b) may request the Ombudsman to investigate any other custody-related matter which is specified in the request.
- (1A) Before making any request under subsection (1) the Department shall consult the Ombudsman.’

*Minister of Justice*

**Clause 34, Page 26, Line 17**

At end insert -

- ‘(2A) Before making any regulations under subsection (1)(a) the Department shall consult—
- (a) the Ombudsman; and
  - (b) such other persons as the Department thinks appropriate.’

*Minister of Justice*

**Clause 34, Page 26, Line 26**

At end insert -

- ‘(6) At any time in the course of an investigation under this section the Ombudsman may—
- (a) draw to the attention of the police any matter which in the Ombudsman’s opinion is relevant to any criminal investigation;
  - (b) draw to the attention of any body or person any matter which in the Ombudsman’s opinion calls for action to be taken by that body or person.’

*Minister of Justice*

**New Clause**

After clause 35 insert -

*‘Own-initiative investigations*

**Own-initiative investigations**

**35A.**—(1) The Ombudsman may carry out an investigation under this section into a matter if—

- (a) the matter relates—
  - (i) to the way in which a prisoner has been treated by a prison officer;
  - (ii) to the way in which a person visiting a prison has been treated by a prison officer;
  - (iii) to the facilities available to a person at a prison (including, in the case of a prisoner, facilities for the welfare of the prisoner);
  - (iv) to the cleanliness and adequacy of a prison; and
- (b) the Ombudsman has reasonable grounds for believing that, in relation to the matter—
  - (i) a number of events of the same or a similar nature have occurred; and
  - (ii) the number or frequency of the events requires the matter to be investigated under this section.

(2) Before commencing an investigation under this section, the Ombudsman must—

- (a) consult the Department; and
- (b) inform the Department of the matter proposed to be investigated and of the grounds referred to in subsection (1)(b).

(3) It is for the Ombudsman to determine the procedures to be applied to an investigation under this section.

(4) This section applies to a matter whether or not a complaint has been, or could be, made about the matter under section 30.’

*Minister of Justice*

**New Clause**

After clause 35 insert -

**‘Report on investigation under section 35A**

**35B.**—(1) Where the Ombudsman has carried out an investigation under section 35A, the Ombudsman must report in writing on the outcome of the investigation to—

(a) the Department; and

(b) any other person the Ombudsman considers should receive the report.

(2) In a report to the Department the Ombudsman may make recommendations about any matter arising from the investigation.

(3) Where such recommendations are made in a report, the Department must, within the required period, respond in writing to the Ombudsman setting out (with reasons) what it proposes to do about the recommendations.

(4) The required period is the period of 28 days commencing with the day on which the Department receives the report or such longer period as the Ombudsman may in the case of any report allow.

(5) The Ombudsman may report on that response to such persons as the Ombudsman may think fit.

(6) Regulations may make provision as to the procedures to be followed in relation to reports under this section and may in particular include provision—

(a) enabling the Ombudsman to show any person a draft of the whole or any part of a report;

(b) enabling the Ombudsman to publish the whole or any part of a report;

(c) restricting or prohibiting the identification of prescribed persons or persons of a prescribed description in a report or the inclusion of information of a prescribed description.’

*Minister of Justice*

**Clause 37, Page 28, Line 2**

At end insert -

‘(ca) to the Attorney General for Northern Ireland for the purposes of the exercise of any functions of that office;’

*Minister of Justice*

**Clause 37, Page 28, Line 3**

Leave out ‘Ombudsperson’ and insert ‘Ombudsman’

*Minister of Justice*

**Clause 40, Page 30, Line 12**

At end insert -

‘(6A) In applying section 35A(1)(b) the Ombudsman may take into account events occurring in the period of 12 months immediately preceding the appointed day (as well as events occurring on or after that day).’

*Minister of Justice*

## **New Clause**

Before clause 41 insert -

### *'Animal welfare*

#### **Penalties for animal welfare offences**

**40A.**—(1) In section 31 of the Welfare of Animals Act (Northern Ireland) 2011 (penalties), in subsection (1) (summary-only offences), omit “8(3),” and “, 33(9), 40(7)”.

(2) After that subsection insert—

“(1A) A person guilty of an offence under section 4 or 8(1) or (2) shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding £20,000, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or both.”.

(3) In subsection (2) of that section (hybrid offences)—

- (a) omit “4,” and
- (b) for “and 8(1) and (2)” substitute “, 8(3), 33(9) and 40(7)”.

(4) In that subsection, in paragraph (b), for “2 years” substitute “5 years”.

(5) In each of the following provisions of that Act, for “8(1) and (2)” substitute “8”—

- (a) section 32(1) (deprivation);
- (b) section 33(10) (disqualification);
- (c) section 36(1) (destruction in interests of animal).

(6) In each of the following provisions of that Act, for “8(1) or (2)” substitute “8”—

- (a) section 36(6) (destruction in interests of animal);
- (b) section 37(1) (destruction of animals involved in fighting offences);
- (c) section 38(1) (reimbursement of expenses relating to animals involved in fighting offences).

(7) In Article 29(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 (right to claim trial by jury subject to exceptions), after sub-paragraph (o) insert—

“(p) section 4 or 8(1) or (2) of the Welfare of Animals Act (Northern Ireland) 2011 (unnecessary suffering; fighting).”.

*Minister of Justice*

## **New Clause**

After clause 44 insert -

### *'Direct committal for trial*

#### **Direct committal for trial: indictable offence triable summarily**

**44A.**—(1) Section 9 of the Justice Act (Northern Ireland) 2015 (cases where direct committal provisions may apply) is amended as follows.

- (2) In subsection (1) for “either” substitute “one”.
- (3) In subsection (2) after paragraph (a) insert—

“(aa) that the offence is an indictable offence to which Article 45 of the Magistrates Courts (Northern Ireland) Order 1981 or Article 17 of the Criminal Justice (Children) (Northern Ireland) Order 1998 applies; or”.’

*Minister of Justice*

### **New Clause**

After clause 44 insert -

#### *‘Firearms*

### **Amendments of Firearms (Northern Ireland) Order 2004, etc.**

**44B.**—(1) The Firearms (Northern Ireland) Order 2004 has effect subject to the amendments contained in Schedule 4.

- (2) The following provisions of the Justice Act (Northern Ireland) 2011 are repealed—  
section 103 (variation of firearm certificate);  
section 104 (restrictions on use of shotguns by young persons), and  
section 105 (restrictions on possession of air guns by young persons).’

*Minister of Justice*

### **New Clause**

After clause 44 insert -

#### *‘Costs*

### **Costs of Accountant General in administering funds in court**

**44C.**—(1) In section 116 of the Judicature (Northern Ireland) Act 1978 (fees), in subsection (1), after “in any office or by any officer connected with any such court” insert “(including the Accountant General and the office maintained under section 77(2))”.

- (2) At the end of that section insert—  
“(5) Nothing in this section affects section 39 of the Administration of Justice Act 1982 (which includes provision relating to the costs of administering funds in court).”.’

*Minister of Justice*

### **Clause 45**

*The Minister of Justice gives notice of his intention to oppose the question that clause 45 stand part of the Bill.*

*Minister of Justice*

### **Clause 46, Page 33, Line 3**

Leave out ‘or 30(5)’ and insert ‘, 30(5) or 34(1)(a)’

*Minister of Justice*

**Clause 46, Page 33, Line 9**

At end insert -

‘(aa) an order under section 23(2) containing provision which amends or repeals a provision of an Act of Parliament or Northern Ireland legislation;’

*Minister of Justice*

**Clause 46, Page 33, Line 11**

Leave out paragraph (c)

*Minister of Justice*

**Clause 47, Page 33, Line 19**

Before ‘Part 3’ insert ‘Section 23(2) and (3),’

*Minister of Justice*

**Clause 47, Page 33, Line 19**

After ‘Part 3’ insert ‘(other than section 40A)’

*Minister of Justice*

**Schedule 1, Page 37, Line 17**

After ‘court’ insert ‘in the first and third places it appears’

*Minister of Justice*

**Schedule 1, Page 37, Line 20**

Leave out ‘each place’ and insert ‘the first, third and fourth places’

*Minister of Justice*

**Schedule 1, Page 37, Line 35**

Leave out from ‘who’ to ‘principal’ on line 36 and insert ‘whose earnings are paid by the body as principal and who is accordingly treated by virtue of section 13(5) as being employed’

*Minister of Justice*

**Schedule 2, Page 39, Line 25**

At end insert -

*'Police and Criminal Evidence (Northern Ireland) Order 1989*

4A. In Article 19(1) (power of constable to enter and search), in sub-paragraph (a), after paragraph (ii) insert “; or

(iii) a warrant of commitment issued under section 9(1)(i) of the Justice (No. 2) Act (Northern Ireland) 2015 (default by debtor);”.’

*Minister of Justice*

**Schedule 2, Page 40, Line 26**

Leave out ‘clerk of petty sessions’ and insert ‘fixed penalty clerk’

*Minister of Justice*

**Schedule 2, Page 40, Line 40**

At end insert -

*'Justice Act (Northern Ireland) 2015*

6A.—(1) In section 24 (prosecutorial fines: registration of sum payable in default), in subsection (2) (a), for “21 days” substitute “28 days”.

(2) After section 24(3) insert—

“(3A) The fines clerk must refer the case to a district judge (magistrates’ courts) for the judge to consider whether to make a collection order; and the order may be made without a court hearing.

(3B) Where a collection order is made in that case, the date specified in the order as the date by which the sum due must be paid must, unless the court directs otherwise, be the same as the date specified in the notice of registration under subsection (2)(a).”

(3) In section 25 (challenge to notice), in subsection (7), after “enforcing payment of that sum” insert “(including the making of a collection order)”.

(4) In section 26 (setting aside of sum enforceable under section 24), in subsection (3), after “enforcing payment of that sum” insert “(including the making of a collection order)”.

(5) In section 27 (interpretation), at the appropriate place insert—

““collection order” means an order under section 3 of the Justice (No. 2) Act (Northern Ireland) 2015;”.’

*Minister of Justice*

**Schedule 3, Page 43, Line 6**

Leave out ‘Ombudsperson’ and insert ‘Ombudsman’

*Minister of Justice*

## New Schedule

After schedule 3 insert -

### ‘SCHEDULE 4

Section

#### AMENDMENTS OF FIREARMS (NORTHERN IRELAND) ORDER 004

##### PART 1

##### FIREARMS - PERSONS UNDER 18

###### *Authorisation of shotgun clubs to allow use of shotguns by persons under the age of 16*

- 1.—(1) In Article 2(2) (interpretation), after the definition of “shotgun certificate” insert—  
““shotgun club” means a club established for the purpose of promoting and practising skill in the use of shotguns;”.
- (2) In the heading to Part 6, add at the end “AND SHOTGUN CLUBS”.
- (3) After the heading to Part 6 add—  
*“Firearms clubs”*.
- (4) After Article 50 insert—

###### *“Shotgun clubs*

###### **Authorisation of shotgun clubs to allow use of shotguns by minors for limited purposes**

50A.—(1) If the Chief Constable is satisfied that there will not be a danger to public safety or to the peace, the Chief Constable may, on payment of the appropriate fee, grant an authorisation for a shotgun club to allow persons under the age of 16 who have attained the age of 12 to use shotguns under appropriate supervision in accordance with the authorisation.

(2) An authorisation must state that it is limited to the use of shotguns for clay target shooting or for such other purposes as may be prescribed.

(3) The Chief Constable may at any time by notice in writing—

- (a) attach conditions to an authorisation;
- (b) vary or revoke conditions attached under this Article.

(4) An authorisation shall continue in force for a period of five years from the date on which it is granted but if the Chief Constable is satisfied that there is a danger to public safety or to the peace, the Chief Constable may revoke the authorisation.

(5) Any person who—

- (a) operates a shotgun club which allows a person under the age of 16 to use a shotgun except in accordance with an authorisation, or
  - (b) contravenes any condition of an authorisation,
- shall be guilty of an offence.

(6) In this Article—

“appropriate supervision” means under the supervision of a person who has attained the age of 21 and has held a firearm certificate for a shotgun for at least five years;

“authorisation” means an authorisation granted under this Article;

“prescribed” means prescribed by regulations made by the Department of Justice.

(7) The Department of Justice may make regulations substituting a different age for the lower age mentioned in paragraph (1) and paragraph 11(4) of Schedule 1.

(8) The Department of Justice shall not make regulations under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.



(5) Before the heading to Article 51 insert—

*“Power of entry”.*

(6) In Article 51 (power of entry), in paragraph (1)—

- (a) in sub-paragraph (a), after “club” insert “or a shotgun club”;
- (b) after “Article 49” insert “or 50A”.

(7) In Schedule 1 (firearm certificates - exemptions), in paragraph 11, after sub-paragraph (3) add—

“(4) A person who is under the age of 16 but has attained the age of 12 may, without holding a firearm certificate, use a shotgun in accordance with an authorisation under Article 50A.”.

(8) In Schedule 5 (table of punishments), after the entry relating to Article 49(5)(b) insert—

“Article 50A(5)(a)	Operating a shotgun club which allows unauthorised use of shotguns	(a) Summary	1 year or a fine of the statutory maximum or both
		(b) Indictment	3 years or a fine or both
Article 50A(5)(b)	Contravention of conditions of authorisation	(a) Summary	1 year or a fine of the statutory maximum or both
		(b) Indictment	3 years or a fine or both”.

(9) In Schedule 5, in the second column of the entry relating to Article 51(2), after “club” insert “or shotgun club”.

#### *Other amendments relating to persons under 18*

2.—(1) Article 7 (purposes for which young person may acquire and have in possession certain firearms and ammunition), in paragraph (3)(b)(i), after “sporting purposes” insert “or for the purpose of pest control”.

(2) In Schedule 1 (firearm certificates—exemptions)—

- (a) in paragraph 9 (air guns and ammunition), in sub-paragraph (3)(b), (person under 18 may not purchase air gun without a certificate unless the person has attained the age of 17), the words “unless he has attained the age of 17” are repealed;
- (b) in paragraph 11 (shotguns), in sub-paragraph (3), at the end add “unless the person has attained the age of 16 and is under the supervision of a person who has attained the age of 21 and has held a firearm certificate for a shotgun for at least three years”.

## PART 2

### FIREARM CERTIFICATES AND OTHER CERTIFICATES

#### *Variation of firearm certificate*

3.—(1) In Article 11 (variation of firearm certificate), for paragraphs (3) to (5) substitute—

“(3) If a person—

- (a) sells a firearm (“the first firearm”) to the holder of a firearms dealer’s certificate (“the dealer”); and
- (b) as part of the same transaction purchases from the dealer another firearm (“the second firearm”); and
- (c) paragraph (4) applies,

the dealer may, on payment of the appropriate fee, vary that person's firearm certificate by substituting the second firearm for the first firearm.

- (4) This paragraph applies—
- (a) if both the first firearm and the second firearm are shotguns; or
  - (b) if—
    - (i) the second firearm is of the same type and calibre as the first firearm; and
    - (ii) neither firearm is a prohibited weapon or a shotgun; or
  - (c) if—
    - (i) the first firearm is a rifle of a description mentioned in the first column of Schedule 1A; and
    - (ii) the second firearm is a rifle of a calibre specified in relation to the same Band of Schedule 1A as the calibre of the first firearm; and
    - (iii) neither firearm is a prohibited weapon, a muzzle-loading firearm as defined in Article 45(9) or a shotgun; and
    - (iv) the second firearm will not be of the same calibre as any other firearm to which the firearm certificate relates; and
    - (v) the firearm certificate is not held subject to a condition that the first firearm may be used only for the purposes of target shooting.
- (5) If a person—
- (a) sells or transfers a firearm to the holder of a firearms dealer's certificate ("the dealer"); and
  - (b) does not as part of the same transaction purchase or acquire from the dealer another firearm,

the dealer may, on payment of the appropriate fee (if any), vary that person's firearm certificate by deleting that firearm.

- (6) Where the holder of a firearms dealer's certificate ("the dealer") varies a firearm certificate under this Article, the dealer shall—
- (a) notify the Chief Constable of the variation within 72 hours of the variation being made; and
  - (b) where the dealer receives the fee for varying the certificate, pay it to the Chief Constable.
- (7) A person who fails to comply with paragraph (6)(a) shall be guilty of an offence.
- (8) Schedule 1A (relevant firearms for Article 11(4)(c)) shall have effect.
- (9) The Department of Justice may make regulations amending Schedule 1A if a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.

(2) After Schedule 1 insert—

“SCHEDULE 1A

Article 11(8).

RELEVANT FIREARMS FOR ARTICLE 11(4)(C)

BAND	CALIBRE
1. Small quarry air rifles	.177 .20 .22 .25
2. Small quarry	.17 Mach 2 .17 HMR (Hornady Magnum Rimfire) .22 LR (Long Rifle) .22 WMR (Winchester Magnum Rimfire)
3. Medium quarry	.17 Hornet

	.17 Remington .17 Remington Fireball .22 Hornet/5.6x36Rmm .222 Remington .204 Ruger .223 Remington/5.56x45mm .220 Swift .22-250
4. Large quarry	.243 Winchester .25-06 6.5mm x 55/.256 7mm x 08 Remington .270 7.62 x 51mm/.308 Winchester .30-06”.

(3) In Schedule 5 (table of punishments), after the entry relating to Article 10(3) insert—

“Article 11(7)	Failure of firearms dealer to notify Chief Constable of variation of firearm certificate	Summary	Level 3”.
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*Variation of firearms dealer’s certificate*

4. In Article 29(6) (variation of firearms dealer’s certificate), at the end add “on payment of the appropriate fee”.

*Updated certificates*

5.—(1) In Article 5 (grant of firearm certificate)—

(a) in paragraph (5), after “duplicate certificate” insert “or an updated certificate”;

(b) after paragraph (5) add—

“(6) In paragraph (5)—

“duplicate certificate” means a copy of the firearm certificate as granted; and

“updated certificate” means the firearm certificate revised up to such date as may be specified on the certificate.”.

(2) In Article 26 (grant of firearms dealer’s certificate)—

(a) in paragraph (7)—

(i) (i) after “duplicate certificate” insert “or an updated certificate”;

(ii) the words “(if any)” are repealed;

(b) after paragraph (7) add—

“(8) In paragraph (7)—

“duplicate certificate” means a copy of the firearms dealer’s certificate as granted;

“updated certificate” means the firearms dealer’s certificate revised up to such date as may be specified on the certificate.”.

*Certificates granted in Great Britain*

6.—(1) The following provisions of Article 17 (firearm certificate or shotgun certificate granted in Great Britain has effect in Northern Ireland if Chief Constable grants certificate of approval) are repealed—

- (a) in paragraph (1), the words from “if” to the end;
  - (b) paragraphs (2) and (3);
  - (c) in paragraph (4)—
    - (i) in the definition of “applicable conditions” the words from “, subject” to the end;
    - (ii) the definitions of “certificate of approval” and “modifications”.
- (2) In Article 18 (air guns held without a firearm certificate in Great Britain)—
- (a) in paragraph (1)—
    - (i) after “an air gun” insert “to which paragraph (3) applies”;
    - (ii) in sub-paragraph (c) after “issued to him by the Chief Constable” add “on payment of the appropriate fee”;
  - (b) after paragraph (2) add—
- “(3) This paragraph applies to an air gun which is capable of discharging a missile so that the missile has, on being discharged, a kinetic energy in excess of one joule.”.

### PART 3

#### SUPPLEMENTARY

##### *Fees*

7.—(1) For Schedule 6 (fees) substitute—

#### SCHEDULE 6

Article 75.

#### FEES

##### *Firearm certificate*

1. Grant of firearm certificate	£98
2. Variation by Chief Constable	£30
3. Variation by firearms dealer under Article 11(3) to substitute firearm	£15
4. Variation by firearms dealer under Article 11(5) to delete firearm	No fee
5. Duplicate certificate	£14
6. Updated certificate	£14

##### *Museum firearms licence*

7. Grant of museum firearms licence by Department of Justice	£110
8. Extension to additional premises	£75

##### *Visitor’s firearm permit*

9. Grant of visitor’s firearm permit (except where paragraph 10 applies)	£16
10. Grant of six or more permits (taken together) on a group application	£80

*Certificate of approval for air gun for resident in Great Britain*

11. Certificate of approval for air gun for resident in Great Britain	£11
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*Firearms dealer's certificate*

12. Grant of firearms dealer's certificate	£300
13. Duplicate certificate	£14
14. Updated certificate	£14

*Firearms clubs and shotgun clubs*

15. Authorisation of firearms club	£71
16. Authorisation of shotgun club to allow use of shotgun by persons 12 or over but under 16, except where the shotgun club is also a firearms club and an authorisation under Article 49 is granted at the same time	£71.”.

*Consequential amendment*

8. In Article 80(5) (regulations and orders made by the Department of Justice), after “Order” insert “, except regulations under Article 11(9) or 50A.”.

*Minister of Justice*

**Long Title**

After ‘relating to’ insert -  
‘the penalties for certain animal welfare offences,’

*Minister of Justice*

**Long Title**

After ‘United Kingdom’ insert -  
‘and direct committal for trial’

*Minister of Justice*

**Long Title**

After ‘United Kingdom’ insert -  
‘and firearms’

*Minister of Justice*

## Long Title

At end insert ‘; to make provision relating to the costs of the Accountant General of the Court of Judicature.’

*Minister of Justice*

## New Clause

After clause 42 insert -

### **‘Harmful electronic communications**

**42D.**—(1) A person who, without lawful authority or reasonable excuse, intentionally or recklessly shares a harmful electronic communication that—

- (a) includes sexually explicit content of another person, or
- (b) causes alarm, distress, or injury including psychological harm to another person,

shall be guilty of a summary offence and liable to up to 12 months’ imprisonment or a fine not exceeding £5,000 or both.

(2) Where the harmful electronic communication—

- (a) incites or encourages another to cause serious harm to themselves,
- (b) incites or encourages another to commit suicide,
- (c) is part of an ongoing campaign of harmful communication, or
- (d) has been communicated by multiple accounts used by one or more people,

the person shall be convicted of an indictable offence and liable to up to 7 years’ imprisonment or unlimited fine or both.

(3) If on the evidence the court is not satisfied that the person should be convicted of an offence under subsection (1) or (2), the court may nevertheless make any of the following orders upon application to it if, having regard to the evidence, the court is satisfied that it is in the interest of justice to order—

- (a) that the person remove or delete specific electronic communication(s);
- (b) that the person shares an apology or correction as the court deems appropriate in the circumstances;
- (c) that the person shall not, for such period as the court may specify, communicate by any means with the other person or that the person shall not approach within such distance as the court shall specify of the place of residence or employment of the other person;
- (d) a person who fails to comply with the terms of an order under this section shall be guilty of a summary offence and liable to up to 12 months’ imprisonment or a fine not exceeding £5,000 or both.

(4) For the purposes of this section, a social media platform is defined as any person or company who provides an online platform for people to post any public content.

(5) All social media platforms must have adequate policies and procedures in place to balance the right of free speech with the duty to protect the physical and mental well-being of people.

(6) Social media platforms have a duty to maintain a full record of a person’s identity and to establish any linked accounts—

- (a) for the purposes of this section, a linked account is an account which may have a different name but emanates from the same person, or the same IP address, or an account shared with another person for a common purpose;

(b) failure to do so, or failure to have adequate protections for people in place will result in the social media platform being guilty of an offence and liable to a fine to be determined by the court.

(7) A person who is the subject of a harmful communication may apply to the social media platform to have the perpetrator identified.

(8) A social media platform must identify a person who has posted harmful communication(s) on receipt of an application which—

- (a) specifies the complainant's name,
- (b) sets out the harmful communication concerned and explains why it is harmful to the complainant,
- (c) specifies where on the social media platform the harmful communication was posted, and
- (d) satisfies the social media platform that the communication is harmful and may constitute an offence under subsection (1) or (2).

(9) Where a person has made an application concerning multiple or linked accounts, communications between the accounts held by the social media platform may also be requested.

(10) Should the social media platform be satisfied that the application meets the requirements in subsection (8), the complainant should be notified of the perpetrators identity within 30 days of the complaint being received.

(11) Where responsible a body, including but not exclusively, a Board of Governors, makes an application on behalf of a person under the age of 18, the social media platform has a duty to remove any harmful communication which meets the requirements of subsection (8) within 24 hours of the complaint being received.

(12) Should the social media platform refuse to identify users and then be compelled to do so by court order, the social media platform will be guilty of an offence and liable to a fine to be determined by the court.

(13) In this section, "harmful electronic communications" means any method of electronic communication which would be grossly offensive, threatening, intimidating, or menacing to a reasonable person.'

*Mr Basil McCrea*

## **New Clause**

After clause 44 insert -

### **'Licensing of flags on lampposts**

**44D.**—(1) There shall be a licensing body for the flying of flags from lampposts.

(2) The Department shall provide by regulation for the staffing of the body including pension, salary and contractual arrangements, and for property assets it considers necessary that the body acquire for the execution of its functions.

(3) The licensing body must carry out its functions under this Act with a view to promoting the licensing objectives.

(4) The licensing objectives are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;

- (d) the maintenance of good relations; and
- (e) the peaceful and inoffensive celebration of culture and heritage.

(5) In order to meet the licensing objectives the licensing body may seek practical assistance from the Department for Regional Development and the Police Service of Northern Ireland.

(6) The licensing body shall provide temporary licences, for a fee to be determined, where the flying of flags shall cause no foreseeable public disorder, detriment to good relations, or incitement to sectarian or racial hatred.

(7) The licensing body must in respect of each three year period—

- (a) determine its policy with respect to the exercise of its licensing functions,
- (b) consult relevant stakeholders on its policy, and
- (c) publish a statement of that policy (a “licensing statement”) before the beginning of that period.

(8) The licensing body must specify in its policy—

- (a) conditions, fees and duration of licenses for flags;
- (b) criteria for licensing in respect of particular heritage events;
- (c) a complaints process for ratepayers about flags which threaten disorder, public safety, public nuisance or the maintenance of good relations on grounds of religious belief or political opinion;
- (d) provision for the removal of flags; including—
  - (i) flags flown after the expiry of licence terms;
  - (ii) unlicensed flags;
  - (iii) flags representing paramilitary organisations; and
  - (iv) other flags the flying of which has given rise to complaints under paragraph (c) complaints process.

(9) In carrying out its licensing functions, the licensing body must have regard to—

- (a) its licensing statement published under this section, and
- (b) any guidance issued by the Minister of Justice.’

*Mr Basil McCrea*

## **New Clause**

After clause 44 insert -

### **‘Abortion in exceptional cases**

**44E.**—(1) The Offences Against the Person Act 1861 shall be amended as follows.

(2) In section 58 (Administering drugs or using instruments to procure abortion), after “being with child” insert “, except in instances of fatal abnormality, as determined by the woman’s physician which also concluded that the child is incapable of an existence independent of the woman,”.’

*Mr Steven Agnew*

*Mr Basil McCrea*



*As an amendment to the amendment tabled by Steven Agnew to insert a new clause 44E*

After “except in” insert -

“cases where the pregnancy was a result of rape or incest, or”.

*Mr Steven Agnew*

*Mr Basil McCrea*

**New Clause**

After clause 44 insert -

**‘Amendment to the Criminal Justice Act (Northern Ireland) 1945: exception**

**44F.**—(1) The Criminal Justice Act (Northern Ireland) 1945 is amended as follows.

(2) In section 25(1) at end insert—

“; or that the act was not done because a fatal abnormality had been determined by the woman’s physician which also concluded that the child was incapable of an existence independent of the woman.”.’

*Mr Steven Agnew*

*Mr Basil McCrea*

*As an amendment to the amendment tabled by Steven Agnew to insert a new clause 44F*

After “because” insert -

“the pregnancy was a result of rape or incest, or”.

*Mr Steven Agnew*

*Mr Basil McCrea*

**New Clause**

After clause 44 insert -

**‘Amendment to the Criminal Justice Act (Northern Ireland) 1945: defence**

**44G.**—(1) The Criminal Justice Act (Northern Ireland) 1945 is amended as follows.

(2) In section 26, after subsection (2) insert—

“(3) It shall be a defence to an offence under the said section fifty-eight and to an offence under section twenty-five that the person charged is shown by the evidence to have acted in the knowledge that a fatal abnormality had been determined by the woman’s physician which also concluded that the child was incapable of an existence independent of the woman.”.’

*Mr Steven Agnew*

*Mr Basil McCrea*

*As an amendment to the amendment tabled by Steven Agnew to insert a new clause 44G*

After “knowledge that” insert -

“the pregnancy was a result of rape or incest, or”.

*Mr Steven Agnew*

*Mr Basil McCrea*

**Clause 2, Page 2, Line 14**

After ‘officers’ insert ‘, however, regulations under this provision may not provide for the outsourcing of those functions to agencies or private companies’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 4, Page 3, Line 25**

After ‘satisfied’ insert ‘that any deduction from benefits would not have the effect of extending the sanction to dependants of the debtor,’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 6, Page 5, Line 40**

At end insert -

‘(d) it can be demonstrated that such a seizure may adversely impact upon children or adult dependants of the debtor.’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 10, Page 8, Line 32**

At end insert -

‘(2A) The application may not be made in a case where any deduction from benefits would have the effect of extending the sanction to dependants of the debtor.’

*Mr Raymond McCartney*  
*Mr Seán Lynch*  
*Ms Bronwyn McGahan*

**Clause 15, Page 12, Line 21**

At end insert -

‘(e) make provision for a formal assessment in which the impact of any order upon a debtors dependants is given due regard.’

*Mr Raymond McCartney*  
*Mr Seán Lynch*  
*Ms Bronwyn McGahan*

**Clause 17, Page 13, Line 36**

At end insert -

‘(e) make provision for a formal assessment in which the impact of any order upon a debtors dependants is given due regard’

*Mr Raymond McCartney*  
*Mr Seán Lynch*  
*Ms Bronwyn McGahan*

**Clause 18, Page 14, Line 24**

At end insert -

‘(f) a case where it can be demonstrated that such a seizure may adversely impact upon children or adult dependants of the debtor.’

*Mr Raymond McCartney*  
*Mr Seán Lynch*  
*Ms Bronwyn McGahan*

**Clause 29**, Page 22, Line 14

At end insert -

‘(2) The Ombudsman may for the purpose of any of the Ombudsman’s functions, initiate such investigations as the Ombudsman considers necessary or expedient.

(3) The Ombudsman may not exercise the power under 29 (2) unless he/she is satisfied that any investigation would be—

(a) in the public interest and

(b) the substance of the investigation would not fall within an existing statutory complaints or investigatory framework.’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 36**, Page 27, Line 16

At end insert -

‘(d) compel a person to assist in any investigation under this Part.’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 36**, Page 27

Leave out subsection (4) and insert -

‘(4) A person who refuses to assist an investigation under this Part or a person who intentionally obstructs an investigation under this Part commits an offence and is liable under summary conviction a fine not exceeding Level 3 on the standard scale.’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 38**

*The Members listed below give notice of their intention to oppose the question that clause 38 stand part of the Bill.*

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Schedule 3, Page 41, Line 22**

Leave out head (d) and insert -

- ‘(d) if, on conviction of a criminal offence and in the aftermath of risk assessment and the relevance of the offence to the post and it is found that the person is no longer suitable for the post; or’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Long Title**

After ‘penalties;’ insert ‘with the objectives of reducing imprisonment and creating more efficient arrangements for collection;’

*Mr Raymond McCartney*

*Mr Seán Lynch*

*Ms Bronwyn McGahan*

**Clause 9, Page 7, Line 32**

At end insert -

- ‘(i) if the debtor is an individual with a drug or alcohol addiction, make a Work Development and Rehabilitation of Debtors order that the debt shall be satisfied by attendance on an addiction course or programme of counselling;’

*Chair, Committee for Justice*

**Clause 9, Page 7, Line 32**

At end insert -

- ‘(j) if the debtor is an individual with a mental health condition, make an [a Work Development and Rehabilitation of Debtors] order that the debt shall be satisfied by attendance on a programme of psychiatric counselling;’

*Chair, Committee for Justice*

**Clause 9, Page 7, Line 32**

At end insert -

- ‘(k) if the debtor is a homeless person, make an [a Work Development and Rehabilitation of Debtors] order that the debt shall be satisfied by attendance on a period of unpaid community service;’

*Chair, Committee for Justice*

At end insert -

‘(2) The Department may by regulations provide for a Work Development and Rehabilitation of Debtors scheme under which a debtor referred to court may be required to undertake a course, counselling or community work in accordance with paragraphs (i), (j) and (k) above; the scheme to include appeal and consent mechanisms and the provision of supporting documentation by a relevant professional person.’

*Chair, Committee for Justice*

### **New Clause**

After clause 42 insert -

#### **‘Disclosing private sexual photographs and films with intent to cause distress**

**42A.**—(1) It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made—

- (a) without the consent of an individual who appears in the photograph or film, and
- (b) with the intention of causing that individual distress.

(2) But it is not an offence under this section for the person to disclose the photograph or film to the individual mentioned in subsection (1)(a) and (b).

(3) It is a defence for a person charged with an offence under this section to prove that he or she reasonably believed that the disclosure was necessary for the purposes of preventing, detecting or investigating crime.

(4) It is a defence for a person charged with an offence under this section to show that—

- (a) the disclosure was made in the course of, or with a view to, the publication of journalistic material, and
- (b) he or she reasonably believed that, in the particular circumstances, the publication of the journalistic material was, or would be, in the public interest.

(5) It is a defence for a person charged with an offence under this section to show that—

- (a) he or she reasonably believed that the photograph or film had previously been disclosed for reward, whether by the individual mentioned in subsection (1)(a) and (b) or another person, and
- (b) he or she had no reason to believe that the previous disclosure for reward was made without the consent of the individual mentioned in subsection (1)(a) and (b).

(6) A person is taken to have shown the matters mentioned in subsection (4) or (5) if—

- (a) sufficient evidence of the matters is adduced to raise an issue with respect to it, and
- (b) the contrary is not proved beyond reasonable doubt.

(7) For the purposes of subsections (1) to (5)—

- (a) “consent” to a disclosure includes general consent covering the disclosure, as well as consent to the particular disclosure, and
- (b) “publication” of journalistic material means disclosure to the public at large or to a section of the public.

(8) A person charged with an offence under this section is not to be taken to have disclosed a photograph or film with the intention of causing distress merely because that was a natural and probable consequence of the disclosure.

- (9) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).’

*Chair, Committee for Justice*

### **New Clause**

After clause 42 insert -

#### **‘Meaning of “disclose” and “photograph or film”**

**42B.**—(1) The following apply for the purposes of section 42A, this section and section 42C.

(2) A person “discloses” something to a person if, by any means, he or she gives or shows it to the person or makes it available to the person.

(3) Something that is given, shown or made available to a person is disclosed—

- (a) whether or not it is given, shown or made available for reward, and
- (b) whether or not it has previously been given, shown or made available to the person.

(4) “Photograph or film” means a still or moving image in any form that—

- (a) appears to consist of or include one or more photographed or filmed images, and
- (b) in fact consists of or includes one or more photographed or filmed images.

(5) The reference in subsection (4)(b) to photographed or filmed images includes photographed or filmed images that have been altered in any way.

(6) “Photographed or filmed image” means a still or moving image that—

- (a) was originally captured by photography or filming, or
- (b) is part of an image originally captured by photography or filming.

(7) “Filming” means making a recording, on any medium, from which a moving image may be produced by any means.

(8) References to a photograph or film include—

- (a) a negative version of an image described in subsection (4), and
- (b) data stored by any means which is capable of conversion into an image described in subsection (4).’

*Chair, Committee for Justice*

### **New Clause**

After clause 42 insert -

#### **‘Meaning of “private” and “sexual”**

**42C.**—(1) The following apply for the purposes of section 42A.

(2) A photograph or film is “private” if it shows something that is not of a kind ordinarily seen in public.

(3) A photograph or film is “sexual” if—

- (a) it shows all or part of an individual's exposed genitals or pubic area,
  - (b) it shows something that a reasonable person would consider to be sexual because of its nature, or
  - (c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.
- (4) Subsection (5) applies in the case of—
- (a) a photograph or film that consists of or includes a photographed or filmed image that has been altered in any way,
  - (b) a photograph or film that combines two or more photographed or filmed images, and
  - (c) a photograph or film that combines a photographed or filmed image with something else.
- (5) The photograph or film is not private and sexual if—
- (a) it does not consist of or include a photographed or filmed image that is itself private and sexual,
  - (b) it is only private or sexual by virtue of the alteration or combination mentioned in subsection (4), or
  - (c) it is only by virtue of the alteration or combination mentioned in subsection (4) that the person mentioned in section 42A(1)(a) and (b) is shown as part of, or with, whatever makes the photograph or film private and sexual.'

*Chair, Committee for Justice*