
STATUTORY INSTRUMENTS

2010 No. 976

**NORTHERN IRELAND
CONSTITUTIONAL LAW**

**The Northern Ireland Act 1998 (Devolution
of Policing and Justice Functions) Order 2010**

Made - - - - 31st March 2010

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 31st day of March 2010

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order has been approved by resolution of each House of Parliament:

Her Majesty, in exercise of the powers conferred by sections 86 and 86A of the Northern Ireland Act 1998(1), is pleased, by and with the advice of Her Privy Council, to order as follows:

PART 1

Introductory

Title and commencement

1.—(1) This Order may be cited as the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

(2) This Order shall come into force on the day on which the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010(2) (which devolves to the Northern Ireland Assembly legislative power in relation to policing and justice matters) comes into force.

(1) 1998 c. 47. Section 86 was amended by section 4 of the Northern Ireland Act 2009 (c. 3). Section 86A was inserted by section 19 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).

(2) S.I. 2010/977.

Extent

2.—(1) Subject to paragraph (2), an amendment or repeal contained in this Order has the same extent as the enactment or instrument or relevant part of the enactment or instrument to which the amendment or repeal relates.

(2) Nothing in this Order extends to a territory outside the United Kingdom.

Definitions

3. In this Order—

“the Department of Justice” means the Department of Justice in Northern Ireland;

“instrument” includes (in particular) Royal Charters, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, codes, guidance, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, warrants, certificates, deeds and other documents;

“property” includes rights and interests of any description;

“records” includes written records and records conveying information by any other means;

“relevant function” means—

(a) a function transferred by article 4(1), 15(1) to (4) or 17(2), or

(b) a function transferred by or by virtue of any provision of Schedules 2 to 19,

and the cases covered by paragraphs (a) and (b) include (in particular) cases where the function transferred was part of a larger function (for example, where a function that is exercisable in relation to England and Wales and Northern Ireland is transferred so far as it is exercisable in relation to Northern Ireland);

“relevant property or liability” means any property or liability transferred by article 18;

“transferor” and “transferee”, in relation to a relevant function or any relevant property or liability, mean respectively—

(a) the person from whom the function or property or liability is transferred, and

(b) the person to whom the function or property or liability is transferred.

PART 2

Provision consequential on devolution to the Northern Ireland Assembly of legislative power in relation to policing and justice matters

Transfer of certain policing and justice functions

4.—(1) The Secretary of State’s functions immediately before the coming into force of this Order under the enactments specified in Schedule 1 are transferred to the Department of Justice.

(2) The functions transferred by paragraph (1) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in Schedule 1 to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

(3) Schedule 2 (which makes amendments to enactments specified in Schedule 1 etc) has effect.

Functions relating to policing

5. Schedule 3 (which makes amendments relating to policing) has effect.

Functions relating to the treatment of offenders

- 6.—(1) Schedule 4 (which makes amendments relating to prisons) has effect.
- (2) Schedule 5 (which makes amendments relating to the release of prisoners on licence) has effect.
- (3) Schedule 6 (which makes amendments relating to miscarriages of justice and the Royal prerogative of mercy) has effect.
- (4) Schedule 7 (which amends the Criminal Justice and Public Order Act 1994⁽³⁾) has effect.
- (5) Schedule 8 (which amends the Repatriation of Prisoners Act 1984⁽⁴⁾ and the Crime (Sentences) Act 1997⁽⁵⁾) has effect.

Functions under the Corporate Manslaughter and Corporate Homicide Act 2007

7. Schedule 9 (which amends the Corporate Manslaughter and Corporate Homicide Act 2007⁽⁶⁾) has effect.

Functions under the Serious Crime Act 2007

8. Schedule 10 (which amends the Serious Crime Act 2007⁽⁷⁾) has effect.

Functions relating to firearms

9. Schedule 11 (which amends the Firearms (Northern Ireland) Order 2004⁽⁸⁾ and the Violent Crime Reduction Act 2006⁽⁹⁾) has effect.

Functions relating to explosives

10. Schedule 12 (which makes provision in relation to explosives) has effect.

Functions under the Justice (Northern Ireland) Act 2002

11. Schedule 13 (which amends the Justice (Northern Ireland) Act 2002⁽¹⁰⁾) has effect.

Functions relating to criminal justice

12. Schedule 14 (which makes amendments relating to criminal justice) has effect.

Functions under the Serious Organised Crime and Police Act 2005

13. Schedule 15 (which amends the Serious Organised Crime and Police Act 2005⁽¹¹⁾) has effect.

Functions relating to the private security industry

14. Schedule 16 (which amends the Private Security Industry Act 2001⁽¹²⁾) has effect.

(3) 1994 c. 33.

(4) 1984 c. 47.

(5) 1997 c. 43.

(6) 2007 c. 19.

(7) 2007 c. 27.

(8) S.I. 2004/702 (N.I. 3).

(9) 2006 c. 38.

(10) 2002 c. 26.

(11) 2005 c. 15.

(12) 2001 c. 12.

Functions of the Lord Chancellor etc

15.—(1) The Lord Chancellor’s functions immediately before the coming into force of this Order under the enactments specified in Schedule 17 are transferred to the Department of Justice.

(2) The Lord Chancellor’s functions immediately before the coming into force of this Order under sections 3(2)(b) and (8)(a), 5A(6) and 19(4) of, and paragraphs 1(2), 2(4), 3, 4(1), 5(6) and 6 of Schedule 2 to, the Justice (Northern Ireland) Act 2002(**13**) are transferred to the First Minister and deputy First Minister in Northern Ireland acting jointly.

(3) The Lord Chancellor’s functions immediately before the coming into force of this Order under paragraphs 1(3), 2(3) and 5(5) of Schedule 2 to the Justice (Northern Ireland) Act 2002(**14**) are transferred to the Office of the First Minister and deputy First Minister in Northern Ireland.

(4) The functions immediately before the coming into force of this Order of the Treasury or the Minister for the Civil Service under the following enactments are transferred to the Department of Finance and Personnel in Northern Ireland—

- (a) sections 2(1), (3) and (4) and 20(1) of the Administration of Justice Act (Northern Ireland) 1954(**15**);
- (b) sections 56(2), 75(7) and (9)(c), 79(1), 82(1) and 116(1) and (2) of the Judicature (Northern Ireland) Act 1978(**16**);
- (c) Article 53 of the County Courts (Northern Ireland) Order 1980(**17**);
- (d) Article 141(4) of the Judgments Enforcement (Northern Ireland) Order 1981(**18**);
- (e) Article 36(1) and (3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**19**);
- (f) Articles 10(1), 86A(6) and 139(3) of the Magistrates’ Courts (Northern Ireland) Order 1981(**20**);
- (g) Article 104(5) of the Mental Health (Northern Ireland) Order 1986(**21**);
- (h) Article 28(1) and (3) of the Juries (Northern Ireland) Order 1996(**22**);
- (i) Article 40(7)(b) of the Fair Employment and Treatment (Northern Ireland) Order 1998(**23**);
- (j) Articles 11(6)(d) and 21(5)(d) of the Access to Justice (Northern Ireland) Order 2003(**24**);
- (k) paragraphs 4(2)(b), (5)(c), (8) and (10) and 5(5)(b), (7) and (9) of Schedule 3 to that Order.

(13) 2002 c. 26. Section 3(2)(b) was amended by Schedule 1 to the Justice (Northern Ireland) Act 2004 (c. 4). Section 3(8) was amended by section 2 of the Justice (Northern Ireland) Act 2004 (c. 4). Section 5A was inserted by the Constitutional Reform Act 2005 (c. 4), section 123; and amended by the Northern Ireland Act 2009 (c. 3), Schedule 3, paragraph 4. Schedule 2 was amended by section 2 of, and Schedule 1 to, the Justice (Northern Ireland) Act 2004 (c. 4).

(14) 2002 c. 26. Schedule 2 was amended by section 2 of, and Schedule 1 to, the Justice (Northern Ireland) Act 2004 (c. 4).

(15) 1954 c. 9 (N.I.). Functions of the Ministry of Finance under sections 2 and 20 were transferred to the Treasury by S.I. 1973/2163.

(16) 1978 c. 23. Functions under the Act were transferred to the Treasury by S.I. 1981/1670. Section 75 was substituted by S.R. (N.I.) 1982/300; subsection (1) was substituted, and subsections (6) to (9) were inserted, by section 103 of the Courts Act 2003 (c. 39). Section 78(1) was amended by the Administration of Justice Act 1982 (c. 53) section 70, Schedule 8, paragraph 6. Section 82 was amended by the Administration of Justice Act 1982 (c. 53) section 70, Schedule 8, paragraph 8 and the Constitutional Reform Act 2005 (c. 4), section 59(5), Schedule 11, Part 3, paragraph 6.

(17) S.I. 1980/397 (N.I. 3).

(18) S.I. 1981/226 (N.I. 6).

(19) S.I. 1981/228 (N.I. 8). Article 36 was amended by S.I. 1982/159 and the Justice (Northern Ireland) Act 2002 (c. 26), Schedule 12, paragraph 26.

(20) S.I. 1981/1675 (N.I. 26). Article 86A(6) was inserted by S.I. 1993/1576 (N.I. 6).

(21) S.I. 1986/595 (N.I. 4).

(22) S.I. 1996/1141 (N.I. 6). There are amendments to the Order, but none are relevant to this Article.

(23) S.I. 1998/3162 (N.I. 21). There are amendments to the Order, but none are relevant to this Article.

(24) S.I. 2003/435 (N.I. 10). There are amendments to the Order, but none are relevant to this Article.

(5) Schedule 18 (which makes amendments relating to paragraphs (1) to (4) and other functions of the Lord Chancellor etc) has effect.

(6) The functions transferred by paragraphs (1) to (4) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in Schedule 17 or in paragraphs (2) to (4) to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

Public bodies etc

16. Schedule 19 (which makes amendments relating to public bodies etc) has effect.

Functions under subordinate legislation and other instruments

17.—(1) This article applies in relation to a relevant function.

(2) The transferor's functions immediately before the coming into force of this Order under any instrument made (or so far as made) in the exercise of the relevant function are transferred to the transferee.

(3) The functions transferred by paragraph (2) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and in paragraph (2) the reference to any instrument includes a reference to the instrument as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

(4) This article is subject to—

- (a) paragraphs 90 and 91 of Schedule 3 (which make provision in relation to the Royal Ulster Constabulary (Complaints etc.) Regulations 2000⁽²⁵⁾ etc);
- (b) paragraph 92 of Schedule 3 (which makes provision in relation to the Royal Ulster Constabulary GC Regulations 2002⁽²⁶⁾);
- (c) paragraph 110 of Schedule 3 (which makes provision in relation to the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005⁽²⁷⁾);
- (d) paragraphs 111 and 112 of Schedule 3 (which make provision in relation to the Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008⁽²⁸⁾ etc);
- (e) paragraphs 8 to 25 of Schedule 4 (which make provision in relation to the Prison and Young Offenders Centre Rules (Northern Ireland) 1995⁽²⁹⁾);
- (f) paragraphs 32 to 40 of Schedule 5 (which make provision in relation to the Parole Commissioners' Rules (Northern Ireland) 2009⁽³⁰⁾ etc);
- (g) paragraph 10(2) of Schedule 11 (which makes provision in relation to regulations about firearms etc);
- (h) paragraph 4 of Schedule 12 (which makes provision in relation to regulations about explosives etc).

Transfers of property etc

18.—(1) Paragraph (2) applies in relation to a function which—

⁽²⁵⁾ S.R. (N.I.) 2000 No. 318.

⁽²⁶⁾ S.R. (N.I.) 2002 No. 260.

⁽²⁷⁾ S.I. 2005/2042

⁽²⁸⁾ S.R. (N.I.) 2008 No. 242.

⁽²⁹⁾ S.R. (N.I.) 1995 No. 8.

⁽³⁰⁾ S.R. (N.I.) 2009 No. 82.

- (a) is a relevant function being transferred to the Department of Justice or the Minister in charge of that Department,
 - (b) is a function which, by virtue of the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010, becomes exercisable on Her Majesty's behalf under section 23(2) of the Northern Ireland Act 1998⁽³¹⁾, or
 - (c) is a function being transferred to the Department of Justice or the Minister in charge of that Department by or by virtue of the Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010.
- (2) Subject to paragraphs (3) and (4), all property and liabilities to which a Minister of the Crown or a government department is entitled or subject immediately before the coming into force of this Order are transferred to the Department of Justice so far as relating to the function.
- (3) All property and liabilities to which a Minister of the Crown or a government department is entitled or subject immediately before the coming into force of this Order in relation to the premises known as the Royal Courts of Justice, Chichester Street, Belfast BT1 3JY, are transferred to the Department of Justice.
- (4) All property and liabilities to which a Minister of the Crown or a government department is entitled or subject immediately before the coming into force of this Order are transferred to the Director of Public Prosecutions for Northern Ireland so far as relating to the premises listed in Schedule 20 or the contents of those premises.
- (5) Nothing in this article transfers—
- (a) any property or liabilities so far as relating to land outside Northern Ireland or the contents of such land;
 - (b) any property or liabilities so far as relating to any premises listed in Schedule 21 or the contents of those premises;
 - (c) any property or liabilities so far as relating to records (apart from records held by the Northern Ireland Court Service immediately before its abolition);
 - (d) any property or liabilities so far as relating to a person's employment in the civil service of the State.
- (6) The Department of Justice must make arrangements appearing to it to correspond to any arrangements in place immediately before the coming into force of this Order under which the Crown Solicitor and the staff of the Crown Solicitor's Office occupy parts of the premises mentioned in paragraph (3).
- (7) In particular, the arrangements—
- (a) must provide for the Crown Solicitor and staff to continue to be able to occupy those parts of the premises;
 - (b) may provide for the Crown Solicitor to pay to the Department of Justice amounts akin to a commercial rent and contributions to the costs of running the premises.
- (8) Paragraph (6) ceases to have effect on 12 April 2012 and is subject to any other agreement made between the Department of Justice and the Crown Solicitor.
- (9) In this article "government department" means—
- (a) a department of the Government of the United Kingdom, or
 - (b) the Northern Ireland Court Service (before its abolition).

(31) 1998 c. 47.

19.—(1) Persons who are members of the Northern Ireland Court Service immediately before its abolition are transferred to the Northern Ireland Civil Service to be employed in the Department of Justice.

(2) Persons—

(a) to whom this paragraph applies, and

(b) who are members of the Northern Ireland Civil Service holding positions in the Northern Ireland Office immediately before the coming into force of this Order,

are transferred to be employed in the Department of Justice.

(3) Paragraph (2) applies to a person if, after a draft of this Order was laid before Parliament but before the coming into force of this Order, the Secretary of State—

(a) determined that the person's duties in the Northern Ireland Office related wholly or mainly to functions within article 18(1)(a) to (c), and

(b) notified the person in writing that the person would transfer to the Department of Justice on the coming into force of this Order.

(4) Persons—

(a) to whom this paragraph applies, and

(b) who, immediately before 12 October 2010, are civil servants (but not members of the Northern Ireland Civil Service) holding positions in the Department of Justice in accordance with arrangements made between the Secretary of State and the Department of Justice,

transfer on that date to the Northern Ireland Civil Service to be employed in the Department of Justice.

(5) Paragraph (4) applies to a person if—

(a) immediately before the coming into force of this Order the person is a civil servant (but not a member of the Northern Ireland Civil Service),

(b) after a draft of this Order was laid before Parliament but before the coming into force of this Order, the Secretary of State determined that the person's duties as a civil servant related wholly or mainly to functions within article 18(1)(a) to (c), and

(c) after the coming into force of this Order but before 12 October 2010—

(i) the person notifies the Secretary of State and the Department of Justice in writing that the person agrees to transfer to the Northern Ireland Civil Service on 12 October 2010, and

(ii) the Secretary of State, with the agreement of the Department of Justice, notifies the person in writing that the person is to transfer to the Northern Ireland Civil Service on 12 October 2010.

(6) Persons—

(a) to whom this paragraph applies, and

(b) who, immediately before 12 April 2011, are civil servants (but not members of the Northern Ireland Civil Service) holding positions in the Department of Justice in accordance with arrangements made between the Secretary of State and the Department of Justice,

transfer on that date to the Northern Ireland Civil Service to be employed in the Department of Justice.

(7) Paragraph (6) applies to a person if—

- (a) immediately before the coming into force of this Order the person is a civil servant (but not a member of the Northern Ireland Civil Service),
- (b) after a draft of this Order was laid before Parliament but before the coming into force of this Order, the Secretary of State determined that the person's duties as a civil servant related wholly or mainly to functions within article 18(1)(a) to (c), and
- (c) after the coming into force of this Order but before 12 April 2011—
 - (i) the person notifies the Secretary of State and the Department of Justice in writing that the person agrees to transfer to the Northern Ireland Civil Service on 12 April 2011, and
 - (ii) the Secretary of State, with the agreement of the Department of Justice, notifies the person in writing that the person is to transfer to the Northern Ireland Civil Service on 12 April 2011.

(8) Persons—

- (a) to whom this paragraph applies, and
- (b) who, immediately before 12 April 2012, are civil servants (but not members of the Northern Ireland Civil Service) holding positions in the Department of Justice in accordance with arrangements made between the Secretary of State and the Department of Justice,

transfer on that date to the Northern Ireland Civil Service to be employed in the Department of Justice.

(9) Paragraph (8) applies to a person if—

- (a) immediately before the coming into force of this Order the person is a civil servant (but not a member of the Northern Ireland Civil Service),
- (b) after a draft of this Order was laid before Parliament but before the coming into force of this Order, the Secretary of State determined that the person's duties as a civil servant related wholly or mainly to functions within article 18(1)(a) to (c), and
- (c) after the coming into force of this Order but before 12 April 2012—
 - (i) the person notifies the Secretary of State and the Department of Justice in writing that the person agrees to transfer to the Northern Ireland Civil Service on 12 April 2012, and
 - (ii) the Secretary of State, with the agreement of the Department of Justice, notifies the person in writing that the person is to transfer to the Northern Ireland Civil Service on 12 April 2012.

(10) Paragraph (11) applies if—

- (a) in accordance with arrangements made between the Secretary of State and the Department of Justice, a person who is a civil servant (but not a member of the Northern Ireland Civil Service) is holding a position in the Department of Justice at any time after the coming into force of this Order,
- (b) immediately before the coming into force of this Order the person was a member of the Senior Civil Service (and not the Northern Ireland Senior Civil Service), and
- (c) after a draft of this Order was laid before Parliament but before the coming into force of this Order, the Secretary of State determined that the person's duties in the Senior Civil Service related wholly or mainly to functions within article 18(1)(a) to (c).

(11) While the person is holding the position in the Department of Justice, the Departments (Northern Ireland) Order 1999⁽³²⁾ has effect as if the person were a member of the Northern Ireland Senior Civil Service employed in the Department of Justice and, accordingly, the person is to be treated for the purposes of that Order as if the person were a senior officer of the Department of Justice.

(12) Paragraph (11) ceases to have effect on 12 April 2012.

(13) The Transfer of Undertakings (Protection of Employment) Regulations 2006⁽³³⁾ apply to a transfer by this article whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those Regulations.

- 20.** Subject to article 19(13), articles 18 and 19 operate so as to transfer property and liabilities—
- (a) whether or not they would otherwise be capable of being transferred,
 - (b) without any instrument or other formality being required, and
 - (c) irrespective of any kind of requirement for consent that would otherwise apply.

21.—(1) The Secretary of State may give such directions extending or restricting the operation of article 18 as the Secretary of State considers appropriate for the purpose of—

- (a) making minor adjustments of any property or liabilities transferred by that article, or
- (b) removing uncertainty as to the application of that article to any property or liabilities.

(2) A direction under paragraph (1) may (in particular) provide for dividing or apportioning any property or liabilities between, on the one hand, a Minister of the Crown or a department of the Government of the United Kingdom and, on the other hand, the Department of Justice or the Director of Public Prosecutions for Northern Ireland.

(3) Before giving a direction under paragraph (1) the Secretary of State must consult the Department of Justice or, if the Secretary of State considers appropriate, the Director of Public Prosecutions for Northern Ireland.

(4) A certificate issued by the Secretary of State to the effect that any property or liabilities specified in the certificate were, or were not, transferred by article 18 to the Department of Justice or to the Director of Public Prosecutions for Northern Ireland is conclusive evidence of the matters stated in the certificate.

(5) But the issue of a certificate under paragraph (4) does not prevent a subsequent direction being given under paragraph (1) in relation to the property or liabilities in question.

(6) A direction may not be given under paragraph (1) after 12 April 2012.

(7) A direction under paragraph (1) operates so as to adjust, apportion, divide or otherwise affect any property or liabilities—

- (a) whether or not they would otherwise be capable of being adjusted, apportioned, divided or otherwise affected,
- (b) without any instrument or other formality being required, and
- (c) irrespective of any kind of requirement for consent that would otherwise apply.

22.—(1) The Secretary of State must give directions, as the Secretary of State considers appropriate in consequence of the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (taking into account the provisions of this Order and the Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010), setting out arrangements

⁽³²⁾ [S.I. 1999/283 \(N.I. 1\)](#). A reference to the Department of Justice is inserted into Schedule 1 by section 1(3) of the Department of Justice Act (Northern Ireland) 2010 (c. 3) (N.I.).

⁽³³⁾ [S.I. 2006/246](#).

under which the Department of Justice may use, or otherwise have access to, existing Northern Ireland Office records.

(2) Paragraph (3) applies if—

- (a) property or liabilities in a computer system are transferred to the Department of Justice by article 18, and
- (b) on the coming into force of this Order, existing Northern Ireland Office records are held on that system.

(3) The Department of Justice is to hold the records on that system on behalf of the Northern Ireland Office, so far as required by, and in accordance with, arrangements directed by the Secretary of State.

(4) Arrangements directed under this article may (in particular) provide—

- (a) for records to be excluded from the arrangements;
- (b) for access to records to be prohibited or restricted;
- (c) for conditions to be imposed in relation to the use or accessing of records;
- (d) for records to be handed back to the Northern Ireland Office.

(5) In this article “existing Northern Ireland Office records” means any records which, immediately before the coming into force of this Order, are held by the Northern Ireland Office.

PART 3

The Northern Ireland Act 1998

Quasi-judicial decisions

23. In section 20 of the Northern Ireland Act 1998⁽³⁴⁾ (Executive Committee) after subsection (4) insert—

“(5) Subsections (3) and (4) are subject to subsection (6).

(6) Quasi-judicial decisions may be made by the Department of Justice or the Minister in charge of that Department without recourse to the Executive Committee.”

Royal prerogative of mercy

24.—(1) Amend section 23 of the Northern Ireland Act 1998 (prerogative and executive powers) as follows.

(2) In subsection (2) for “subsection (3)” substitute “subsections (2A) and (3)”.

(3) After subsection (2) insert—

“(2A) So far as the Royal prerogative of mercy is exercisable on Her Majesty’s behalf under subsection (2), it is exercisable only by the Minister in charge of the Department of Justice.”

25.—(1) This article applies if—

- (a) before the coming into force of this Order the Secretary of State recommended, or refused to recommend, the exercise of the Royal prerogative of mercy in any case, and

⁽³⁴⁾ 1998 c. 47. Section 20 was amended by section 5 of the Northern Ireland (St Andrews Agreement) Act 2006 (c. 53).

(b) by virtue of the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 the Royal prerogative of mercy becomes exercisable on Her Majesty's behalf under section 23(2) of the Northern Ireland Act 1998 in that case.

(2) If the Secretary of State made a recommendation, Her Majesty may act on the recommendation despite section 23(2).

(3) If the Secretary of State refused to make a recommendation, the refusal is to be treated as if it were a refusal by the Minister in charge of the Department of Justice to exercise the Royal prerogative of mercy on Her Majesty's behalf under section 23(2); and any legal proceedings in relation to the refusal are to be brought or continued accordingly.

Amendment of paragraph 11A of Schedule 2 to the Northern Ireland Act 1998 consequential on repeal of paragraph 14A of Schedule 3 to that Act

26. In paragraph 11A of Schedule 2 to the Northern Ireland Act 1998⁽³⁵⁾ (excepted matters: the Supreme Court) at the end insert “, but not rights of appeal to the Supreme Court or legal aid for appeals to the Supreme Court”.

Repeals of earlier amendments of Schedule 3 to the Northern Ireland Act 1998

27.—(1) Paragraph 24(4) of Schedule 6 to the Police (Northern Ireland) Act 2000⁽³⁶⁾ (which amended paragraph 11 of Schedule 3 to the Northern Ireland Act 1998) is omitted.

(2) The following provisions of the Justice (Northern Ireland) Act 2002⁽³⁷⁾ are omitted—

- (a) section 83 (which inserted paragraphs 9(h), 9A and 15A into Schedule 3 to the 1998 Act);
- (b) paragraph 65(3) of Schedule 12 (which amended paragraph 9 of Schedule 3 to the 1998 Act).

(3) Section 58(3) of the Constitutional Reform Act 2005⁽³⁸⁾ (which inserted paragraph 14A into Schedule 3 to the 1998 Act) is omitted.

(4) Paragraph 13(3) of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006⁽³⁹⁾ (which inserted paragraph 11A into Schedule 3 to the 1998 Act) is omitted.

PART 4

General transitional provision

28. This Order does not affect the validity of anything done before the coming into force of this Order.

29.—(1) Paragraphs (2) and (3) apply in relation to a relevant function or any relevant property or liability.

(2) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the transferor may, so far as it relates to the relevant function or relevant property or liability, be continued by or in relation to the transferee.

(3) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with the relevant function or relevant property or liability shall have effect as

⁽³⁵⁾ 1998 c. 47. Paragraph 11A was inserted by section 58 of the Constitutional Reform Act 2005 (c. 4).

⁽³⁶⁾ 2000 c. 32.

⁽³⁷⁾ 2002 c. 26.

⁽³⁸⁾ 2005 c. 4.

⁽³⁹⁾ 2006 c. 33.

if done by or in relation to the transferee so far as necessary or expedient for continuing its effect after the coming into force of this Order.

(4) Where the thing done (or having effect as if done) by the transferor is the exercise of a relevant function by statutory instrument, paragraph (3) applies in relation to the exercise of the relevant function even though the relevant function is not exercisable by the transferee by statutory instrument.

(5) Documents or forms printed for use in connection with a relevant function may be used in connection with the function even though they contain, or are to be construed as containing, references to the transferor; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the transferee.

30. Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as necessary or expedient in consequence of or for giving full effect to—

- (a) the transfer of a relevant function or any relevant property or liability, or
- (b) article 28 or 29,

as if any references (including references which are to be construed as such references) to the transferor were or included references to the transferee.

31.—(1) An instrument made before the coming into force of this Order is not to be subject (in whole or in part) to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**40**)) despite any provision made by this Order.

(2) If, immediately before the coming into force of this Order, the instrument is subject to annulment in pursuance of a resolution of either House of Parliament, the instrument is to continue to be so subject.

Judith Simpson
Clerk of the Privy Council

(40) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

SCHEDULES

SCHEDULE 1

Article 4(1)

Enactments under which functions of Secretary of State are transferred to the Department of Justice

1. Administration of Justice Act (Northern Ireland) 1954**(41)**.
2. Section 2 of the Increase of Fines Act (Northern Ireland) 1967**(42)**.
3. Treatment of Offenders Act (Northern Ireland) 1968**(43)**.
4. Treatment of Offenders (Northern Ireland) Order 1976**(44)**.
5. Criminal Damage (Compensation) (Northern Ireland) Order 1977**(45)**.
6. Rehabilitation of Offenders (Northern Ireland) Order 1978**(46)**.
7. Criminal Justice (Northern Ireland) Order 1980**(47)**.
8. Article 180C of the Road Traffic (Northern Ireland) Order 1981**(48)**.
9. Article 15 of the Magistrates' Courts (Northern Ireland) Order 1981**(49)**.
10. Fines and Penalties (Northern Ireland) Order 1984**(50)**.
11. Mental Health (Northern Ireland) Order 1986**(51)**.
12. Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988**(52)**.
13. The definition of "authorised place of detention" in Article 2(2) of the Criminal Evidence (Northern Ireland) Order 1988**(53)**.
14. Police and Criminal Evidence (Northern Ireland) Order 1989**(54)**.
15. Treatment of Offenders (Northern Ireland) Order 1989**(55)**.

(41) 1954 c. 9 (N.I.). Functions under the Act were transferred to the Secretary of State by S.I. 1973/2163.

(42) 1967 c. 29 (N.I.). By virtue of paragraph 8 of Schedule 12 to the Northern Ireland Act 1998 (c. 47) the reference to the making of an Order in Council by the Governor of Northern Ireland is to be construed as a reference to the making of an order by the Secretary of State.

(43) 1968 c. 29 (N.I.). Functions under the Act were transferred to the Secretary of State by S.I. 1973/2163.

(44) S.I. 1976/226 (N.I. 4). The whole of the Order is prospectively repealed by S.I. 2008/1216 (N.I. 1).

(45) S.I. 1977/1247 (N.I. 14). Relevant amendments were made by S.I. 1991/1711 (N.I. 16) and S.I. 2009/884 (N.I. 1).

(46) S.I. 1978/1908 (N.I. 27).

(47) S.I. 1980/704 (N.I. 6).

(48) S.I. 1981/154 (N.I. 1). Article 180C was inserted as "180D" by S.I. 2007/916 (N.I. 10) and re-numbered as "180C" by S.R. (N.I.) 2008 No. 244.

(49) S.I. 1981/1675 (N.I. 26). Relevant amendments were made by S.I. 1996/3160 (N.I. 24). There are other amendments, not relevant to this Schedule.

(50) S.I. 1984/703 (N.I. 3). Relevant amendments were made by S.I. 1993/1576 (N.I. 6); S.I. 1994/2795 (N.I. 15); the Criminal Justice and Public Order Act 1994 (c. 33); S.I. 1996/3160 (N.I. 24).

(51) S.I. 1986/595 (N.I. 4). Relevant amendments were made by S.I. 1996/3160 (N.I. 24).

(52) S.I. 1988/1846 (N.I. 16).

(53) S.I. 1988/1987 (N.I. 20). The definition of "authorised place of detention" was inserted by S.I. 1999/2789 (N.I. 8).

(54) S.I. 1989/1341 (N.I. 12). Relevant amendments were made by section 72 of the Police (Northern Ireland) Act 2000 (c. 32); sections 42 and 43 of the Police (Northern Ireland) Act 2003 (c. 6); and S.I. 2007/288 (N.I. 2).

(55) S.I. 1989/1344 (N.I. 15).

Status: This is the original version (as it was originally made).

16. Articles 13 and 17B of the Road Traffic (Northern Ireland) Order 1995(56).
17. Schedules 1 and 2 to the Proceeds of Crime (Northern Ireland) Order 1996(57).
18. Article 9 of the Road Traffic Offenders (Northern Ireland) Order 1996(58).
19. Articles 49 and 60A(3) of the Licensing (Northern Ireland) Order 1996(59).
20. Criminal Justice (Northern Ireland) Order 1996(60).
21. Article 9(1)(c) of the Protection from Harassment (Northern Ireland) Order 1997(61).
22. Criminal Justice (Children) (Northern Ireland) Order 1998(62), except for Articles 45 and 46.
23. Criminal Justice (Northern Ireland) Order 1998(63).
24. Criminal Evidence (Northern Ireland) Order 1999(64).
25. Criminal Injuries Compensation (Northern Ireland) Order 2002(65), except functions transferred by virtue of paragraph 39 of Schedule 4 to the Northern Ireland Act 2009(66).
26. Criminal Justice (Northern Ireland) Order 2003(67).
27. Criminal Justice (Northern Ireland) Order 2004(68).
28. Criminal Justice (Evidence) (Northern Ireland) Order 2004(69).
29. Anti-social Behaviour (Northern Ireland) Order 2004(70).
30. Criminal Justice (Northern Ireland) Order 2005(71).
31. Road Traffic (Northern Ireland) Order 2007(72).
32. Criminal Justice (Northern Ireland) Order 2008(73), except for Chapters 4 and 7 of Part 2.
33. Sexual Offences (Northern Ireland) Order 2008(74).

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- (56) [S.I. 1995/2994 \(N.I. 18\)](#). Article 13 was amended by [S.I. 2005/1965 \(N.I. 15\)](#). Article 17B was inserted by [S.I. 2007/916 \(N.I. 10\)](#).
- (57) [S.I. 1996/1299 \(N.I. 9\)](#).
- (58) [S.I. 1996/1320 \(N.I. 10\)](#).
- (59) [S.I. 1996/3158 \(N.I. 22\)](#). Article 60A was inserted by [S.I. 2008/1216 \(N.I. 1\)](#).
- (60) [S.I. 1996/3160 \(N.I. 24\)](#). Relevant amendments were made by [S.I. 2003/1247 \(N.I. 13\)](#).
- (61) [S.I. 1997/1180 \(N.I. 9\)](#).
- (62) [S.I. 1998/1504 \(N.I. 9\)](#). Relevant amendments were made by the Justice (Northern Ireland) Act 2002 (c. 26), sections 54-60. There are other amendments, but none are relevant to this Schedule.
- (63) [S.I. 1998/2839 \(N.I. 20\)](#), to which there are amendments not relevant to this Schedule.
- (64) [S.I. 1999/2789 \(N.I. 8\)](#). Relevant amendments were made by [S.I. 2003/1247 \(N.I. 13\)](#). There are other amendments, but none are relevant to this Schedule.
- (65) [S.I. 2002/796 \(N.I. 1\)](#).
- (66) 2009 c. 3.
- (67) [S.I. 2003/1247 \(N.I. 13\)](#); to which there are amendments not relevant to this Schedule.
- (68) [S.I. 2004/1500 \(N.I. 9\)](#).
- (69) [S.I. 2004/1501 \(N.I. 10\)](#).
- (70) [S.I. 2004/1988 \(N.I. 12\)](#); Relevant amendments were made by [S.I. 2005/1965 \(N.I. 15\)](#). There are other amendments, but none are relevant to this Schedule.
- (71) [S.I. 2005/1965 \(N.I. 15\)](#), as amended by [S.I. 2007/288 \(N.I. 2\)](#) and [S.I. 2008/1216 \(N.I. 1\)](#).
- (72) [S.I. 2007/916 \(N.I. 10\)](#); as amended by [S.R. \(N.I.\) 2008 No. 244](#).
- (73) [S.I. 2008/1216 \(N.I. 1\)](#); as amended by [S.I. 2008/1769 \(N.I. 2\)](#).
- (74) [S.I. 2008/1769 \(N.I. 2\)](#).

SCHEDULE 2

Article 4(3)

Amendments of enactments specified in Schedule 1

Administration of Justice Act (Northern Ireland) 1954

1. Omit section 10 of the Administration of Justice Act (Northern Ireland) 1954**(75)**.

Increase of Fines Act (Northern Ireland) 1967

- 2.—(1) Amend section 2 of the Increase of Fines Act (Northern Ireland) 1967**(76)** (power to make amendments as a result of the increase and variation of penalties under the Act) as follows.
 - (2) In subsection (1) for “The Governor may, by Order in Council” substitute “The Department of Justice may by order”.
 - (3) In subsection (1)(a) and (b) for “him” substitute “it”.
 - (4) For subsection (2) substitute—

“(2) No order shall be made by the Department of Justice under this section unless a draft of it has been laid before, and approved by a resolution of, the Assembly.”

Treatment of Offenders Act (Northern Ireland) 1968

- 3.—(1) Amend the Treatment of Offenders Act (Northern Ireland) 1968**(77)** as follows.
 - (2) Omit section 32 (financial provisions).
 - (3) In section 32A(2) (rules) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Treatment of Offenders (Northern Ireland) Order 1976

4. In Article 18 of the Treatment of Offenders (Northern Ireland) Order 1976**(78)** (rules and orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Damage (Compensation) (Northern Ireland) Order 1977

- 5.—(1) Amend the Criminal Damage (Compensation) (Northern Ireland) Order 1977**(79)** as follows.
 - (2) Omit Article 20 (payments into Consolidated Fund).
 - (3) In Article 21(4) (orders and regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(75) 1954 c. 9 (N.I.), as amended by S.I. 1973/2163.

(76) 1967 c. 29 (N.I.) By virtue of paragraph 8 of Schedule 12 to the Northern Ireland Act 1998 (c. 47) the reference to the making of an Order in Council by the Governor of Northern Ireland is to be construed as a reference to the making of an order by the Secretary of State.

(77) 1968 c. 29 (N.I.). Functions under the Act were transferred by S.I. 1973/2163. Section 32A was inserted by S.I. 1996/3160 (N.I. 24).

(78) S.I. 1976/226 (N.I. 4). The whole of the Order is prospectively repealed by S.I. 2008/1216 (N.I. 1).

(79) S.I. 1977/1247 (N.I. 14). Relevant amendments were made by S.I. 1991/1711 (N.I. 16) and S.I. 2009/884 (N.I. 1).

Status: This is the original version (as it was originally made).

Rehabilitation of Offenders (Northern Ireland) Order 1978

- 6.—(1) Amend the Rehabilitation of Offenders (Northern Ireland) Order 1978(**80**) as follows.
- (2) In Article 6 (rehabilitation periods for particular sentences)—
- (a) in paragraph (1)(d) for “Secretary of State or the Governor” substitute “Minister in charge of the Department of Justice”;
 - (b) in paragraph (13) for “resolution of, each House of Parliament” substitute “a resolution of, the Assembly”.
- (3) In Article 11 (orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Justice (Northern Ireland) Order 1980

- 7.—(1) Amend Article 11 of the Criminal Justice (Northern Ireland) Order 1980(**81**) (medical practitioners for post-mortem examinations) as follows.
- (2) In paragraph (2) for “Minister for the Civil Service” substitute “Department of Finance and Personnel”.
- (3) In paragraph (4) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Road Traffic (Northern Ireland) Order 1981

- 8.—(1) Amend the Road Traffic (Northern Ireland) Order 1981(**82**) as follows.
- (2) In Article 180C(4) (retention etc. of vehicles seized under Article 180B) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Fines and Penalties (Northern Ireland) Order 1984

- 9.—(1) Amend the Fines and Penalties (Northern Ireland) Order 1984(**83**) as follows.
- (2) In Article 17(6)(a) (power to alter sums specified in certain provisions) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Mental Health (Northern Ireland) Order 1986

- 10.—(1) Amend the Mental Health (Northern Ireland) Order 1986(**84**) as follows.
- (2) For paragraph 1(4) of Schedule 2A (supervision and treatment orders) substitute—
- “(4) An order under sub-paragraph (2) is subject to negative resolution.”

(80) S.I. 1978/1908 (N.I. 27).

(81) S.I. 1980/704 (N.I. 6); to which there are amendments not relevant to this Schedule.

(82) S.I. 1981/154 (N.I. 1). Articles 180B and 180C were inserted as “180C” and “180D” respectively by S.I. 2007/916 (N.I. 10) and re-numbered as “180B” and “180C” by S.R. (N.I.) 2008 No. 244 (C. 13).

(83) S.I. 1984/703 (N.I. 3). Relevant amendments were made by S.I. 1993/1576 (N.I. 6); S.I. 1994/2795 (N.I. 15); the Criminal Justice and Public Order Act 1994 (c. 33); S.I. 1996/3160 (N.I. 24).

(84) S.I. 1986/595 (N.I. 4). Schedule 2A was inserted by S.I. 1996/3160 (N.I. 24).

Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988

11.—(1) Amend the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988⁽⁸⁵⁾ as follows.

(2) In Article 4(8) (notices of transfer) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Evidence (Northern Ireland) Order 1988

12.—(1) Amend the Criminal Evidence (Northern Ireland) Order 1988⁽⁸⁶⁾ as follows.

(2) In Article 2(2) (interpretation and savings), in the definition of “authorised place of detention”, for the words from “annulment” to “accordingly” substitute “negative resolution”.

Police and Criminal Evidence (Northern Ireland) Order 1989

13.—(1) Amend the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁸⁷⁾ as follows.

(2) In Article 66 (codes of practice)—

(a) in paragraph (3) for “both Houses of Parliament” substitute “the Assembly”;

(b) in paragraph (4) for “Parliament” substitute “the Assembly”.

(3) In Article 89 (orders and regulations) make the existing text paragraph (1).

(4) In paragraph (1) for the words from “Articles” to “46A” substitute “Article 85(1)”.

(5) After paragraph (1) insert—

“(2) Orders made by the Department of Justice under Article 53, 60, 60A or 66 shall be subject to negative resolution.

(3) Regulations made by the Department of Justice under Article 29(4) or 46A shall be subject to negative resolution.”

Road Traffic (Northern Ireland) Order 1995

14.—(1) Amend the Road Traffic (Northern Ireland) Order 1995⁽⁸⁸⁾ as follows.

(2) In Article 13(2B) (interpretation: orders designating health care professions) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Proceeds of Crime (Northern Ireland) Order 1996

15.—(1) Amend the Proceeds of Crime (Northern Ireland) Order 1996⁽⁸⁹⁾ as follows.

(2) In Article 56 (regulations extending certain offences to Crown servants)—

(a) in paragraph (1) for “Secretary of State” substitute “appropriate authority”;

(b) in paragraph (5), at the appropriate place, insert—

““the appropriate authority” means—

⁽⁸⁵⁾ S.I. 1988/1846 (N.I. 16).

⁽⁸⁶⁾ S.I. 1988/1987 (N.I. 20). The definition of “authorised place of detention” was inserted by S.I. 1999/2789 (N.I. 8).

⁽⁸⁷⁾ S.I. 1989/1341 (N.I. 12). Article 89 was amended by section 72 of the Police (Northern Ireland) Act 2000 (c. 32); section 42 of the Police (Northern Ireland) Act 2003 (c. 6); and S.I. 2007/288 (N.I. 2).

⁽⁸⁸⁾ S.I. 1995/2994 (N.I. 18). Article 13(2B) was inserted by S.I. 2005/1965 (N.I. 15).

⁽⁸⁹⁾ S.I. 1996/1299 (N.I. 9). Article 56 was amended by Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

Status: This is the original version (as it was originally made).

- (a) in relation to persons in the public service of the Crown in right of Her Majesty's Government in the United Kingdom, the Secretary of State;
- (b) otherwise, the Department of Justice;";
- (c) in paragraph (5), in the definition of "prescribed", for "Secretary of State" substitute "appropriate authority";
- (d) after paragraph (5) insert—
 - "(5A) Regulations made by the Department of Justice under this Article shall be subject to negative resolution.";
- (e) in paragraph (6) after "Regulations" insert "made by the Secretary of State".
- (3) In paragraph 2 of Part 2 of Schedule 1 (orders varying list of offences) for the words from "annulment" to "accordingly" substitute "negative resolution".
- (4) In paragraph 8(3) of Schedule 2 (financial investigations: code of practice)—
 - (a) for "both Houses of Parliament" substitute "the Assembly";
 - (b) for "code before both Houses" substitute "code before the Assembly".
- (5) In paragraph 9 of Schedule 2 (regulations) for the words from "annulment" to "accordingly" substitute "negative resolution".

Road Traffic Offenders (Northern Ireland) Order 1996

16.—(1) Amend Article 9 of the Road Traffic Offenders (Northern Ireland) Order 1996⁽⁹⁰⁾ (power to join in indictment counts for certain summary offences) as follows.

(2) In paragraph (6) for the words from "annulment" to "accordingly" substitute "negative resolution".

Licensing (Northern Ireland) Order 1996

17. In Article 84(b) of the Licensing (Northern Ireland) Order 1996⁽⁹¹⁾ (exemptions and savings) after "the authority of" insert "the Department of Justice,".

Criminal Justice (Northern Ireland) Order 1996

18.—(1) Amend the Criminal Justice (Northern Ireland) Order 1996⁽⁹²⁾ as follows.

(2) In Article 57 (rules and orders) for the words from "annulment" to "accordingly" substitute "negative resolution".

Criminal Justice (Children) (Northern Ireland) Order 1998

19.—(1) Amend the Criminal Justice (Children) (Northern Ireland) Order 1998⁽⁹³⁾ as follows.

(2) In Article 3B(3) (youth conference rules) for the words from "annulment" to "such rules" substitute "negative resolution".

⁽⁹⁰⁾ S.I. 1996/1320 (N.I. 10).

⁽⁹¹⁾ S.I. 1996/3158 (N.I. 22).

⁽⁹²⁾ S.I. 1996/3160 (N.I. 24). Article 57 was amended by S.I. 2003/1247 (N.I. 13).

⁽⁹³⁾ S.I. 1998/1504 (N.I. 9). Articles 3A to 3C were inserted by section 57 of the Justice (Northern Ireland) Act 2002 (c. 26). Articles 33A to 33E were inserted by section 59 of that Act. Articles 36A to 36D were inserted by section 54 of that Act. Articles 36E to 36I were inserted by section 55 of that Act. Articles 36J to 36L were inserted by section 60 of that Act. Other amendments have been made to the Order which are not relevant to this Schedule.

(3) In Article 3C(9) (youth conference plans) for the words from “annulment” to “such rules” substitute “negative resolution”.

(4) In Article 33A(11) (court-ordered youth conferences) for the words from “annulment” to “such an order” substitute “negative resolution”.

(5) In Article 36C(7) (requirements of reparation orders) for the words from “annulment” to “such rules” substitute “negative resolution”.

(6) In Article 36E(10) (community responsibility orders) for the words from “annulment” to “such an order” substitute “negative resolution”.

(7) In Article 36H(3) (rules relating to community responsibility orders) for the words from “annulment” to “such rules” substitute “negative resolution”.

(8) In Article 36L(3) (monitoring compliance with youth conference orders) for the words from “annulment” to “such rules” substitute “negative resolution”.

(9) In Article 40(5) (supervision under a juvenile justice centre order) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Justice (Northern Ireland) Order 1998

20. In Article 8(7) of the Criminal Justice (Northern Ireland) Order 1998(**94**) (drug treatment and testing orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Evidence (Northern Ireland) Order 1999

21.—(1) Amend the Criminal Evidence (Northern Ireland) Order 1999(**95**) as follows.

(2) In Article 38(1) (orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Injuries Compensation (Northern Ireland) Order 2002

22.—(1) Amend the Criminal Injuries Compensation (Northern Ireland) Order 2002(**96**) as follows.

(2) In Article 3 (duty to make arrangements for payment of compensation etc)—

(a) in paragraph (1) for the words from “Secretary” to “Parliament” substitute “Department of Justice shall make arrangements for the payment by it”;

(b) in paragraph (7) for “each House of Parliament” substitute “the Assembly”.

(3) In Article 8 (reports, accounts and financial records)—

(a) in paragraph (3) for “each House of Parliament” substitute “the Assembly”;

(b) in paragraph (5) after “General” insert “for Northern Ireland”;

(c) in paragraph (6)—

(i) after “General” insert “for Northern Ireland”;

(ii) in sub-paragraph (b) for “each House of Parliament” substitute “the Assembly”.

(4) Nothing in this Order affects the application of Article 8(4) to (6) of the 2002 Order, or any provision included in the Northern Ireland Criminal Injuries Compensation Scheme by virtue of Article 8(4), in relation to any financial year ending before the coming into force of this Order.

(94) S.I. 1998/2839 (N.I. 20).

(95) S.I. 1999/2789 (N.I. 8).

(96) S.I. 2002/796 (N.I. 1).

Status: This is the original version (as it was originally made).

- (5) In Article 9 (approval of the Northern Ireland Criminal Injuries Compensation Scheme)—
- (a) in paragraph (1) for “Parliament” substitute “the Assembly”;
 - (b) in paragraph (2) for “each House” substitute “the Assembly”.
- (6) In Article 10 (alterations to the Scheme)—
- (a) in paragraphs (1), (2), (3) and (4)(b) for “Parliament” substitute “the Assembly”;
 - (b) in paragraph (2) for “each House” substitute “the Assembly”;
 - (c) in paragraph (4)—
 - (i) for “either House of Parliament” substitute “the Assembly”;
 - (ii) for “that House” substitute “the Assembly”;
 - (iii) for “period of 40 days beginning with”, where it first occurs, substitute “statutory period next after”;
 - (iv) in sub-paragraph (b) for “period of 40 days” substitute “statutory period”;
 - (d) omit paragraph (5).
- (7) Omit Article 13(4) (financial provisions).

Criminal Justice (Northern Ireland) Order 2003

- 23.**—(1) Amend the Criminal Justice (Northern Ireland) Order 2003(**97**) as follows.
- (2) In Article 17(1) (regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Justice (Northern Ireland) Order 2004

- 24.**—(1) Amend the Criminal Justice (Northern Ireland) Order 2004(**98**) as follows.
- (2) In Article 34(2) (orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Justice (Evidence) (Northern Ireland) Order 2004

- 25.**—(1) Amend the Criminal Justice (Evidence) (Northern Ireland) Order 2004(**99**) as follows.
- (2) In Article 45(2) (orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Anti-social Behaviour (Northern Ireland) Order 2004

- 26.**—(1) Amend the Anti-social Behaviour (Northern Ireland) Order 2004(**100**) as follows.
- (2) In Article 2(4C) (interpretation) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(97) S.I. 2003/1247 (N.I. 13).

(98) S.I. 2004/1500 (N.I. 9).

(99) S.I. 2004/1501 (N.I. 10).

(100) S.I. 2004/1988 (N.I. 12). Article 2(4A) to (4C) was inserted by S.I. 2005/1965 (N.I. 15).

Criminal Justice (Northern Ireland) Order 2005

27.—(1) Amend the Criminal Justice (Northern Ireland) Order 2005(**101**) as follows.

(2) In Article 25(7) (information for victims of crime) for the words from “each” to “accordingly” substitute “the Assembly, be subject to negative resolution”.

Road Traffic (Northern Ireland) Order 2007

28.—(1) Amend the Road Traffic (Northern Ireland) Order 2007(**102**) as follows.

(2) In Article 80(5) (funding for automatic number plate recognition) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Sexual Offences (Northern Ireland) Order 2008

29.—(1) Amend the Sexual Offences (Northern Ireland) Order 2008(**103**) as follows.

(2) In Article 80 (orders)—

- (a) omit paragraph (1);
- (b) for paragraph (2) substitute—

“(2) Orders under this Order (except an order under Article 1(3)) shall be subject to negative resolution.”

SCHEDULE 3

Article 5

Amendments relating to policing

Public Order (Northern Ireland) Order 1987

1. Amend the Public Order (Northern Ireland) Order 1987(**104**) as follows.

2.—(1) Amend Article 5 (prohibiting open-air public meetings) as follows.

(2) In paragraph (1)—

- (a) for “Secretary of State” substitute “Department of Justice”;
- (b) for “him” and “he” substitute “the Department of Justice”;
- (c) in sub-paragraph (b)(iii) omit “or military forces”.

(3) After paragraph (1) insert—

“(1ZA) If at any time the Secretary of State is of the opinion, in consequence of information furnished to him by the Chief Constable or for any other reason, that the holding in any area or place of any open-air public meeting is likely to cause undue demands to be made upon the military forces, the Secretary of State may, in relation to that area or place, make an order under paragraph (1)(A), (B) or (C).”

(101) S.I. 2005/1965 (N.I. 15).

(102) S.I. 2007/916 (N.I.10).

(103) S.I. 2008/1769 (N.I. 2).

(104) S.I. 1987/463 (N.I. 7), amended by the Public Processions (Northern Ireland) Act 1998 (c. 2), Schedule 3, paragraph 3; the Anti-Terrorism, Crime and Security Act 2001 (c. 24), sections 95-97; and by S.I. 2005/857 (N.I. 2).

Status: This is the original version (as it was originally made).

(4) In paragraph (1A) after “An order” insert “made by the Department of Justice or the Secretary of State”.

(5) In paragraph (3) for “Secretary of State under paragraph (1) as to” substitute “Department of Justice or the Secretary of State under this Article as to its or”.

(6) In paragraph (4) after “(1)” insert “or (1ZA)”.

3. In Article 21(2) (wearing of uniform in public) for “Secretary of State” substitute “Department of Justice”.

4. In Article 23C (regulations about retention and disposal of things seized under Articles 23A and 23B)—

(a) in paragraphs (1) and (2) for “Secretary of State” substitute “Department of Justice”;

(b) in paragraph (3) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Police Act 1996

5. Amend the Police Act 1996(**105**) as follows.

6.—(1) Amend section 61(**106**) (Police Negotiating Board for the United Kingdom) as follows.

(2) In subsection (1)—

(a) omit the word “and” at the end of paragraph (d), and

(b) after paragraph (e) insert—

“and

(f) the Department of Justice in Northern Ireland.”

(3) In subsection (2) after “the Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

(4) In subsection (3) for “and (e)” substitute “, (e) and (f)”.

(5) After subsection (6) insert—

“(7) The Department of Justice in Northern Ireland may make payments towards the expenses incurred by the Board in relation to the exercise by it of its function in or as regards Northern Ireland.”

7.—(1) Amend section 62(**107**) (functions of the Police Negotiating Board with respect to regulations) as follows.

(2) Omit subsection (1)(c).

(3) After subsection (1) insert—

“(1ZA) Before making regulations under section 25 of the Police (Northern Ireland) Act 1998(**108**) with respect to any of the matters mentioned in section 61(1) (other than pensions), the Department of Justice in Northern Ireland shall take into consideration any recommendation made by the Police Negotiating Board for the United Kingdom and shall supply the Board with a draft of the regulations.”

(105) 1996 c. 16.

(106) Section 61 was amended by S.I. 1999/1747. Other amendments to section 61 are not relevant.

(107) Section 62 was amended by section 34(1) of the Police (Northern Ireland) Act 1998 (c. 32). Other amendments to section 62 are not relevant.

(108) 1998 c. 32. Section 25 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32), and modified by S.R. (N.I.) 2003 No. 376.

(4) After subsection (2) insert—

“(2A) The arrangements referred to in section 61(3) shall regulate the procedure for reaching agreement on a recommendation to be made by the Board for the purposes of subsection (1ZA) above and shall include provision for arriving at such a recommendation by arbitration in such circumstances as may be determined by or under the arrangements.”

Police (Northern Ireland) Act 1998

8. Amend the Police (Northern Ireland) Act 1998(**109**) as follows.

9. In section 25(**110**) (regulations for PSNI) in subsections (1), (2)(i), (5)(a), (7) and (8) for “Secretary of State” substitute “Department of Justice”.

10. In section 26(**111**) (regulations for PSNI Reserve) in subsections (1), (5)(a) and (6) for “Secretary of State” substitute “Department of Justice”.

11. In section 27(1)(a)(**112**) (members of PSNI engaged on other police service) for “Secretary of State” substitute “Department of Justice”.

12. In section 28(**113**) (the Police Fund) in subsections (1) and (2) for “Secretary of State” substitute “Department of Justice”.

13. In section 29(**114**) (liability for wrongful acts of constables)—

- (a) in subsection (7)(c) for “Secretary of State” substitute “Department of Justice”; and
- (b) omit subsection (8).

14. In section 31(4) (regulations for disposal of property which has come into the possession of the police) for “Secretary of State” substitute “Department of Justice”.

15. In section 32(5) (Police Association for Northern Ireland)—

- (a) for “Secretary of State” substitute “Department of Justice”; and
- (b) for “he” substitute “the Department of Justice”.

16. In section 33(**115**) (regulations for Police Association), in subsections (1), (2)(c) and (d) and (3) for “Secretary of State” substitute “Department of Justice”.

17. Omit section 34(1) (amendment relating to the Police Negotiating Board for the United Kingdom).

18. In section 35(4) (membership of trade unions) for “Secretary of State” substitute “Department of Justice”.

19. In the heading to Part 5 (functions of Secretary of State) after “Secretary of State” insert “and Department of Justice”.

20. In section 40(**116**) (power to require use by police of specified facilities, equipment or services)—

(**109**) 1998 c. 32.

(**110**) Section 25 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 25 are not relevant.

(**111**) Section 26 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(**112**) Section 27 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32); section 102 of the Police Reform Act 2002 (c. 30). Other amendments to section 27 are not relevant.

(**113**) Section 28 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(**114**) Section 29 was amended by section 103 of the Police Reform Act 2002 (c. 30). Other amendments to section 29 are not relevant.

(**115**) Section 33 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(**116**) Section 40 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 40 are not relevant.

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- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “he” substitute “the Department of Justice”; and
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”.
- 21.** In section 41(**117**) (appointment of inspectors of constabulary)—
- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “he” substitute “the Department of Justice”;
 - (b) in subsections (2), (4) and (5) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (c) in subsections (3A) and (3B) for “Secretary of State” substitute “appropriate authority”;
 - (d) after subsection (3B) insert—
 - “(3C) In subsections (3A) and (3B) “the appropriate authority” means, in relation to any inspection—
 - (a) the Secretary of State, if the inspection relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision;
 - (b) otherwise, the Department of Justice;
- and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998(**118**).”
- 22.** After section 41 insert—

“41A Powers of Secretary of State in relation to reports and other duties of inspectors of constabulary

- (1) For the purposes of subsections (2) to (8) information is “protected information” if the inclusion of the information in a report of the inspectors under section 41 would be against the interests of national security.
- (2) If it appears to the Secretary of State that—
 - (a) the inspectors are required to prepare a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)), and
 - (b) the report might contain (or once completed might contain) protected information,
 the Secretary of State may require the inspectors to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once it is completed).
- (3) The Secretary of State must, within—
 - (a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or
 - (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

(**117**) Section 41 was amended by section 30 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); section 3 of the Police Reform Act 2002 (c. 30); Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15).
 (**118**) 1998 c. 47.

notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.

(4) If—

- (a) it appears to the inspectors that a report under section 41 (other than a report on an inspection required by the Secretary of State under section 41(3A)) might contain protected information, and
- (b) the inspectors have not been required to refer the report to the Secretary of State under subsection (2),

the inspectors must refer the report to the Secretary of State.

(5) The Secretary of State must, within—

- (a) the period of 30 days after the date on which the inspectors refer the report to the Secretary of State, or
- (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the report contains any protected information.

(6) Where the Secretary of State has required that a report be referred to the Secretary of State under subsection (2), or the inspectors are required under subsection (4) to refer a report to the Secretary of State, the inspectors must not disclose the report to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (7),
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any protected information, or
- (c) after the period mentioned in subsection (3) or (5) has expired without any notification being given by the Secretary of State.

(7) Where the Secretary of State notifies the inspectors under subsection (3) or (5) that, in the opinion of the Secretary of State, a report contains protected information—

- (a) the Secretary of State may direct the inspectors to exclude from the report any information that, in the opinion of the Secretary of State, is protected information,
- (b) the inspectors must exclude that information from the report,
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has given a direction under paragraph (a), and
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(8) When the inspectors provide to anyone a report from which information has been excluded under subsection (7), they must at the same time provide the report to the Secretary of State.

(9) For the purposes of subsections (10) to (14) information is “protected information” if it is information that, in the interests of national security, ought not to be disclosed by the inspectors.

(10) If it appears to the Secretary of State that any requirement imposed on the inspectors by the Department of Justice under section 41 may require them to disclose, otherwise than in a report, information that is or includes protected information, the Secretary of State may require the inspectors to refer the matter to the Secretary of State.

(11) If it appears to the inspectors that any requirement imposed on them by the Department of Justice under section 41 may require them to disclose, otherwise than in a

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report, information that is or includes protected information, they must refer the matter to the Secretary of State.

(12) The Secretary of State must, within—

- (a) the period of 30 days after the date on which the inspectors refer a matter to the Secretary of State under subsection (10) or (11), or
- (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the inspectors whether, in the opinion of the Secretary of State, the information in question is or includes protected information.

(13) Where the inspectors are required under subsection (10) or (11) to refer a matter to the Secretary of State, they must not disclose the information in question to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (14),
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the information in question is not or does not include protected information, or
- (c) after the period mentioned in subsection (12) has expired without any notification being given by the Secretary of State.

(14) Where the Secretary of State notifies the inspectors under subsection (12) that, in the opinion of the Secretary of State, the information in question is or includes protected information—

- (a) the Secretary of State may set aside or modify the requirement imposed by the Department of Justice as the Secretary of State thinks appropriate so that the inspectors are not required to disclose any information that, in the opinion of the Secretary of State, is protected information;
- (b) the inspectors must proceed accordingly;
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has taken action under paragraph (a); and
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has taken action under paragraph (a)."

23. In section 42(**119**) (publication of reports of inspectors of constabulary)—

- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” (in both places) substitute “it”;
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”,
 - (ii) for “his” substitute “its”, and
 - (iii) omit “against the interests of national security or”;
- (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
- (d) in subsection (6) for “Secretary of State” substitute “Department of Justice”;
- (e) after subsection (6) insert—

(119) Section 42 was amended by section 30 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); Schedule 12 to the Justice (Northern Ireland) Act 2002 (c. 26); section 3 of the Police Reform Act 2002 (c. 30); Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15).

- “(6A) In relation to a report received by the Secretary of State under section 41(3B)—
- (a) subsections (1) to (6) above apply as if references to the Department of Justice were references to the Secretary of State;
 - (b) under subsection (2) above, the Secretary of State may also exclude from publication under subsection (1) any part of the report if, in the Secretary of State’s opinion, the publication of that part would be against the interests of national security.”

24. In section 43 (criminal statistics)—

- (a) in subsection (1) for “Secretary of State” (wherever occurring) substitute “Department of Justice”; and
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”,
 - (ii) for “him” substitute “it”, and
 - (iii) for “he” substitute “it”.

25. In section 45(**120**) (research and advice)—

- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” substitute “the Department of Justice”; and
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “him” (in both places) substitute “the Department of Justice”.

26.—(1) In section 46(**121**) (expenditure by Secretary of State for police purposes)—

- (a) for “Secretary of State” substitute “Department of Justice”, and
- (b) for “he” substitute “the Department of Justice”.

(2) In the heading for section 46 for “Secretary of State” substitute “Department of Justice”.

27. In section 52(**122**) (receipt and initial classification of complaints) in subsections (1)(b), (6) and (7) for “Secretary of State” substitute “Department of Justice”.

28.—(1) Amend section 55(**123**) (consideration of other matters by Police Ombudsman) as follows.

(2) In subsections (1) and (7) after “Board” (wherever occurring) insert “, the Department of Justice”.

(3) After subsection (1) insert—

“(1A) The Secretary of State may refer a matter to the Ombudsman under subsection (1) only if it appears to the Secretary of State that the matter relates (in whole or in part) to an excepted matter or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998(**124**)).”

(120) Section 45 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(121) Section 46 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(122) Section 52 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32); section 34 of the Justice (Northern Ireland) Act 2002 (c. 26).

(123) Section 55 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32). Other amendments to section 55 are not relevant.

(124) 1998 c. 47. There are amendments to section 4, but none are relevant.

Status: This is the original version (as it was originally made).

29. In section 56(2) (power to make provision in relation to investigations by the Police Ombudsman) for “Secretary of State” substitute “Department of Justice”.

30.—(1) Amend section 60(**125**) (constabularies not maintained by the Policing Board) as follows.

(2) In subsections (1), (2), (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(3) After subsection (6) insert—

“(7) In the application of this section in relation to the Ministry of Defence Police, references to the Department of Justice are to be read as references to the Secretary of State.”

31. In section 60A(**126**) (investigations into current police practices and policies)—

(a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;

(b) after subsection (3) insert—

“(3A) Where it appears to the Ombudsman that an investigation may relate wholly or in part to—

(a) a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision, or

(b) an excepted matter or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998),

the Ombudsman shall also immediately inform the Secretary of State of the matters mentioned in subsection (3)(a) to (c).”; and

(c) after subsection (5) insert—

“(6) The Ombudsman shall send a copy of his report to the Department of Justice, if the investigation relates wholly or in part to a matter in respect of which a function is conferred or imposed on the Department of Justice by or under a statutory provision.”

32.—(1) Amend section 61(**127**) (reports by Ombudsman) as follows.

(2) In subsections (1) and (2)—

(a) for “Secretary of State” (wherever occurring) substitute “appropriate authority”;

(b) for “Secretary of State’s” substitute “appropriate authority’s”.

(3) After subsection (2) insert—

“(2A) In subsections (1) and (2) “the appropriate authority” means, in relation to any matter—

(a) the Secretary of State, if the matter relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a function conferred or imposed on the Secretary of State by or under a statutory provision;

(b) otherwise, the Department of Justice;

and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998.”

(4) In subsections (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(5) After subsection (5) insert—

“(5A) The Department of Justice shall—

(125) Section 60 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(126) Section 60A was inserted by section 13 of the Police (Northern Ireland) Act 2003 (c. 6).

(127) Amendments have been made to section 61 but none are relevant.

(a) lay before the Northern Ireland Assembly a copy of every report received by the Department under this section; and

(b) cause every such report to be published.

(5B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**128**) applies for the purposes of subsection (5A)(a) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

33.—(1) Amend section 63(**129**) (restriction on disclosure of information) as follows.

(2) In subsection (1) for paragraph (b) substitute—

“(b) to the Department of Justice or the Secretary of State;”.

(3) After subsection (3) insert—

“(4) Nothing in subsection (1)(b) permits the disclosure to the Department of Justice of information—

(a) which has been supplied to the Ombudsman under section 66(1) of the Police (Northern Ireland) Act 2000(**130**) for the purposes of or in connection with an investigation under section 60A of this Act, and

(b) in relation to which the Ombudsman has been informed under section 66(3)(b) of the Police (Northern Ireland) Act 2000 that the information is, in the opinion of the Chief Constable or the Board, information which ought not to be disclosed on the ground mentioned in section 76A(1)(a) of that Act.”

(4) In relation to information supplied to the Ombudsman before the coming into force of this Order, section 63(4)(b) (as inserted by sub-paragraph (3) above) has effect as if the reference to section 66(3)(b) of the 2000 Act were a reference to section 66(3)(b) before its substitution by paragraph 77(2) below.

34.—(1) Amend section 64(**131**) (regulations) as follows.

(2) In subsections (1), (2), (2A), (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(3) Omit subsection (2A)(d).

35. After section 64 insert—

“64A Secretary of State’s power to make regulations

(1) The Secretary of State may make regulations containing provision of any kind within section 64(1), (2) or (2A) for purposes connected with—

(a) excepted or reserved matters (within the meaning given by section 4 of the Northern Ireland Act 1998(**132**));

(b) matters in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.

(2) The Secretary of State may by regulations provide that, subject to such exceptions as may be prescribed, to the extent that the subject matter of a complaint falls within the jurisdiction of—

(128) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(129) Amendments have been made to section 63 but none are relevant.

(130) 2000 c. 32.

(131) Section 64 was amended by sections 62 and 65 of, and Schedule 6 to, the Police (Northern Ireland) Act 2000 (c. 32); section 6 of the Justice (Northern Ireland) Act 2004 (c. 4).

(132) 1998 c. 47. There are amendments to section 4, but none are relevant.

Status: This is the original version (as it was originally made).

(a) the tribunal constituted under section 65(1) of the Regulation of Investigatory Powers Act 2000(**133**), or

(b) a person appointed under Part 4 of that Act,

the Ombudsman shall not investigate it.

(3) Regulations under this section may authorise the Secretary of State to make provision for any purposes specified in the regulations.

(4) Before making any regulations under this section, the Secretary of State shall consult the Department of Justice and the persons mentioned in section 64(4)(a) to (c).

(5) Regulations made by the Department of Justice under section 64 have effect subject to regulations made by the Secretary of State under this section.”

36. In section 65(**134**) (guidance concerning discipline, complaints, etc.)—

(a) in subsections (1), (4) and (5) for “Secretary of State” substitute “Department of Justice”;

(b) after subsection (5) insert—

“(6) In discharging his functions under this Part the Ombudsman shall have regard to any guidance given to him by the Secretary of State with respect to matters the disclosure of which may be prejudicial to the public interest on the ground of national security.

(7) Any guidance given by the Department of Justice to the Ombudsman under this section has effect subject to any guidance given by the Secretary of State under subsection (6).”

37. In section 66(**135**) (assaults on constables)—

(a) in subsection (6)(c) for “Secretary of State” substitute “Department of Justice”; and

(b) omit subsection (7).

38.—(1) Amend section 72(**136**) (orders and regulations) as follows.

(2) In subsection (1) before “the Secretary of State” insert “the Department of Justice or”.

(3) In subsection (2) after “appear to” insert “the Department of Justice or (as the case may be)”.

(4) In subsection (2A) for “Treasury” substitute “Department of Finance and Personnel”.

(5) In subsection (4)—

(a) for “A statutory rule” substitute “An order or regulations”;

(b) omit “one containing”;

(c) for the words from “shall be” to “accordingly” substitute—

“(a) if made by the Department of Justice, shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**137**));

(b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946(**138**) shall apply accordingly.”.

(**133**) 2000 c. 23.

(**134**) Section 65 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(**135**) Section 66 was amended by section 104 of the Police Reform Act 2002 (c. 30).

(**136**) Section 72 was amended by Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).

(**137**) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(**138**) 1946 c. 36.

- 39.**—(1) Amend Schedule 3(**139**) (the Police Ombudsman for Northern Ireland) as follows.
- (2) In paragraph 1 (the Ombudsman)—
- (a) in sub-paragraph (1) after “Her Majesty” insert “on the recommendation of the First Minister and deputy First Minister acting jointly”;
 - (b) in sub-paragraphs (7), (8) and (9) for “Secretary of State” (wherever occurring) substitute “First Minister and deputy First Minister acting jointly”; and
 - (c) in sub-paragraph (8) for “him” substitute “them”.
- (3) In paragraphs 2 (remuneration) and 3 (staff) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
- (4) In paragraph 2(1) for “he” substitute “the Department of Justice”.
- (5) In paragraph 3 (staff)—
- (a) after sub-paragraph (2) insert—
 - “(2A) Employment by the Ombudsman shall be included among the kinds of employment to which a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(**140**) can apply; and, accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—
“Employment by the Police Ombudsman for Northern Ireland.”
 - (2B) Where a person who is employed by the Ombudsman and is by reference to that employment a participant in a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 is appointed to the office of Ombudsman, the Department of Finance and Personnel may determine that his service in that office may be treated for the purposes of the scheme as service as an employee of the Ombudsman; and his rights under the scheme shall not be affected by paragraph 2(1).”; and
 - (b) omit sub-paragraphs (3) and (4) (and the Superannuation Act 1972(**141**) has effect accordingly).
- (6) In paragraph 6 (assistance from Chief Constable)—
- (a) in sub-paragraph (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” substitute “the Department of Justice”; and
 - (b) in sub-paragraphs (3) and (4) for “Secretary of State” substitute “Department of Justice”.
- (7) In paragraph 11 (expenses) for “Secretary of State” (in both places) substitute “Department of Justice”.
- (8) In paragraph 12 (accounts and statements)—
- (a) in sub-paragraph (1)(b) and (c) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (1)(c) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (c) in sub-paragraph (2) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (d) in sub-paragraph (2) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and

(139) Amendments have been made to Schedule 3 but none are relevant.

(140) S.I. 1972/1073 (N.I. 10).

(141) 1972 c. 11.

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(e) after sub-paragraph (2) insert—

“(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**142**) applies for the purposes of sub-paragraph (2) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”

(9) Sub-paragraph (5)(b) above does not affect the position of any person under the Superannuation Act 1972(**143**) in relation to the person’s employment by the Ombudsman, or the person’s service as the Ombudsman, before the coming into force of this Order.

(10) Sub-paragraph (11) below applies in relation to a person who immediately before the coming into force of this Order is, by virtue of paragraph 3(3) or (4) of Schedule 3 to the Police (Northern Ireland) Act 1998(**144**), a participant in the principal civil service pension scheme as defined in section 2(10) of the Superannuation Act 1972.

(11) In relation to the person’s employment by the Ombudsman, or (as the case may be) service as the Ombudsman, after the coming into force of this Order, the person is entitled to be a participant in the principal civil service pension scheme as defined in Article 4(10) of the Superannuation (Northern Ireland) Order 1972(**145**); and the person’s terms and conditions of service have effect accordingly.

(12) Sub-paragraph (8) above does not apply in relation to a financial year ending before the coming into force of this Order.

Police (Northern Ireland) Act 2000

40. Amend the Police (Northern Ireland) Act 2000(**146**) as follows.

41. In section 3(4)(c) (Policing Board to have regard to code of practice) for “Secretary of State” substitute “Department of Justice”.

42. In section 4(**147**) (police support staff)—

(a) in subsections (2)(a) and (b), (3), (3B) and (7) for “Secretary of State” substitute “Department of Justice”;

(b) in subsection (3B)(d) for “him” substitute “the Department of Justice”.

43. In section 5 (power to transfer certain staff to employment of Policing Board) in subsections (1) and (5) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.

44. In section 7 (acquisition and disposal of land by Policing Board)—

(a) in subsection (3) for “Secretary of State” (in both places) substitute “Department of Justice”; and

(b) in subsection (4)(b) for “Secretary of State” substitute “Department of Justice”.

45. In section 8(3) (consent to Policing Board providing advice and assistance to international organisations)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “him” substitute “the Department of Justice”.

46. In section 9(**148**) (grants to, and borrowing by, the Policing Board)—

(**142**) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(**143**) 1972 c. 11.

(**144**) 1998 c. 32.

(**145**) S.I. 1972/1073 (N.I. 10).

(**146**) 2000 c. 32.

(**147**) Section 4 was amended by S.I. 2007/912 (N.I. 6).

(**148**) Section 9 was amended by section 6 of the Police (Northern Ireland) Act 2003 (c. 6).

- (a) in subsections (1), (2) and (5), and
- (b) in subsection (7) (in both places),

for “Secretary of State” substitute “Department of Justice”.

47. In section 10(**149**) (funding for police purposes – ancillary provisions)—

- (a) in subsections (1), (1A) and (4) for “Secretary of State” (wherever occurring) substitute “Department of Justice”; and
- (b) in subsection (1A) for “he” substitute “the Department of Justice”.

48.—(1) In section 12(**150**) (accounts and audit)—

- (a) in subsections (3) and (4) for “Secretary of State” substitute “Department of Justice”;
- (b) in subsection (5)—
 - (i) for “Secretary of State” (in both places) substitute “Department of Justice”;
 - (ii) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
- (c) in subsection (6)—
 - (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”; and
 - (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
- (d) after subsection (6) insert—

“(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**151**) applies for the purposes of subsection (6)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”

(2) Sub-paragraph (1) above does not apply in relation to a financial year ending before the coming into force of this Order.

49.—(1) Amend section 15 (default of council) as follows.

- (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) for “he” substitute “the Department of Justice”.
- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) for “him” substitute “the Department of Justice”.

50.—(1) Amend section 15A(**152**) (default of council: Belfast sub-groups) as follows.

- (2) In subsection (1)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) for “he” substitute “the Department of Justice”.
- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and

(149) Section 10 was amended by section 6 of the Police (Northern Ireland) Act 2003 (c. 6).

(150) Section 12 was amended by section 7 of the Police (Northern Ireland) Act 2003 (c. 6).

(151) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(152) Section 15A was inserted by Schedule 1 to the Police (Northern Ireland) Act 2003 (c. 6).

Status: This is the original version (as it was originally made).

(b) for “him” substitute “the Department of Justice”.

51. In section 19(2) (agreement of Secretary of State to Board issuing code of practice for district policing partnerships) for “Secretary of State” substitute “Department of Justice”.

52.—(1) In section 24(**153**) (Secretary of State’s long term policing objectives)—

(a) in subsections (1), (2), (2A) (in both places) and (3) for “Secretary of State” substitute “Department of Justice”;

(b) in subsection (3) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and

(c) after subsection (3) insert—

“(4) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**154**) applies for the purposes of subsection (3) in relation to the laying of a statement as it applies in relation to the laying of a statutory document under an enactment.”

(2) In the heading to section 24 for “Secretary of State’s” substitute “Department of Justice’s”.

53. In section 26 (Policing Board’s policing plan) in subsections (2)(b), (3) and (6) for “Secretary of State” substitute “Department of Justice”.

54. In section 27(**155**) (codes of practice on exercise of functions by Policing Board and Chief Constable)—

(a) in subsections (1), (2) and (2A) (in both places) for “Secretary of State” substitute “Department of Justice”; and

(b) in subsection (3)—

(i) for “Secretary of State” substitute “Department of Justice”; and

(ii) for “he” substitute “the Department of Justice”.

55. In section 28(6)(**156**) (consultation on performance plan and performance summary) for “Secretary of State” substitute “Department of Justice”.

56.—(1) In section 29(**157**) (audit of performance plans and performance summaries)—

(a) in subsection (1) after “General” insert “for Northern Ireland”;

(b) for subsection (3) substitute—

“(3) Article 3 of the Audit and Accountability (Northern Ireland) Order 2003(**158**) (right of Comptroller and Auditor General for Northern Ireland to obtain documents and information) applies in relation to an examination under this section as it applies in relation to an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987(**159**).”;

(c) in subsection (4)—

(i) after “General” insert “for Northern Ireland”; and

(ii) for “Secretary of State” substitute “Department of Justice”;

(d) in subsection (4A)—

(i) after “General” insert “for Northern Ireland”; and

(153) Section 24 was amended by section 1 of the Police (Northern Ireland) Act 2003 (c. 6).

(154) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(155) Section 27 was amended by sections 2 and 6 of the Police (Northern Ireland) Act 2003 (c. 6).

(156) Section 28(6) was amended by section 8 of the Police (Northern Ireland) Act 2003 (c. 6).

(157) Section 29 was amended by section 9 of the Police (Northern Ireland) Act 2003 (c. 6).

(158) S.I. 2003/418 (N.I. 5).

(159) S.I. 1987/460 (N.I. 5).

- (ii) for “Secretary of State” substitute “Department of Justice”;
- (e) in subsection (5)—
 - (i) after “General” insert “for Northern Ireland”; and
 - (ii) for “Secretary of State” substitute “Department of Justice”;
- (f) in subsection (6) after “General” insert “for Northern Ireland”; and
- (g) in subsection (10)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) after “General” insert “for Northern Ireland”.

(2) Sub-paragraph (1) above does not apply in relation to a performance plan or a performance summary for a financial year ending before the coming into force of this Order.

57.—(1) Amend section 30 (examinations of the Policing Board’s compliance with section 28) as follows.

- (2) In subsection (1) after “General” insert “for Northern Ireland”.
- (3) In subsection (2)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) after “General” (in each place) insert “for Northern Ireland”.
- (4) In subsection (3)—
 - (a) for “Secretary of State” substitute “Department of Justice”; and
 - (b) after “General” insert “for Northern Ireland”.
- (5) For subsection (4) substitute—

“(4) Article 3 of the Audit and Accountability (Northern Ireland) Order 2003 (right of Comptroller and Auditor General for Northern Ireland to obtain documents and information) applies in relation to an examination under this section as it applies in relation to an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987.”
- (6) In subsection (5) after “General” insert “for Northern Ireland”.
- (7) In subsection (6)—
 - (a) in paragraph (a) after “General” insert “for Northern Ireland”; and
 - (b) in paragraph (b) for “Secretary of State” substitute “Department of Justice”.
- (8) In subsection (7)—
 - (a) after “General” insert “for Northern Ireland”; and
 - (b) for “Secretary of State” substitute “Department of Justice”.
- (9) In subsection (8)—
 - (a) after “General” insert “for Northern Ireland”;
 - (b) for “each House of Parliament” substitute “the Northern Ireland Assembly”.
- (10) After subsection (8) insert—

“(8A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(160) applies for the purposes of subsection (8) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

Status: This is the original version (as it was originally made).

- 58.**—(1) In section 31(**161**) (enforcement of duties under section 28)—
- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” substitute “it”;
 - (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “he” (in both places) substitute “the Department of Justice”;
 - (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (4) for “Secretary of State” substitute “Department of Justice”.
- (2) Sub-paragraph (1) above does not apply in the case of a report under section 29(4) or (4A) relating to a performance plan or a performance summary mentioned in paragraph 56(2) above.
- 59.**—(1) Amend section 33A(**162**) (provision of information to Policing Board) as follows.
- (2) For subsections (3) and (4) substitute—
- “(3) Subsection (4) applies if the Chief Constable supplies the Board with information which, in his opinion, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).
 - (4) The Chief Constable—
 - (a) must inform the Secretary of State that the information has been supplied to the Board, and
 - (b) must inform the Secretary of State and the Board that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).
 - (5) Subsection (6) applies if the Chief Constable supplies the Board with information which, in his opinion, is—
 - (a) information the disclosure of which would be likely to put an individual in danger, or
 - (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).
 - (6) The Chief Constable—
 - (a) must inform the Minister of Justice that the information has been supplied to the Board, and
 - (b) must inform the Minister of Justice and the Board that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (5).”
- 60.** In section 34(2) (deputy Chief Constable) for “Secretary of State” substitute “Department of Justice”.
- 61.** In section 35 (appointment and removal of senior officers)—
- (a) in subsection (1) for “Secretary of State” substitute “Minister of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Minister of Justice”;
 - (c) in subsection (3)(a) and (b) for “Secretary of State” substitute “Minister of Justice”;

(161) Section 31 was amended by section 9 of the Police (Northern Ireland) Act 2003 (c. 6).

(162) Section 33A was inserted by section 22 of the Police (Northern Ireland) Act 2003 (c. 6).

- (d) in subsection (4) for “Secretary of State” substitute “Minister of Justice”;
 - (e) in subsection (7) for “Secretary of State” substitute “Department of Justice”; and
 - (f) in subsection (8)(a) for “Secretary of State” substitute “Minister of Justice”.
- 62.** In section 36A(**163**) (fixed-term appointments)—
- (a) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “he” substitute “it”; and
 - (b) in subsection (5) for “Secretary of State” substitute “Department of Justice”.
- 63.** In section 41(**164**) (status etc. of trainees)—
- (a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (5)(a) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (6) for “Secretary of State” substitute “Department of Justice”.
- 64.** In section 42(2) (police cadets) for “Secretary of State” substitute “Department of Justice”.
- 65.** In section 43 (contracting-out of certain recruitment functions of Chief Constable)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (3)(b) for “Secretary of State” substitute “Department of Justice”.
- 66.** In section 44(**165**) (recruitment arrangements: trainees and support staff)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (4) for “Secretary of State” substitute “Department of Justice”.
- 67.** In section 48(4)(c) (action plans) for “Secretary of State” substitute “Department of Justice”.
- 68.** In section 51(3)(b) (notifiable memberships) for “Secretary of State” substitute “Department of Justice”.
- 69.** In section 52(**166**) (code of ethics)—
- (a) in subsection (5)(b) for “Secretary of State” substitute “Department of Justice”; and
 - (b) in subsection (10) for “Secretary of State” substitute “Department of Justice”.
- 70.** In section 53 (guidance as to use of equipment for maintaining or restoring public order)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (3)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) for “he” substitute “it”.
- 71.** In section 54 (regulations as to emblems and flags)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2) for “Secretary of State” substitute “Department of Justice”;

(163) Section 36A was inserted by section 24 of the Police (Northern Ireland) Act 2003 (c. 6).

(164) Amendments have been made to section 41 but none are relevant.

(165) Amendments have been made to section 44 but none are relevant.

(166) Amendments have been made to section 52 but none are relevant.

Status: This is the original version (as it was originally made).

- (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (3)(d) for “him” substitute “the Department of Justice”.
- 72.** In section 57(**167**) (annual and other reports by the Policing Board)—
- (a) in subsection (3)(b) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (4) for “Secretary of State” (in each place) substitute “Department of Justice”;
 - (c) in subsection (5)(b) for “Secretary of State” substitute “Department of Justice”; and
 - (d) in subsection (6)—
 - (i) for “Secretary of State” substitute “Department of Justice”; and
 - (ii) for “him” substitute “the Department of Justice”.
- 73.** In section 58 (annual report by Chief Constable to Policing Board)—
- (a) in subsection (3) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
 - (iii) for “him” substitute “the Department of Justice”; and
 - (c) after subsection (4) insert—

“(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**168**) applies for the purposes of subsection (4) in relation to the laying of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 74.**—(1) Amend section 59(**169**) (general duty of Chief Constable to report to Policing Board) as follows.
- (2) In subsection (3) for “any of the grounds mentioned in section 76A(1)” substitute “the ground mentioned in section 76A(1)(a)”.
 - (3) After subsection (3) insert—

“(3A) The Chief Constable may refer to the Minister of Justice a requirement to submit a report under subsection (1) if it appears to the Chief Constable that a report in compliance with the requirement would contain information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).”
 - (4) For subsection (4) substitute—

“(4) Where a requirement to submit a report is referred to the Secretary of State under subsection (3) or to the Minister of Justice under subsection (3A), the Secretary of State or (as the case may be) the Minister of Justice may—

 - (a) within the period of 30 days from the date of the referral, or
 - (b) within such longer period as may be agreed between the Board and (as the case may be) the Secretary of State or the Minister of Justice,

modify or set aside the requirement, as necessary, for either or both of the purposes mentioned in subsection (4A).”
 - (5) In subsection (4A)(a) for “information which, in the opinion of the Secretary of State, ought not to be disclosed on any of the grounds mentioned in section 76A(1)” substitute—

(167) Amendments have been made to section 57 but none are relevant.

(168) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(169) Section 59 was amended by sections 10 and 27 of the Police (Northern Ireland) Act 2003.

“, as the case may be—

- (i) information which, in the opinion of the Secretary of State, ought not to be disclosed on the ground mentioned in section 76A(1)(a); or
- (ii) information which, in the opinion of the Minister of Justice, ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c);”.

(6) In subsection (4B)(b) after “subsection (3)” insert “or to the Minister of Justice under subsection (3A)”.

(7) For subsections (4H) and (4I) substitute—

“(4H) Subsection (4I) applies if—

- (a) the Chief Constable supplies to a committee under subsection (4D) information which, in the opinion of the Chief Constable, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a), or
- (b) the Chief Constable includes information in a report to the Board and is of the opinion that the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(4I) The Chief Constable must—

- (a) inform the Secretary of State that the information has been included in a report to the Board or supplied to the committee; and
- (b) inform the Secretary of State and the recipient of the information that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(4J) Subsection (4K) applies if—

- (a) the Chief Constable supplies to a committee under subsection (4D) information which, in the opinion of the Chief Constable, is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c), or
- (b) the Chief Constable includes information in a report to the Board and is of the opinion that the information is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).

(4K) The Chief Constable must—

- (a) inform the Minister of Justice that the information has been included in a report to the Board or supplied to the committee; and
- (b) inform the Minister of Justice and the recipient of the information that, in his opinion, the information is information of a kind mentioned in sub-paragraph (i) or (ii) of paragraph (a) or (b) of subsection (4J).”

75.—(1) Amend section 60(**170**) (inquiry by Policing Board following report by Chief Constable) as follows.

(170)Section 60 was amended by section 11 of the Police (Northern Ireland) Act 2003. Other amendments to section 60 are not relevant.

- (2) In subsection (2)—
- (a) in paragraph (a) for “Secretary of State” substitute “Minister of Justice”;
 - (b) in paragraph (b) for “Secretary of State” substitute “Minister of Justice”.
- (3) After subsection (2) insert—
- “(2A) Where it appears to the Board that an inquiry under this section may relate wholly or in part to—
- (a) a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision, or
 - (b) an excepted matter or reserved matter (within the meaning given by section 4 of the Northern Ireland Act 1998),
- the Board shall immediately inform the Secretary of State of the decision to cause the inquiry to be held and of any matter into which inquiry is to be made, and shall send a copy of the relevant report under section 59 to the Secretary of State.”
- (4) In subsections (3) and (5) for “any of the grounds mentioned in section 76A(2)” substitute “the ground mentioned in section 76A(2)(a)”.
- (5) After subsection (5) insert—
- “(5A) The Chief Constable may refer to the Minister of Justice the decision of the Board to cause an inquiry to be held under this section if it appears to the Chief Constable that such an inquiry ought not to be held on any of the grounds mentioned in section 76A(2)(b) or (c).
- (5B) The Minister of Justice may within the period of 30 days from the date of referral of the decision of the Board by the Chief Constable, or within such longer period as may be agreed between the Board and the Minister of Justice, overrule the decision of the Board.
- (5C) The Minister of Justice may overrule the Board only if, in the opinion of the Minister of Justice, the inquiry ought not to be held on any of the grounds mentioned in section 76A(2)(b) or (c).”
- (6) In subsection (7) for “Secretary of State” substitute “Minister of Justice”.
- (7) In subsection (8)(a) after “General” insert “for Northern Ireland”.
- (8) In subsection (9) for “Secretary of State” substitute “Minister of Justice”.
- (9) For subsections (10A) and (10B) substitute—
- “(10A) Subsection (10B) applies if the Chief Constable supplies to a person conducting an inquiry under this section any information which, in the opinion of the Chief Constable, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).
- (10B) The Chief Constable must—
- (a) inform the Secretary of State and the Board that the information has been supplied to the person conducting the inquiry; and
 - (b) inform the Secretary of State, the Board and the person conducting the inquiry that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).
- (10C) Subsection (10D) applies if the Chief Constable supplies to a person conducting an inquiry under this section any information which, in the opinion of the Chief Constable, is—
- (a) information the disclosure of which would be likely to put an individual in danger, or
 - (b) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).
- (10D) The Chief Constable must—

- (a) inform the Minister of Justice and the Board that the information has been supplied to the person conducting the inquiry; and
 - (b) inform the Minister of Justice, the Board and the person conducting the inquiry that, in his opinion, the information is information of a kind mentioned in paragraph (a) or (b) of subsection (10C).”
- (10) In subsection (16) for paragraph (c) and the “and” before it substitute—
- “(c) the Minister of Justice; and
 - (d) the Secretary of State, but only if the decision to cause the inquiry to be held was notified to the Secretary of State under subsection (2A) or if subsection (10A) applied in relation to the inquiry.”

76.—(1) Amend section 61 (reports by Chief Constable to Secretary of State) as follows.

(2) In subsections (1), (2) and (3) for “Secretary of State” (wherever occurring) substitute “appropriate authority”.

(3) After subsection (1) insert—

“(1A) In this section “the appropriate authority” means, in relation to any matter—

- (a) the Secretary of State, if the matter relates (in whole or in part other than incidentally) to an excepted matter or reserved matter or to a function conferred or imposed on the Secretary of State by or under a statutory provision;
- (b) otherwise, the Minister of Justice;

and in paragraph (a) “excepted matter” and “reserved matter” have the meanings given by section 4 of the Northern Ireland Act 1998(171).”

(4) After subsection (3) insert—

“(4) If it appears to the Chief Constable that a report that the Chief Constable is required to submit under subsection (1) to the Minister of Justice may contain information which, in the opinion of the Chief Constable, ought not to be disclosed on the ground mentioned in section 76A(1)(a), the Chief Constable may refer the report to the Secretary of State.

(5) If it appears to the Secretary of State that—

- (a) the Chief Constable is required to submit a report under subsection (1) to the Minister of Justice, and
- (b) the report may contain (or once completed may contain) information which ought not to be disclosed on the ground mentioned in section 76A(1)(a),

the Secretary of State may require the Chief Constable to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once completed).

(6) The Secretary of State must, within—

- (a) the period of 30 days from the date on which a report is referred to the Secretary of State under subsection (4) or (5), or
- (b) such longer period as may be agreed between the Secretary of State and the Minister of Justice,

notify the Chief Constable whether, in the opinion of the Secretary of State, the report contains any information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

Status: This is the original version (as it was originally made).

(7) Where the Chief Constable has referred a report to the Secretary of State under subsection (4) or the Secretary of State has required that a report be referred to the Secretary of State under subsection (5), the Chief Constable must not disclose the report to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (8), or
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(8) Where the Secretary of State notifies the Chief Constable under subsection (6) that, in the opinion of the Secretary of State, a report contains information which ought not to be disclosed on the ground mentioned in section 76A(1)(a)—

- (a) the Secretary of State may direct the Chief Constable to exclude from the report any information which, in the opinion of the Secretary of State, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a);
- (b) the Chief Constable must exclude that information from the report;
- (c) the Secretary of State must inform the Minister of Justice that the Secretary of State has given a direction under paragraph (a); and
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(9) When the Chief Constable submits a report to the Minister of Justice from which information has been excluded under subsection (8), the Chief Constable must at the same time provide the report to the Secretary of State.

(10) In determining for the purposes of subsection (2)(b) when the period of one month, or the agreed longer period, expires in a case where a report has been referred to the Secretary of State under subsection (4) or (5), the period beginning with the day on which the report is referred to the Secretary of State and ending with the day on which the Secretary of State's notification is given under subsection (6) is to be disregarded.

(11) Subsection (12) applies if—

- (a) a requirement to submit a report has been made under subsection (1) by the Minister of Justice;
- (b) the Chief Constable has not referred the report to the Secretary of State under subsection (4) and has not been required to refer the report to the Secretary of State under subsection (5); and
- (c) the Chief Constable includes in the report submitted to the Minister of Justice information which, in the opinion of the Chief Constable, is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(12) The Chief Constable must—

- (a) inform the Secretary of State that the information has been included in the report to the Minister of Justice;
- (b) inform the Secretary of State and the Minister of Justice that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a)."

(5) In the heading to section 61 after "Secretary of State" insert "and Minister of Justice".

77.—(1) Amend section 66(**172**) (access by Ombudsman to information and documents) as follows.

(2) For subsections (2) to (4) substitute—

“(2) Subsection (3) applies if—

- (a) the Chief Constable or the Board supplies information to the Ombudsman under subsection (1) for the purposes of or in connection with an investigation under section 60A of the 1998 Act; and
- (b) the person supplying the information is of the opinion that it is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(3) The person supplying the information must—

- (a) inform the Secretary of State that the information has been supplied to the Ombudsman; and
- (b) inform the Secretary of State and the Ombudsman that, in his or its opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a).

(4) Subsection (5) applies if—

- (a) the Chief Constable or the Board supplies information to the Ombudsman under subsection (1) for the purposes of or in connection with an investigation under section 60A of the 1998 Act; and
- (b) the person supplying the information is of the opinion that it is—
 - (i) information the disclosure of which would be likely to put an individual in danger, or
 - (ii) information which ought not to be disclosed on any of the grounds mentioned in section 76A(1)(b) or (c).

(5) The person supplying the information must—

- (a) inform the Minister of Justice that the information has been supplied to the Ombudsman; and
- (b) inform the Minister of Justice and the Ombudsman that, in his or its opinion, the information is information of a kind mentioned in sub-paragraph (i) or (ii) of paragraph (b) of subsection (4).”

78.—(1) Amend section 69 (general duty of Secretary of State) as follows.

(2) In subsection (1) for “The Secretary of State shall exercise his functions under the Police Acts” substitute “A Minister with functions under the Police Acts shall exercise those functions”.

(3) In subsection (2) for “Secretary of State” substitute “Minister”.

(4) After subsection (2) insert—

“(3) In this section “Minister” means—

- (a) the Secretary of State,
- (b) the Minister of Justice,
- (c) the Department of Justice,
- (d) the First Minister and deputy First Minister, or
- (e) the Office of the First Minister and deputy First Minister.”

(5) In the heading for section 69 for “Secretary of State” substitute “Ministers”.

(172) Section 66 was amended by section 13 of the Police (Northern Ireland) Act 2003 (c. 6).

- 79.** In section 70 (RUC George Cross Foundation)—
- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (2)(f) for “Secretary of State” substitute “Department of Justice”; and
 - (c) in subsection (3) for “Secretary of State” substitute “Department of Justice”.
- 80.** In section 71(1) (traffic wardens) for “Secretary of State” substitute “Department of Justice”.
- 81.** In section 73 (places of detention: lay visitors)—
- (a) in subsection (3)(c) for “Secretary of State” substitute “Department of Justice”; and
 - (b) for subsection (10) substitute—
 - “(10) For the purposes of this section—
 - (a) the Secretary of State may by order specify as a designated place of detention a part of any police station if that part is for the time being designated for the purposes of paragraph 1 of Schedule 8 to the Terrorism Act 2000(173); and
 - (b) the Department of Justice may by order specify as a designated place of detention any other place which is designated under any enactment as a place in which persons may be detained.”
- 82.—**(1) Amend section 74A(174) (restriction on disclosure of information) as follows.
- (2) For subsection (2)(c) substitute—
 - “(c) in relation to the information, the Chief Constable informs the person as required by section 60(10B)(b) or (10D)(b).”
 - (3) For subsection (3)(b) substitute—
 - “(b) in relation to the information, the Chief Constable informs the Board as required by section 33A(4)(b) or (6)(b).”
 - (4) For subsection (4)(b) substitute—
 - “(b) in relation to the information, the Chief Constable informs the Board or the committee as required by section 59(4I)(b) or (4K)(b).”
 - (5) In subsection (6) after paragraph (g) insert—
 - “(h) to the Minister of Justice or the Department of Justice.”
 - (6) In subsection (7) after paragraph (g) insert—
 - “(h) to the Minister of Justice or the Department of Justice.”
 - (7) After subsection (7) insert—
 - “(7A) In subsections (7B) to (7D) “protected information” means information in relation to which the Chief Constable has given an opinion under section 33A(4)(b), 59(4I)(b) or 60(10B)(b).
 - (7B) Subsection (6)(h) does not authorise the disclosure of any protected information.
 - (7C) In the case of protected information supplied to a special purposes committee, subsection (7)(h) does not authorise the disclosure of the information.
 - (7D) In the case of protected information supplied to the Board, a person disclosing the information by virtue of subsection (7)(h) must inform the Minister of Justice or the Department of Justice that the information is protected information.”

(173) 2000 c. 11.

(174) Section 74A was inserted by section 27 of the Police (Northern Ireland) Act 2003 (c. 6).

(8) Section 74A continues to apply in relation to any information in relation to which it applies immediately before the coming into force of this Order.

(9) Such information is “protected information” for the purposes of section 74A(7B) to (7D) (as inserted by sub-paragraph (7) above) if, before the coming into force of this Order, the Chief Constable informed (as the case may be)—

- (a) the person conducting the inquiry under section 60, or
- (b) the Board or a special purposes committee,

that, in his opinion, the information is information which ought not to be disclosed on the ground mentioned in section 76A(1)(a) of the Police (Northern Ireland) Act 2000(175).

83. In section 76(176) (orders and regulations)—

- (a) in subsection (1) after “Secretary of State” insert “, the Minister of Justice or the Department of Justice”;
- (b) in subsection (2)—
 - (i) for “Orders” substitute “An order”, and
 - (ii) in paragraph (b) for “Secretary of State” substitute “person making the order or regulations”;
- (c) in subsection (3) for “and (2)” substitute “, (2) and (6)”;
- (d) in subsection (4) omit “or 54”;
- (e) after subsection (4) insert—

“(4A) No regulations may be made under section 54 unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(4B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(177) applies for the purposes of subsection (4A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”;

- (f) in subsection (5) after “made” (where it occurs first) insert “by the Secretary of State”; and
- (g) after subsection (5) insert—

“(6) An order or regulations made by the Minister of Justice or the Department of Justice under this Act (other than regulations under section 54) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

84. In section 76A(1)(178) (disclosure of information and holding of inquiries) after “59” insert “, 60, 61”.

85. In section 77(1)(179) (interpretation), at the appropriate place, insert—

“the Minister of Justice” means the Minister in charge of the Department of Justice”.

86.—(1) Amend Schedule 1(180) (the Northern Ireland Policing Board) as follows.

(2) In paragraphs 6(1)(b), 7(3), (4) and (13), 8(1), (2), (3) and (8), 9(1) and (2) and 12 for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.

(3) In paragraph 13(1) for “Secretary of State” substitute “Department of Justice”.

(175) 2000 c. 32.

(176) Section 76 was amended by S.I. 2001/2513 (N.I. 3).

(177) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(178) Section 76A(1) was inserted by section 29 of the Police (Northern Ireland) Act 2003 (c. 6).

(179) Amendments have been made to section 77(1) but none are relevant.

(180) Amendments have been made to Schedule 1 but none are relevant.

Status: This is the original version (as it was originally made).

- (4) In paragraph 14—
- (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (4) for “Secretary of State” (in each place) substitute “Department of Justice”.
- (5) In paragraph 15—
- (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (2) for “Secretary of State may” substitute “Department of Justice may, with the approval of the Department of Finance and Personnel,”.
- (6) In paragraph 16—
- (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (3)—
 - (i) for “Secretary of State and the Comptroller and Auditor General” substitute “Department of Justice and the Comptroller and Auditor General for Northern Ireland”;
 - (ii) for “Secretary of State” (where it occurs for the second time) substitute “Department of Justice”;
 - (c) in sub-paragraph (4)—
 - (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (ii) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
 - (d) after sub-paragraph (4) insert—

“(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”
- (7) Sub-paragraph (6) above does not apply in relation to a financial year ending before the coming into force of this Order.
- (8) In paragraph 22(2) for “Secretary of State” substitute “Department of Justice”.
- (9) In paragraph 23—
- (a) in sub-paragraph (a)(iii) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.
- (10) In paragraph 24(1A)(b) after “Secretary of State” insert “or the Minister of Justice”.
- 87.** In paragraph 3(3) of Schedule 2 (transfer of assets and liabilities to the Policing Board) for “Secretary of State” substitute “Department of Justice”.
- 88.**—(1) Amend Schedule 3(**181**) (district policing partnerships) as follows.
- (2) In paragraph 6—
- (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (b) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”;
 - (c) in sub-paragraph (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;

(181) Amendments have been made to Schedule 3 but none are relevant.

(ii) for “him” substitute “the Department of Justice”.

(3) In paragraph 14(c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.

(4) In paragraph 16—

- (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
- (b) in sub-paragraph (2)(a) and (b) for “Secretary of State” substitute “Department of Justice”;
- (c) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”.

89.—(1) Amend Schedule 3A(**182**) (Belfast sub-groups) as follows.

(2) In paragraph 6—

- (a) in sub-paragraph (2) for “Secretary of State” substitute “Department of Justice”;
- (b) in sub-paragraph (3) for “Secretary of State” substitute “Department of Justice”;
- (c) in sub-paragraph (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “him” substitute “the Department of Justice”.

(3) In paragraph 16(c) for the words from “any” to “Secretary of State” substitute “any reference to the Ministry were a reference to the Department of Justice”.

Royal Ulster Constabulary (Complaints etc.) Regulations 2000

90.—(1) Amend the Royal Ulster Constabulary (Complaints etc.) Regulations 2000(**183**) as follows.

(2) In regulation 20(ii) (supply of report on the investigation of matters not the subject of a complaint) for “Secretary of State” substitute “Department of Justice”.

(3) In regulation 21(2)(b) (copies of complaints) for “Secretary of State” substitute “Department of Justice”.

(4) In regulation 26 (expenses of complainants and witnesses) for “Department” substitute “Department of Justice”.

(5) After regulation 30 insert—

“Regulation relating to excepted and reserved matters etc

31.—(1) At the end of an investigation of a matter investigated under section 55 of the Act of 1998(**184**), the Ombudsman shall send a copy of the report on the investigation to the Secretary of State if the report relates wholly or in part to an excepted matter (within the meaning given by section 4 of the Northern Ireland Act 1998(**185**)), a reserved matter (within the meaning given by that section) or a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.

(2) In a case where, for the purposes of regulation 21(2)(b) above, the Ombudsman is of the opinion that compliance with the request would be contrary to the public interest on the ground

(**182**) Schedule 3A was inserted by Schedule 1 to the Police (Northern Ireland) Act 2003 (c. 6). Amendments have been made to Schedule 3A but none are relevant.

(**183**) S.R. (N.I.) 2000 No. 318, as amended by S.R. (N.I.) 2001 No. 184.

(**184**) The “Act of 1998” is the Police (Northern Ireland) Act 1998 (c. 32).

(**185**) 1998 c. 47.

Status: This is the original version (as it was originally made).

of national security (or on grounds including national security), in regulation 21(2)(b) above the reference to the Department of Justice is to be read as a reference to the Secretary of State.”

91.—(1) Regulations 1 to 30 of the Royal Ulster Constabulary (Complaints etc.) Regulations 2000 (as amended by paragraph 90(2) to (4) above) continue in effect as if made by the Department of Justice under section 64 of the Police (Northern Ireland) Act 1998(**186**).

(2) Regulation 31 of those Regulations (as inserted by paragraph 90(5) above) has effect as if made by the Secretary of State under section 64A of the 1998 Act (as inserted by paragraph 35 above).

(3) Any other regulations in effect under section 64 of the 1998 Act immediately before the coming into force of this Order continue in effect as if made by the Department of Justice and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

Royal Ulster Constabulary GC Regulations 2002

92.—(1) Amend the Royal Ulster Constabulary GC Regulations 2002(**187**) as follows.

(2) In regulations 11 and 11A, wherever occurring—

- (a) for “Secretary of State” substitute “Department of Justice”;
- (b) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”.

(3) In regulation 11A(b) for “Parliament” substitute “the Assembly”.

(4) Sub-paragraphs (2) and (3) above do not apply in relation to a financial year ending before the coming into force of this Order.

Police (Northern Ireland) Act 2003

93.—(1) Amend the Police (Northern Ireland) Act 2003(**188**) as follows.

(2) In section 34(**189**) (complaints and misconduct)—

- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”; and
- (b) in subsection (4)—
 - (i) for “Secretary of State” substitute “Department of Justice”, and
 - (ii) in paragraph (e) for “him” substitute “the Department of Justice”.

(3) After section 34 insert—

“34A Secretary of State’s power to make regulations

(1) The Secretary of State may make regulations containing provision of any kind within section 34(1) to (3) for purposes connected with—

- (a) excepted or reserved matters (within the meaning given by section 4 of the Northern Ireland Act 1998);

(186) 1998 c. 32.

(187) S.R. (N.I.) 2002 No. 260. Regulation 11 was amended, and regulation 11A was inserted, by article 7 of S.I. 2008/817.

(188) 2003 c. 6.

(189) Section 34 was amended by S.I. 2007/912 (N.I. 6).

- (b) matters in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954(**190**)).
- (2) Before making regulations under this section the Secretary of State must consult the Department of Justice, the persons mentioned in section 34(4)(a) to (d) and any other person or body appearing to the Secretary of State to have an interest in the matter.
- (3) Regulations made by the Department of Justice under section 34 have effect subject to regulations made by the Secretary of State under this section.”
- (4) In section 37(1)(**191**) (code of ethics) for “Secretary of State” substitute “Department of Justice”.
- (5) In section 44 (orders and regulations)—
 - (a) in subsection (1) after “Secretary of State” insert “or the Department of Justice”;
 - (b) in subsection (5) after “made” insert “by the Secretary of State”;
 - (c) after subsection (5) insert—

“(6) An order or regulations made by the Department of Justice under this Act shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**192**)).”

Civil Contingencies Act 2004

94. Amend the Civil Contingencies Act 2004(**193**) as follows.

95.—(1) Amend section 1 (meaning of “emergency”) as follows.

(2) After subsection (4) insert—

“(4A) In relation to Northern Ireland, the power to make orders—

- (a) under subsection (4)(a) in relation to subsection (1)(a) or (b), and
- (b) under subsection (4)(b),

is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

96.—(1) Amend section 2 (duty to assess, plan and advise) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (3) to make regulations in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(8) Subsection (5) has effect in relation to the power of the Department of Justice under subsection (3) as if—

- (a) paragraphs (e), (h) and (i) were omitted;
- (b) in paragraph (p) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(9) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (5)(h) or (i) to make provision permitting or

(190) 1954 c. 33 (N.I.). Section 1(f) was amended by S.I. 1999/663.

(191) Section 37(1) was amended by S.I. 2007/912 (N.I. 6).

(192) Section 41(6) was amended by S.I. 1999/663.

(193) 2004 c. 36. Schedule 1 to the Act was amended by S.I. 2005/2043, S.I. 2005/3050, Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43) and S.I. 2008/3012. There are other amendments to the Act, but none are relevant.

requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

97.—(1) Amend section 3 (section 2: supplemental) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to issue guidance to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

98.—(1) Amend section 5 (general measures) as follows.

(2) After subsection (5) insert—

“(6) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to perform a function is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(7) Subsection (4) has effect in relation to the power of the Department of Justice under subsection (1) as if—

(a) paragraphs (d) and (e) were omitted;

(b) in paragraph (f) for the words from “a Minister of the Crown” to “department” there were substituted “a Northern Ireland department”.

(8) In relation to emergencies that do not fall within section 1(1)(c), a Minister of the Crown has no power by virtue of subsection (4)(d) or (e) to make provision permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 1 of Schedule 1.”

99.—(1) Amend section 6 (disclosure of information) as follows.

(2) After subsection (6) insert—

“(7) In relation to emergencies that do not fall within section 1(1)(c), the following powers are exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown)—

(a) the power under subsection (1) to make regulations requiring or permitting the Chief Constable (PSNI) to disclose information to another person or body listed in any Part of Schedule 1;

(b) the power under subsection (4) to issue guidance to the Chief Constable (PSNI).”

100.—(1) Amend section 7 (urgency) as follows.

(2) After subsection (4) insert—

“(4A) In relation to provision of a kind that could be made by the Department of Justice in Northern Ireland by an order under section 5(1) or by regulations under section 6(1), in subsection (2) the reference to the Minister is to be read as a reference to the Department of Justice and subsection (4) is to be read accordingly.”

(3) At the end of subsection (5) insert “made by the Minister or the Department of Justice (as the case may be)”.

101.—(1) Amend section 9 (monitoring by Government) as follows.

(2) After subsection (4) insert—

“(5) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to require the Chief Constable (PSNI) to provide information or an

explanation is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).

(6) If it appears to the Chief Constable (PSNI) that a requirement imposed by virtue of subsection (5) may require the Chief Constable (PSNI) to provide national security information, the Chief Constable (PSNI) may refer the requirement to a Minister of the Crown.

(7) The Minister may set aside or otherwise modify the requirement as the Minister considers appropriate so that the Chief Constable (PSNI) is not required to provide any information which appears to the Minister to be national security information.

(8) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.”

102.—(1) Amend section 10 (enforcement) as follows.

(2) In subsection (1) for “or 15(7)” substitute “, 15(7) or 15A(8)”.

(3) After subsection (2) insert—

“(3) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1)(a) to bring proceedings in respect of a failure by the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

103. After section 12 insert—

“12A Northern Ireland: provision or disclosure of national security information

(1) A Minister of the Crown may, for the purposes mentioned in subsection (2), make regulations addressing the provision or disclosure of national security information.

(2) Regulations under this section are to apply for the purposes of any regulations or order made by the Department of Justice in Northern Ireland under this Part; and any regulations or order made by the Department has effect subject to regulations under this section.

(3) “National security information” means information the disclosure of which to the public would, or would be likely to, adversely affect national security.

(4) Regulations under this section may (in particular)—

- (a) provide that national security information is not to be provided or disclosed, or is to be provided or disclosed only in specified circumstances or in a specified way, despite any provision of regulations or an order made by the Department of Justice;
- (b) provide that a certificate signed by a Minister of the Crown certifying that the disclosure of information to the public would, or would be likely to, adversely affect national security is conclusive evidence of that fact;
- (c) provide that such a certificate may identify the information to which it applies by means of a general description and may be expressed to apply to information within that description that comes into existence after the certificate is made;
- (d) confer other functions on a Minister of the Crown or any other specified person or body (and a function conferred may, in particular, be a power or duty to exercise a discretion).”

104.—(1) Amend section 13 (amendment of lists of responders) as follows.

(2) After subsection (3) insert—

Status: This is the original version (as it was originally made).

“(4) In relation to emergencies that do not fall within section 1(1)(c), the power under subsection (1) to make provision in relation to the Chief Constable (PSNI) is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown).”

105. After section 14 insert—

“14A Northern Ireland: consultation

(1) A Minister of the Crown must consult the Department of Justice in Northern Ireland before making regulations or an order under this Part in relation to the Chief Constable (PSNI).

(2) The Department of Justice must consult a Minister of the Crown before making regulations or an order under this Part.”

106.—(1) Amend section 15 (cross-border collaboration) as follows.

(2) In subsection (5) for “a Minister of the Crown makes an order” substitute “an order is made”.

107. After section 15 insert—

“15A Northern Ireland: cross-border collaboration

(1) In relation to emergencies that do not fall within section 1(1)(c)—

- (a) the power under section 15(3) or (6) to make regulations or an order permitting or requiring the Chief Constable (PSNI) to co-operate with, or provide information to, a person or body listed in Part 2 of Schedule 1 is exercisable by the Department of Justice in Northern Ireland (and not by a Minister of the Crown);
- (b) the power under section 15(4) to issue guidance is exercisable by the Department of Justice (and not by a Minister of the Crown) in relation to regulations made by the Department.

(2) Where the Chief Constable (PSNI) has a duty under section 2, a Minister of the Crown may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—

- (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the performance of the duty;
- (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the performance of the duty.

(3) A Minister of the Crown may issue guidance about a matter addressed in regulations under subsection (2).

(4) If the Department of Justice in Northern Ireland makes an order under section 5(1) imposing a duty on the Chief Constable (PSNI), a Minister of the Crown may make an order—

- (a) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to co-operate, to such extent and in such manner as may be specified, with the Chief Constable (PSNI) in connection with the duty;
- (b) permitting or requiring another person or body listed in Part 1 or 3 of Schedule 1 to provide information, either on request or in other specified circumstances, to the Chief Constable (PSNI) in connection with the duty.

(5) Where a person or body listed in Part 1 of Schedule 1 (other than the Chief Constable (PSNI)) has a duty under section 2 or 4, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make regulations—

- (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty;
- (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the performance of the duty.

(6) The Department of Justice in Northern Ireland may issue guidance about a matter addressed in regulations under subsection (5).

(7) If a Minister of the Crown makes an order under section 5(1) imposing a duty on a person or body listed in Part 1 of Schedule 1, the Department of Justice in Northern Ireland may, in relation to emergencies that do not fall within section 1(1)(c), make an order—

- (a) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to co-operate, to such extent and in such manner as may be specified, with the person or body listed in Part 1 of Schedule 1 in connection with the duty;
- (b) permitting or requiring the Chief Constable (PSNI) (if listed in Part 1 or 3 of Schedule 1) to provide information, either on request or in other specified circumstances, to the person or body listed in Part 1 of Schedule 1 in connection with the duty.

(8) A person or body must comply with regulations or an order under this section and must have regard to guidance under this section.

(9) In this Act, except where the contrary intention appears, a reference to an order under section 5(1) includes a reference to an order under subsection (4) or (7) above.”

108.—(1) Amend section 17 (regulations and orders) as follows.

(2) In subsection (1) after “made” insert “by a Minister of the Crown or the Scottish Ministers”.

(3) After subsection (1) insert—

“(1A) Any power of the Department of Justice in Northern Ireland under this Part to make regulations or an order is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(194).”

(4) After subsection (3) insert—

“(3A) An order under section 1(4), 5(1) or 13(1) may not be made by the Department of Justice in Northern Ireland unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.

(3B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(195) applies for the purposes of subsection (3A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(5) After subsection (5) insert—

“(5A) Regulations made by the Department of Justice in Northern Ireland under this Part are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

(194) S.I. 1979/1573 (N.I. 12).

(195) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

Status: This is the original version (as it was originally made).

109. In section 18(1) (interpretation), at the appropriate place, insert—

“Chief Constable (PSNI)” means the Chief Constable of the Police Service of Northern Ireland.”.

110.—(1) Subject to what follows, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005(**196**) continue in effect ignoring paragraphs 94 to 109 above.

(2) The regulations that may be made by a Minister of the Crown in the exercise of a relevant power after the coming into force of this Order include regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Minister’s power as modified or conferred by virtue of paragraphs 94 to 109 above).

(3) The regulations that may be made by the Department of Justice in the exercise of a relevant power after the coming into force of this Order include—

- (a) regulations revoking, modifying or otherwise affecting any provision of the 2005 Regulations (so long as the regulations revoking, modifying or otherwise affecting any such provision are within the scope of the Department’s power as conferred by virtue of paragraphs 94 to 109 above);
- (b) regulations revoking any provision of the 2005 Regulations so far as the provision cannot be revoked by virtue of sub-paragraph (2) above or paragraph (a) of this sub-paragraph (and so long as the regulations revoking any such provision could have been made by a Minister of the Crown in the exercise of the relevant power immediately before the coming into force of this Order).

(4) In this paragraph “a relevant power” means a power conferred by any of the following provisions of the Civil Contingencies Act 2004(**197**)—

- (a) section 2(3) and (5);
- (b) section 4(2), (4) and (5);
- (c) section 6(1);
- (d) section 12;
- (e) section 12A;
- (f) section 15(3);
- (g) section 15A(2);
- (h) section 15A(5);
- (i) section 17(6).

(5) In section 12A(2) of the 2004 Act (as inserted by paragraph 103 above) references to regulations made by the Department of Justice include regulations made by virtue of sub-paragraph (3) above.

Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008

111.—(1) Amend the Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008(**198**) as follows.

(**196**) S.I. 2005/2042

(**197**) 2004 c. 36.

(**198**) S.R. (N.I.) 2008 No. 242.

(2) In regulation 4(4) (modification of section 65 of the 1998 Act) for “Secretary of State” substitute “Department of Justice”.

(3) In regulation 8(5)(c) (complaints: making and receipt) for “Secretary of State” substitute “Department of Justice”.

(4) In regulation 14(1)(c) (modification of section 55 of the 1998 Act) in the text inserted as section 55(8) after “the Board” insert “, the Department of Justice”.

(5) In regulation 19(3)(b) (Ombudsman’s report on investigation under section 55 of the 1998 Act) for “Secretary of State” substitute “Department of Justice”.

(6) In regulation 23 (expenses of complainants and witnesses) for “Secretary of State” substitute “Department of Justice”.

(7) After Part 7 insert—

“PART 8

- A. In section 65 of the 1998 Act as it applies by virtue of regulation 4(1) above, the power of the Secretary of State to issue guidance includes power to issue guidance concerning the discharge of functions under Parts 1 to 7 above and this Part (and section 65(7) of the 1998 Act applies accordingly).
- B. In a case where, for the purposes of regulation 8(5)(c) above, the Ombudsman is of the opinion that compliance with the request would be contrary to the public interest on the ground of national security (or on grounds including national security), in regulation 8(5)(c) above the reference to the Department of Justice is to be read as a reference to the Secretary of State.
- C. At the end of an investigation of a matter investigated under section 55 of the 1998 Act concerning the relevant conduct of a designated person, the Ombudsman shall send a copy of the report on the investigation to the Secretary of State if the report relates wholly or in part to an excepted matter (within the meaning given by section 4 of the Northern Ireland Act 1998(199)), a reserved matter (within the meaning given by that section) or a matter in respect of which a function is conferred or imposed on the Secretary of State by or under a statutory provision.”

112.—(1) Parts 1 to 7 of the Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008 (as amended by paragraph 111(2) to (6) above) continue in effect as if made by the Department of Justice under section 34 of the Police (Northern Ireland) Act 2003(200).

(2) Part 8 of those Regulations (as inserted by paragraph 111(7) above) has effect as if made by the Secretary of State under section 34A of the 2003 Act (as inserted by paragraph 93(3) above).

(3) Any other regulations in effect under section 34 of the 2003 Act immediately before the coming into force of this Order continue in effect as if made by the Department of Justice and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

(199)1998 c. 47.

(200)2003 c. 6.

SCHEDULE 4

Article 6(1)

Amendments relating to prisons

Prison Act (Northern Ireland) 1953

1. Amend the Prison Act (Northern Ireland) 1953(**201**) as follows.

2.—(1) In section 1(1) (functions in relation to prisons and prisoners) for “Ministry of Home Affairs (in this Act referred to as “the Ministry”)” substitute “Department of Justice (in this Act referred to as “the Department”)”.

(2) In section 1(2) for “Ministry” (where it occurs first) substitute “Department” and for “Ministry” (where it occurs second) substitute “Ministry of Home Affairs”.

(3) In sections 2, 3, 9, 12, 13, 15, 16, 24 and 38, for “Ministry” or “Minister” (in each place where those words referred to the Ministry of Home Affairs or the Minister of Home Affairs before functions were transferred to the Secretary of State) substitute “Department”.

(4) In sections 2(3), (4), (5) and (6) and 9(6) for “Ministry of Finance” substitute “Department of Finance and Personnel”.

(5) In sections 10, 19A, 19B, 34, 34A, 34C and 41 for “Secretary of State” (wherever occurring) substitute “Department”.

(6) In sections 24(1) and 41(1) for “he” substitute “the Department”.

3.—(1) After section 1 insert—

“1A Powers of the Secretary of State

(1) For purposes connected with any matter mentioned in subsection (2), the Secretary of State may continue to exercise the functions (except functions under prison rules) which the Secretary of State had by virtue of this Act immediately before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (notwithstanding the transfer of those functions to the Department by virtue of that Order).

(2) The matters are—

(a) activities regulated by, or otherwise relating to the subject matter of, Parts 1 to 3 of the Regulation of Investigatory Powers Act 2000(**202**), including (in particular) in relation to information obtained through any such activities—

(i) the taking of decisions on the basis of the information;

(ii) the controlling of access to the information;

(iii) the holding and use of the information (so far as not covered by subparagraphs (i) and (ii));

(b) where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for, decisions about whether a

(**201**) 1953 c. 18 (N.I.). Functions under the Act were transferred by, and sections 5 and 43 were amended by, S.I. 1973/2163. Section 10 was substituted by S.I. 2005/1965 (N.I. 15). Section 13 was amended by section 31 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I.), S.I. 1976/226 (N.I. 4), S.I. 1980/1084 (N.I. 10) and S.I. 2005/1965 (N.I. 15). Section 16 was amended by S.I. 1980/397 (N.I. 3) and S.I. 1986/1883 (N.I. 15). Sections 19A and 19B were inserted by S.I. 2004/704 (N.I. 5). Section 34 was substituted, and sections 34A to 34C inserted, by S.I. 2008/1216 (N.I. 1). Section 41 was substituted by S.I. 1982/713 (N.I. 10). Section 47 was amended by S.I. 1989/1344 (N.I. 15), S.I. 1998/1504 (N.I. 9) and S.I. 2005/1965 (N.I. 15), and the Interpretation Act (Northern Ireland) 1954 (c. 33) (N.I.). The Schedules were repealed by the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I.) and S.I. 1980/1084 (N.I. 10). There are other amendments to the Act, but none are relevant.

(**202**) 2000 c. 23.

prisoner is to be so accommodated or is to cease to be so accommodated, including (in particular) the setting of any criteria upon which such decisions are to be based;

- (c) national security, including (in particular)—
 - (i) the taking of decisions on the basis of protected information;
 - (ii) the controlling of access to protected information;
 - (iii) the holding and use of protected information (so far as not covered by subparagraphs (i) and (ii)).

“Protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.

(3) In particular, the Secretary of State may continue to make prison rules.

(4) The Department must exercise its functions subject to any thing done by the Secretary of State under subsection (1) and, in particular, prison rules made by the Department have effect subject to prison rules made by the Secretary of State.

(5) Before making prison rules the Secretary of State or the Department (as the case may be) must consult the other.

(6) Prison rules may, in particular, confer or impose functions on the Secretary of State.

(7) The Secretary of State may from time to time, for purposes connected with any matter mentioned in subsection (2) and after consultation with the Department, give a direction setting out arrangements under which officers of the Department (including persons appointed under section 2(2)) who have duties in relation to prisons or prisoners are (so far as provided by, and in accordance with, the arrangements) to be treated as officers of the Secretary of State (rather than of the Department) and subject to his direction and control accordingly; and the officers covered by the direction are to act accordingly.

(8) The arrangements may (in particular) provide for officers to exercise functions of the Secretary of State.”

(2) The Secretary of State need not consult the Department of Justice before giving his first direction under section 1A(7) (as inserted by sub-paragraph (1) above).

(3) But the first direction ceases to have effect at the end of the period of six months beginning with the day on which it is given (unless, before then, it is revoked by a further direction).

4. In section 5 (annual report)—

(a) for subsection (1) substitute—

“(1) The Department shall prepare an annual report on the administration of this Act and shall lay the report before the Assembly.”; and

(b) in subsection (2)(c) for “Minister give the best information to Parliament” substitute “Department give the best information to the Assembly”.

5. For section 34(8) (parliamentary procedure for orders amending section 34) substitute—

“(8) An order made by the Department under subsection (7) is subject to negative resolution.

(9) Section 1A(1) does not apply to the power to make orders under subsection (7).”

6. For section 42 substitute—

“42 Laying of prison rules

(1) Prison rules made by the Department are subject to negative resolution.

Status: This is the original version (as it was originally made).

(2) Prison rules made by the Secretary of State are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946(203) applies accordingly.”

7. In section 47(1) (interpretation), at the appropriate place, insert—
 ““Department” means the Department of Justice;”.

Prison and Young Offenders Centre Rules (Northern Ireland) 1995

8. Amend the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(204) as follows.
9. Subject to what follows, in Parts 1 to 16 for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
- 10.—(1) Amend rule 4 as follows.
 (2) In the definition of “the Ombudsman’s staff” for “Northern Ireland Office” substitute “Department of Justice”.
 (3) In the definition of “separated prisoner” for “who has applied” to the end substitute “whom the Secretary of State has decided is to be accommodated in separated conditions on the grounds of security, safety or good order and who is so accommodated”.
- 11.—(1) Amend rule 7 as follows.
 (2) After paragraph (2) insert—
 “(3) In paragraph (1) the reference to these rules does not include rules 50A, 73A, 79MA and 109ZA.”
12. In rules 32(2L) and 48(3L) and (11) for “he” substitute “it”.
13. In rules 48B(2) and 48C(2) omit “by the Secretary of State”.
14. After rule 50 insert—

“National security

50A. In a case where evidence is not inspected by the independent monitoring board by virtue of rule 32(2H)(a) or 48(3H)(a), in rule 32(2J) to (2L) or 48(3J) to (3L) (as the case may be) references to the Department of Justice are to be read as references to the Secretary of State.”

15. In rule 59(6) for “him” substitute “the Department of Justice”.
16. In rule 67(2) for “he” substitute “the Department of Justice”.
17. In rule 71(2) for “Secretary of State’s” substitute “Department of Justice’s”.
18. After rule 73 insert—

“National security

73A.—(1) The Secretary of State may if he considers it necessary in the interests of national security—

(203) 1946 c. 36.

(204) S.R. (N.I.) 1995 No. 8; as amended by S.R. (N.I.) 1995 No. 264, S.R. (N.I.) 1997 No. 86, S.R. (N.I.) 2000 No. 4, S.R. (N.I.) 2000 No. 267, S.R. (N.I.) 2001 No. 221, S.R. (N.I.) 2005 No. 153, S.R. (N.I.) 2008 No. 452 and S.R. (N.I.) 2009 No. 429.

- (a) exercise any power of the Department of Justice under rule 67(1), (2) or (5) to (9), 68(8) or 68A(1) or (2) above;
- (b) by direction provide for anything done by the Department of Justice in the exercise of any of those powers to cease to have effect to the extent set out in the direction.

(2) In relation to—

- (a) any intercepted material which is intercepted under a direction of the Secretary of State or which is otherwise information held by the governor as an officer of the Secretary of State in accordance with arrangements made under section 1A(7) of the Act, or
- (b) any information retained pursuant to rule 68B above in relation to any intercepted material within sub-paragraph (a),

rule 68C above has effect as if for the words “an officer of a prison or of the Department of Justice” there were substituted “an officer of the Secretary of State (including a person treated as such an officer under arrangements made under section 1A(7) of the Act)”.

19.—(1) Amend rule 79L as follows.

(2) In paragraphs (2) and (6) for “he” substitute “the Department of Justice”.

(3) In paragraph (3) for “his” substitute “the Department’s”.

20. After rule 79M insert—

“National security etc

79MA.—(1) In carrying out any function under these Rules or otherwise, the Ombudsman (including members of the Ombudsman’s staff) must have regard to any guidance given by the Secretary of State for purposes connected with national security (including, in particular, any matter within section 1A(2)(c)(i) to (iii) of the Act).

(2) In relation to any matter mentioned in section 1A(2) of the Act, in rule 79M references to the Department of Justice are to be read as including references to the Secretary of State.”

21. In rule 92(2) and (3) for “he” substitute “the Department of Justice”.

22. At the beginning of Part 13A insert—

“Entry into separated accommodation etc

109ZA.—(1) This rule applies where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for.

(2) It is for the Secretary of State—

- (a) to decide whether a prisoner is to be accommodated in separated conditions on the grounds of security, safety or good order or is to cease to be so accommodated, and
- (b) to set the criteria upon which any such decision is to be based.”

23. In rule 122(3) for “he” (where it first occurs) substitute “the Department of Justice”.

24. In rule 124(3) for “him” substitute “the Department of Justice”.

Status: This is the original version (as it was originally made).

25.—(1) Subject to sub-paragraph (2), the Prison and Young Offenders Centre Rules (Northern Ireland) 1995(**205**) (as amended by paragraphs 8 to 24 above) continue in effect as if made by the Department of Justice under section 13 of the Prison Act (Northern Ireland) 1953(**206**).

(2) Rules 7(3), 50A, 73A, 79MA and 109ZA have effect as if made by the Secretary of State under that section by virtue of section 1A of the 1953 Act (as inserted by paragraph 3(1) above).

Regulation of Investigatory Powers Act 2000

26. At the end of Part 1 of Schedule 1 to the Regulation of Investigatory Powers Act 2000(**207**) (relevant authorities for the purposes of sections 28 and 29) insert—

“**23E.** The Department of Justice.”

27.—(1) Sub-paragraph (2) applies in relation to any order under section 25 of the 2000 Act—

- (a) which is in effect immediately before the coming into force of this Order, and
- (b) which contains provision specifying the Northern Ireland Office as a relevant public authority for the purposes of subsection (1) of that section.

(2) The provision mentioned in sub-paragraph (1)(b) has effect as if it were made in relation to the Department of Justice as well as the Northern Ireland Office.

28.—(1) Sub-paragraphs (2) and (3) apply in relation to any order under section 25 of the 2000 Act—

- (a) which is in effect immediately before the coming into force of this Order, and
- (b) which, in relation to the Northern Ireland Office, contains provision prescribing for the purposes of subsection (2) of that section any office, rank or position in the Northern Ireland Prison Service.

(2) The provision mentioned in sub-paragraph (1)(b) has effect as if it were made in relation to the Department of Justice as well as the Northern Ireland Office.

(3) But the provision has effect in relation to the Northern Ireland Office only for cases where the individual holding a prescribed office, rank or position is acting as an officer of the Secretary of State under arrangements made under section 1A(7) of the Prison Act (Northern Ireland) 1953 (as inserted by paragraph 3(1) above).

29.—(1) Sub-paragraphs (2) and (3) apply in relation to any order under section 30 of the 2000 Act—

- (a) which is in effect immediately before the coming into force of this Order, and
- (b) which, in relation to the Northern Ireland Office, contains provision prescribing for the purposes of subsection (1) of that section any office, rank or position in the Northern Ireland Prison Service.

(2) The provision mentioned in sub-paragraph (1)(b) has effect as if it were made in relation to the Department of Justice as well as the Northern Ireland Office.

(3) But the provision has effect in relation to the Northern Ireland Office only for cases where the individual holding a prescribed office, rank or position is acting as an officer of the Secretary of State under arrangements made under section 1A(7) of the Prison Act (Northern Ireland) 1953 (as inserted by paragraph 3(1) above).

(205) S.R. (N.I.) 1995 No. 8.

(206) 1953 c. 18 (N.I.). Section 13 was amended by section 31 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I.), S.I. 1976/226 (N.I. 4), S.I. 1980/1084 (N.I. 10) and S.I. 2005/1965 (N.I. 15).

(207) 2000 c. 23. Amendments have been made to Schedule 1 but none are relevant.

SCHEDULE 5

Article 6(2)

Release of prisoners on licence

Life Sentences (Northern Ireland) Order 2001

1. Amend the Life Sentences (Northern Ireland) Order 2001(208) as follows.
2. In Article 2 (interpretation)—
 - (a) in paragraph (2), in sub-paragraph (b) of the definition of “life sentence”, for “Secretary of State” substitute “Minister in charge of the Department of Justice”;
 - (b) after paragraph (2) insert—

“(3) In this Order “protected information” means evidence or information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.”
3. In Article 5 (determination of tariffs)—
 - (a) in paragraphs (4) and (5) for “Secretary of State” substitute “Department of Justice”; and
 - (b) in paragraph (6)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “by him” substitute “by the Department of Justice”; and
 - (iii) for “for him” substitute “for the Department of Justice”.
4. In Article 6 (duty to release certain life prisoners) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
5. In Article 7 (power to release life prisoners on compassionate grounds)—
 - (a) in paragraph (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “he” substitute “the Department of Justice”;
 - (b) in paragraph (2) for “Secretary of State” substitute “Department of Justice”;
 - (c) after paragraph (2) insert—

“(3) The Secretary of State may notify the Department of Justice that a life prisoner is not to be released under this Article without the Secretary of State’s agreement; and, if the Secretary of State gives such a notification in relation to a prisoner, the Department of Justice may not release the prisoner under this Article without the Secretary of State’s agreement.

(4) But the Secretary of State may—

 - (a) give a notification, or
 - (b) refuse his agreement to a release,

only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.”
6. In Article 8 (duration and conditions of licences)—
 - (a) in paragraphs (2) and (3) for “Secretary of State” substitute “Department of Justice”;
 - (b) for paragraph (4) substitute—

(208) S.I. 2001/2564 (N.I. 2), as amended by the Criminal Justice and Immigration Act 2008 (c. 4), Schedule 26, paragraph 51, and S.I. 2008/1216 (N.I. 1).

Status: This is the original version (as it was originally made).

“(4) Rules made under paragraph (2) shall be subject to negative resolution.”;

(c) after paragraph (4) insert—

“(5) The Secretary of State may exercise any power of the Department of Justice to include, insert, vary or cancel conditions in a licence but only if his decision to exercise the power is arrived at (wholly or partly) on the basis of protected information; and, in relation to the exercise of such a power by the Secretary of State, in paragraph (3) the reference to the Department of Justice is to be read as a reference to the Secretary of State.

(6) The Department of Justice must exercise its powers subject to anything done by the Secretary of State by virtue of paragraph (5).”

7. In Article 9 (recall of life prisoners while on licence)—

(a) in paragraph (1) before “Secretary of State” insert “Department of Justice or the”;

(b) in paragraph (2)—

(i) before “Secretary of State” insert “Department of Justice or the”;

(ii) after “appears to” insert “it or”;

(c) in paragraphs (3) and (4) before “Secretary of State” insert “Department of Justice or (as the case may be) the”;

(d) in paragraph (5) for “Secretary of State” substitute “Department of Justice”;

(e) after paragraph (6) insert—

“(7) The Secretary of State may revoke the licence of a life prisoner and recall him to prison under this Article only if his decision to revoke the licence and make the recall is arrived at (wholly or partly) on the basis of protected information.”

8. In Article 10 (life prisoners transferred to Northern Ireland)—

(a) in paragraph (1)—

(i) for “Secretary of State” substitute “Department of Justice”; and

(ii) for “his opinion” substitute “its opinion”;

(b) in paragraph (2)—

(i) for “the Secretary of State certifies his opinion” substitute “the Department of Justice certifies its opinion”; and

(ii) for “the Secretary of State would have directed” substitute “a direction would have been given”; and

(c) in paragraph (4)(b)(ii) and (iii) omit “by the Secretary of State”.

9. In Article 11 (existing life prisoners)—

(a) in paragraph (1)—

(i) for “Secretary of State” substitute “Department of Justice”; and

(ii) for “his opinion” substitute “its opinion”; and

(b) in paragraph (2)—

(i) for “the Secretary of State certifies his opinion” substitute “the Department of Justice certifies its opinion”; and

(ii) for “the Secretary of State would have directed” substitute “a direction would have been given”.

Criminal Justice (Northern Ireland) Order 2008

10. Amend the Criminal Justice (Northern Ireland) Order 2008(209) as follows.
11. In Article 16 (interpretation of Chapter 4 of Part 2) after paragraph (3) insert—
 - “(4) In this Chapter “protected information” means evidence or information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.”
12. In the italic cross-headings before Articles 17 and 19 omit “of Secretary of State”.
13. In Article 17(1) (duty to release certain fixed-term prisoners) for “Secretary of State” substitute “Department of Justice”.
14. In Article 18 (duty to release prisoners serving indeterminate or extended custodial sentences) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
15. In Article 19(1) and (4) (power to release prisoners on licence before required to do so) for “Secretary of State” substitute “Department of Justice”.
- 16.—(1) Amend Article 20 (power to release certain prisoners on compassionate grounds) as follows.
 - (2) In paragraphs (1) and (3) for “Secretary of State” substitute “Department of Justice”.
 - (3) After paragraph (4) insert—
 - “(5) The Secretary of State may notify the Department of Justice that a prisoner is not to be released under this Article without the Secretary of State’s agreement; and, if the Secretary of State gives such a notification in relation to a prisoner, the Department of Justice may not release the prisoner under this Article without the Secretary of State’s agreement.
 - (6) But the Secretary of State may—
 - (a) give a notification, or
 - (b) refuse his agreement to a release,only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.”
17. In Article 22(4) and (6) (duration of licences: prisoners serving indeterminate custodial sentences) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
18. In Article 23(1) and (2) (power of court to recommend licence conditions for sentences of 12 months or more) for “Secretary of State” substitute “Department of Justice”.
19. In Article 24 (licence conditions)—
 - (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (b) in paragraph (6) after “been consulted” insert “by the Department of Justice”.
20. In Article 25(2)(b) and (3) (licence conditions on re-release of prisoners serving sentence of less than 12 months) for “Secretary of State” substitute “Department of Justice”.
21. In Article 26(7) (curfew condition to be included in licence under Article 19) for “Secretary of State” substitute “Department of Justice”.
22. After Article 27 insert—

“Licence conditions: national security

27A.—(1) The Secretary of State may exercise any power of the Department of Justice to include, insert, vary or cancel conditions in a licence but only if his decision to exercise the power is arrived at (wholly or partly) on the basis of protected information; and, in relation to the exercise of any such power by the Secretary of State, in this Chapter references to the Department of Justice are to be read as references to the Secretary of State.

(2) The Department of Justice must exercise its powers subject to anything done by the Secretary of State by virtue of paragraph (1).”

23. In Article 28 (recall of prisoners while on licence)—

- (a) in paragraph (2) for “The Secretary of State” substitute “The Department of Justice or the Secretary of State”;
- (b) in paragraphs (2)(b) and (4) before “Secretary of State” insert “Department of Justice or (as the case may be) the”;
- (c) in paragraph (5) for “Secretary of State” substitute “Department of Justice”;
- (d) after paragraph (7) insert—

“(8) The Secretary of State may revoke P’s licence and recall P to prison under paragraph (2) only if his decision to revoke P’s licence and recall P to prison is arrived at (wholly or partly) on the basis of protected information.”

24. In Article 29 (further release after recall for certain fixed-term prisoners)—

- (a) in paragraph (5)—
 - (i) for “Secretary of State”, where it occurs first, substitute “Department of Justice”;
 - (ii) before “Secretary of State”, where it occurs second, insert “Department of Justice or the”;
- (b) after paragraph (5) insert—

“(5A) The Secretary of State may refer P’s case to the Parole Commissioners under paragraph (5) only if his decision to refer P’s case is arrived at (wholly or partly) on the basis of protected information.”;
- (c) in paragraph (8) for “Secretary of State” substitute “Department of Justice”.

25. In Article 30(1) and (3) (recall of prisoners released early under Article 19) for “Secretary of State” (in each place) substitute “Department of Justice”.

26. In Article 31 (conviction while licence remains in force) for “Secretary of State” substitute “Department of Justice”.

27. In Article 32 (concurrent terms) for “Secretary of State” (wherever occurring) substitute “Department of Justice”.

28. In Article 33(2) (consecutive terms) for “Secretary of State” substitute “Department of Justice”.

29.—(1) Amend Article 46 (Parole Commissioners) as follows.

(2) In paragraph (3) before “Secretary of State” insert “Department of Justice or (as appropriate) the”.

(3) After paragraph (4) insert—

“(5) Arrangements under section 1A(7) of the Prison Act (Northern Ireland) 1953(210) may include arrangements for purposes connected with any of the Secretary of State’s functions by virtue of—

- (a) the Life Sentences (Northern Ireland) Order 2001(211),
- (b) Chapter 4 of this Part, or
- (c) this Chapter (including rules made under paragraph 4 or 4A of Schedule 4);

and, accordingly, in section 1A(8) of the 1953 Act the reference to functions of the Secretary of State includes functions of the Secretary of State by virtue of any of the provisions mentioned in sub-paragraphs (a) to (c) above.”

30. For Article 100 substitute—

“Regulations, orders and rules

100.—(1) Regulations, orders and rules made by the Department of Justice under this Order shall be subject to negative resolution.

(2) Paragraph (1) does not apply to an order under Article 1 or 22(4).

(3) An order under Article 22(4) is not a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(212).

(4) Rules made by the Secretary of State under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946(213) shall apply accordingly.

(5) Regulations, orders or rules made by the Department of Justice or the Secretary of State under this Order may contain—

- (a) any incidental, supplementary or consequential provision, and
- (b) any transitory, transitional or saving provisions,

which the Department of Justice or the Secretary of State (as the case may be) considers necessary or expedient.”

31.—(1) Amend Schedule 4 (the Parole Commissioners) as follows.

(2) In paragraphs 1 to 4 for “Secretary of State” (in each place) substitute “Department of Justice”.

(3) After paragraph 4 insert—

“4A.—(1) The Secretary of State may make rules with respect to the proceedings of the Commissioners for purposes connected with the holding, disclosure or use of protected information (as defined in Article 16(4)).

(2) In particular, rules under this paragraph may include—

- (a) provision for the purpose of ensuring that the Secretary of State is informed of cases where protected information may be relevant;
- (b) provision for dealing with cases pending a decision of the Secretary of State as to whether protected information is relevant;
- (c) provision for dealing with cases where protected information is relevant, including (in particular) provision modifying any rules made by the Department

(210) 1953 c. 18 (N.I.).

(211) S.I. 2001/2564 (N.I. 2), as amended by the Criminal Justice and Immigration Act 2008 (c. 4), Schedule 26, paragraph 51, and S.I. 2008/1216 (N.I. 1).

(212) S.I. 1979/1573 (N.I. 12).

(213) 1946 c. 36.

Status: This is the original version (as it was originally made).

of Justice so as to require the Commissioners (or any of them), so far as required by the Secretary of State for purposes connected with any protected information—

- (i) to conduct such cases, and otherwise carry out their functions, under the rules as if the Secretary of State were a party to the proceedings instead of, or in addition to, the Department of Justice, and
- (ii) to permit the Secretary of State to carry out functions of the Department of Justice under the rules accordingly;

(d) any provision mentioned in paragraph 4(2)(a) to (g).

(3) For the purposes of sub-paragraph (2)(d) above—

- (a) in paragraph 4(2) references to the Department of Justice are to be read as including references to the Secretary of State;
- (b) paragraph 4(3) and (4) applies in relation to any provision made by virtue of paragraph 4(2)(g).

(4) Rules made by the Department of Justice under paragraph 4 have effect subject to rules made by the Secretary of State under this paragraph.”

(4) In paragraphs 5 and 6 for “Secretary of State” (in each place) substitute “Department of Justice” and for “Secretary of State’s” substitute “Department of Justice’s”.

(5) In paragraph 7—

- (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”; and
- (b) for sub-paragraph (2) substitute—

“(2) The Department of Justice shall lay a copy of the report before the Assembly.”

Parole Commissioners’ Rules (Northern Ireland) 2009

32. Amend the Parole Commissioners’ Rules (Northern Ireland) 2009(**214**) as follows.

33. Subject to what follows, in Parts 1 to 6 for “Secretary of State” (wherever occurring) substitute “Department of Justice”.

34. In rules 2(1), 3(4), 6(1) and 12(1) omit “by the Secretary of State”.

35. In rule 9(1) for “Secretary of State’s” substitute “Department of Justice’s”.

36. In rule 25—

- (a) for “the Secretary of State refers a life prisoner’s case” substitute “a life prisoner’s case is referred”;
- (b) after “extended custodial prisoner’s case” insert “is referred”.

37. After rule 32(2) insert—

“(3) If proceedings on a case as is referred to in rule 31(1) are not completed under the 2001 Rules before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, the functions of the Secretary of State under the 2001 Rules in relation to the proceedings are transferred to the Department of Justice; and—

- (a) in the 2001 Rules references to the Secretary of State are to be read accordingly;
- (b) anything done in connection with the proceedings by or in relation to the Secretary of State is treated as having been done by or in relation to the Department of Justice so far as necessary or appropriate for continuing its effect after the transfer of functions.”

38. After Part 7 insert—

“PART 8

A.—(1) The functions under rule 9(1) above by virtue of rule 9(1)(e) are exercisable by the Secretary of State (and not the Department of Justice).

(2) Where in any case the Secretary of State certifies by virtue of rule 9(1)(e) any information, document or evidence as confidential information, Parts 1 to 6 above apply for that case subject to paragraphs (3) to (5) below.

(3) Rule 9(3) above applies in relation to the Secretary of State’s certification as if references to the Department of Justice were references to the Secretary of State.

(4) So far as required by the Secretary of State for purposes connected with the confidential information certified by the Secretary of State, the Commissioners (or any of them) must—

- (a) conduct the case and otherwise carry out their functions as if the Secretary of State were a party (instead of, or in addition to, the Department of Justice);
- (b) permit the Secretary of State to carry out functions of the Department of Justice accordingly.

(5) Rule 28(1) above has effect as if after sub-paragraph (b) there were inserted—

“(ba) in the case of a document directed to the Secretary of State, to any offices of the Northern Ireland Office;”.

(6)

The cases covered by paragraph (2) above include cases where the certification was made before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.

B.—(1) This rule applies to any case to which rule 32(3) above applies.

(2) The functions under rule 15(1) of the 2001 Rules by virtue of rule 15(1)(e) are to continue to be exercisable by the Secretary of State and, accordingly, rule 32(3) does not transfer—

- (a) any function under rule 15(1) by virtue of rule 15(1)(e), or
- (b) any function under rule 15(3) of the 2001 Rules in relation to a certification by virtue of rule 15(1)(e).

(3) Paragraphs (4) and (5) below apply if—

- (a) before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 a certification was made by virtue of rule 15(1)(e) of the 2001 Rules, or
- (b) after the coming into force of that Order a certification is made by virtue of rule 15(1)(e) of the 2001 Rules.

(4) So far as required by the Secretary of State for purposes connected with the information, document or evidence certified, the Commissioners (or any of them) must—

- (a) conduct the case and otherwise carry out their functions as if the Secretary of State were a party (instead of, or in addition to, the Department of Justice);
- (b) permit the Secretary of State to carry out functions of the Department of Justice accordingly.

Status: This is the original version (as it was originally made).

(5) Rule 21(1) of the 2001 Rules has effect as if after sub-paragraph (b) there were inserted—

“(ba) in the case of a document directed to the Secretary of State, to any offices of the Northern Ireland Office;”.

39.—(1) Amend Schedule 2 as follows.

(2) In paragraph 9 of Part A—

(a) omit “Secretary of State’s”;

(b) for “the Secretary of State considered it” substitute “it was considered”.

(3) In paragraph 1 of Part B omit “Secretary of State’s”.

40.—(1) Parts 1 to 7 of the Parole Commissioners’ Rules (Northern Ireland) 2009(**215**) (as amended by paragraphs 33 to 37 and 39 above) continue in effect as if made by the Department of Justice under paragraph 4 of Schedule 4 to the Criminal Justice (Northern Ireland) Order 2008(**216**).

(2) Part 8 of those Rules (as inserted by paragraph 38 above) has effect as if made by the Secretary of State under paragraph 4A of Schedule 4 to the 2008 Order (as inserted by paragraph 31(3) above).

(3) Sub-paragraphs (4) and (5) below apply to a case as is referred to in rule 31(1) of those Rules.

(4) If under the Life Sentence Review Commissioners’ Rules 2001(**217**) a prisoner and any representative appointed by him are excluded from proceedings, the Advocate General for Northern Ireland may appoint a person to represent the prisoner’s interests in those proceedings; and, accordingly—

(a) rule 2(2) of the 2001 Rules has effect as if for the definition of “special advocate” there were substituted—

““special advocate” means a person appointed under paragraph 40(4) of Schedule 5 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.”;

(b) rule 16(1) of the 2001 Rules has effect as if for “Attorney General” (in each place) there were substituted “Advocate General for Northern Ireland”.

(5) A person appointed under sub-paragraph (4) above is not responsible to the prisoner whose interests he represents.

SCHEDULE 6

Article 6(3)

Mercy and miscarriages of justice

Criminal Justice Act 1988

1. Amend the Criminal Justice Act 1988(**218**) as follows.

2.—(1) In section 133(**219**) (compensation for miscarriages of justice) after subsection (6) insert—

(215) S.R. (N.I.) 2009 No. 82.

(216) S.I. 2008/1216 (N.I. 1).

(217) S.R. (N.I.) 2001 No. 317.

(218) 1988 c. 33.

(219) Section 133 was amended by section 61 of the Criminal Justice and Immigration Act 2008 (c. 4). Other amendments have been made to section 133 but none are relevant.

“(6A) Subject to what follows, in the application of this section in relation to a person (“P”) convicted in Northern Ireland of a criminal offence, in subsections (1) to (4) any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.

(6B) If P is pardoned, subsection (6A) applies only if the pardon is a devolved pardon.

(6C) Subsections (6D) to (6H) apply if—

- (a) P’s conviction is reversed or P is given a devolved pardon,
- (b) an application for compensation is made in relation to P’s conviction,
- (c) the application is made before the end of the period mentioned in subsection (2) or, if it is made after the end of that period, the Department of Justice gives a direction under subsection (2A), and
- (d) the Department of Justice has reason to believe that protected information may be relevant to the application (for example, because the court which quashed P’s conviction did not make public (in whole or in part) its reasons for quashing P’s conviction).

(6D) The Department of Justice must refer the application to the Secretary of State who must then take a view as to whether or not any protected information is relevant to the application.

(6E) If the Secretary of State takes the view that no protected information is relevant to the application, the Secretary of State must refer the application back to the Department of Justice to be dealt with by the Department accordingly.

(6F) If the Secretary of State takes the view that protected information is relevant to the application, the Secretary of State must refer the application back to the Department of Justice to be dealt with by the Department accordingly unless the Secretary of State is also of the view that, on the grounds of national security, it is not feasible for the Department (including any assessor appointed by the Department) to be provided with either—

- (a) the protected information, or
- (b) a summary of the protected information that is sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

(6G) If the Secretary of State refers the application back to the Department of Justice under subsection (6F), the Secretary of State must provide the Department with either—

- (a) the protected information, or
- (b) a summary of the protected information that appears to the Secretary of State to be sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

(6H) If the Secretary of State is not required to refer the application back to the Department of Justice—

- (a) subsections (3) and (4) apply to the application ignoring subsection (6A), and
- (b) any compensation payable on the application is payable by the Secretary of State.

(6I) In this section “protected information” means information the disclosure of which may be against the interests of national security.

(6J) In this section “devolved pardon” means—

Status: This is the original version (as it was originally made).

- (a) a pardon given after the coming into force of the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 in the exercise of powers under section 23(2) of the Northern Ireland Act 1998(220);
- (b) a pardon given before the coming into force of that Order which, had it been given after the coming into force of that Order, would have had to have been given in the exercise of powers under section 23(2) of the 1998 Act (ignoring article 25(2) of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010).

(6K) The pardons covered by subsection (6J)(a) include pardons given in reliance on article 25(2) of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010.”

(2) Section 133(6A) to (6K) (as inserted by sub-paragraph (1) above) does not apply in relation to an application for compensation made before the coming into force of this Order (“an existing application”).

(3) Sub-paragraphs (4) to (7) below apply to an existing application if—

- (a) the application relates to a person convicted in Northern Ireland of a criminal offence,
- (b) if the person was pardoned, the pardon is a devolved pardon (as defined in section 133(6J)), and
- (c) after the coming into force of this Order further steps are required to be taken under section 133 or 133A in relation to the application.

(4) Before any further steps are taken the Secretary of State must take a view as to whether or not any protected information (as defined in section 133(6I)) is relevant to the application.

(5) If the Secretary of State takes the view that no protected information is relevant to the application, the Secretary of State must refer the application to the Department of Justice.

(6) If the Secretary of State takes the view that protected information is relevant to the application, the Secretary of State must refer the application to the Department of Justice unless the Secretary of State is also of the view that, on the grounds of national security, it is not feasible for the Department (including any assessor appointed by the Department) to be provided with either—

- (a) the protected information, or
- (b) a summary of the protected information that is sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

(7) If the Secretary of State refers the application to the Department of Justice under sub-paragraph (5) or (6)—

- (a) the Secretary of State’s functions in relation to the application are transferred to the Department of Justice;
- (b) anything done in connection with the application by or in relation to the Secretary of State is treated as having been done by or in relation to the Department of Justice so far as necessary or appropriate for continuing its effect after the transfer of functions;
- (c) if the application is referred under sub-paragraph (6), the Secretary of State must provide the Department of Justice with either—
 - (i) the protected information, or
 - (ii) a summary of the protected information that appears to the Secretary of State to be sufficiently detailed to enable the Department (including any assessor) to deal properly with the application.

3. In section 133A(221) (miscarriages of justice: amount of compensation) after subsection (8) insert—

“(9) In relation to compensation payable by the Department of Justice in Northern Ireland, the power in subsection (7) is exercisable by the Department (and not by the Secretary of State).

(10) The power of the Department of Justice to make an order under subsection (7) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(222) (and not by statutory instrument).

(11) No order may be made by the Department of Justice under subsection (7) unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly (and subsection (8) does not apply).

(12) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(223) applies for the purposes of subsection (11) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

4.—(1) Amend Schedule 12(224) (assessors of compensation for miscarriages of justice) as follows.

(2) In paragraph 6(4) omit the words from “Lord Chancellor” to “concurrence of the”.

(3) After paragraph 7 insert—

“8. In relation to an assessor appointed by the Department of Justice in Northern Ireland, in this Schedule—

- (a) references to the Secretary of State are to be read as references to the Department of Justice;
- (b) references to the Treasury are to be read as references to the Department of Finance and Personnel in Northern Ireland.”

Criminal Appeal Act 1995

5. Amend the Criminal Appeal Act 1995(225) as follows.

6.—(1) Amend section 16(226) (assistance in connection with prerogative of mercy) as follows.

(2) After subsection (2) insert—

“(2A) Where the Minister in charge of the Department of Justice in Northern Ireland refers to the Commission any matter which arises in the consideration of whether Her Majesty’s prerogative of mercy should be exercised on Her behalf under section 23(2) of the Northern Ireland Act 1998(227) in relation to a conviction and on which the Minister desires the Commission’s assistance, the Commission shall—

- (a) consider the matter referred, and
- (b) give to the Minister a statement of their conclusions on it;

(221) Section 133A was inserted by section 61 of the Criminal Justice and Immigration Act 2008 (c. 4).

(222) S.I. 1979/1573 (N.I. 12).

(223) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(224) Amendments have been made to Schedule 12 but none are relevant.

(225) 1995 c. 35.

(226) Section 16 was amended by Schedule 11 to the Armed Forces Act 2006 (c. 52).

(227) 1998 c. 47.

Status: This is the original version (as it was originally made).

and for the purposes of the consideration of whether Her Majesty’s prerogative of mercy should be so exercised, the Commission’s statement shall be treated as conclusive of the matter referred.

(2B) Where in any case the Commission are of the opinion that Her Majesty’s prerogative of mercy should be so exercised, they shall give the Minister reasons for their opinion.”

- (3) Sub-paragraph (4) below applies if—
- (a) before the coming into force of this Order the Secretary of State referred a matter to the Commission under section 16(1),
 - (b) immediately before the coming into force of this Order there are still steps to be taken in relation to the matter by the Commission or the Secretary of State, and
 - (c) the matter, had it been referred to the Commission after the coming into force of this Order, would have had to have been referred under section 16(2A) (as inserted by sub-paragraph (2) above).
- (4) The matter is to be treated as having been referred under section 16(2A) and, accordingly—
- (a) if the Commission have already given their statement of conclusions to the Secretary of State, the Secretary of State must give the statement to the Minister in charge of the Department of Justice, or
 - (b) if the Commission have not already done so, they must give their statement to the Minister (and not to the Secretary of State),

and the Minister must, in accordance with section 16(2A), consider whether Her Majesty’s prerogative of mercy should be exercised on Her behalf under section 23(2) of the Northern Ireland Act 1998.

7. In section 24(1)(b) (exceptions from obligations of non-disclosure) after “Secretary of State” insert “or the Department of Justice in Northern Ireland”.

8.—(1) Amend Schedule 1 (the Commission) as follows.

- (2) In paragraph 6(3) for the “and” after paragraph (c) substitute—
- “(ca) giving to the Minister in charge of the Department of Justice in Northern Ireland a statement under section 16(2A)(b), and”.
- (3) In paragraph 8—
- (a) in sub-paragraph (1) after “Secretary of State” insert “and the Department of Justice in Northern Ireland”;
 - (b) after sub-paragraph (3) insert—
 - “(4) The Department of Justice shall lay before the Northern Ireland Assembly a copy of every report sent to the Department of Justice under sub-paragraph (1).
 - (5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**228**) applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

(228) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

SCHEDULE 7

Article 6(4)

Criminal Justice and Public Order Act 1994

1. Amend the Criminal Justice and Public Order Act 1994(**229**) as follows.
2. At the beginning of Chapter 3 of Part 8 insert—

“**117A Exercise of functions by the Department of Justice**

(1) This Chapter, except so far as it relates to the delivery of prisoners to or from premises situated outside the United Kingdom, has effect subject to the following modifications.

(2) Any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.

(3) Subsections (4) and (5) below apply instead of section 120(6) and paragraph 3(3) of Schedule 7.

(4) The power of the Department of Justice to make rules under section 120 or to make regulations under paragraph 3 of Schedule 7 shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**230**).

(5) Rules made by the Department of Justice under section 120, and regulations made by the Department of Justice under paragraph 3 of Schedule 7, shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**231**)).”

3. In section 127(**232**) (prison service: inducements to withhold services or to indiscipline)—
 - (a) in subsection (2) after “Scottish Ministers” insert “or, in Northern Ireland, to the Department of Justice”;
 - (b) in subsection (3) after “Scottish Ministers” (in the first place where those words appear) insert “or, in Northern Ireland, of the Department of Justice”;
 - (c) in subsection (3) after “Scottish Ministers” (in the second place where those words appear) insert “or, in Northern Ireland, the Department of Justice”; and
 - (d) in subsection (8) after “Scottish Ministers” insert “or, in Northern Ireland, the Department of Justice”.
- 4.—(1) Amend section 127A(**233**) (power to suspend operation of section 127) as follows.
 - (2) After subsection (1) insert—

“(1A) In the application of this section to Northern Ireland, in subsection (1) the reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.”
 - (3) At the end of subsection (3) insert “(subject to subsection (5))”.
 - (4) After subsection (4) insert—

“(5) The power of the Department of Justice in Northern Ireland to make orders under this section is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(229) 1994 c. 33.

(230) S.I. 1979/1573 (N.I. 12).

(231) Section 41(6) was amended by S.I. 1999/663.

(232) Section 127 was amended by S.I. 1999/1820. Other amendments have been made to section 127 but none are relevant.

(233) Section 127A was inserted by section 139 of the Criminal Justice and Immigration Act 2008 (c. 4).

Status: This is the original version (as it was originally made).

(6) No order may be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

5. Omit section 128(5)(aa)(**234**) (definition of prison service in Northern Ireland).

6. After section 128 insert—

“128A Pay and related conditions: Northern Ireland

(1) The Department of Justice in Northern Ireland may by regulations provide for the establishment, maintenance and operation of procedures for the determination from time to time of—

- (a) the rates of pay and allowances to be applied to the prison service; and
- (b) such other terms and conditions of employment in that service as may appear to the Department of Justice to fall to be determined in association with the determination of rates of pay and allowances.

(2) Before making any regulations under this section the Department of Justice shall consult with such organisations appearing to it to be representative of persons working in the prison service and with such other persons as it thinks fit.

(3) The power to make regulations under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4) Regulations made under this section shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(5) Regulations under this section may—

- (a) provide for determinations with respect to matters to which the regulations relate to be made wholly or partly by reference to such factors, and the opinion or recommendations of such persons, as may be specified or described in the regulations;
- (b) authorise the matters considered and determined in pursuance of the regulations to include matters applicable to times and periods before they are considered or determined;
- (c) make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit; and
- (d) make different provision for different cases.

(6) For the purposes of this section, the prison service comprises all the individuals who hold any post, other than as chaplain or assistant chaplain, to which they have been appointed for the purposes of section 2(2) of the Prison Act (Northern Ireland) 1953(**235**).”

7.—(1) Amend section 172 (extent) as follows.

(2) After subsection (13) insert—

“(13A) Subject to subsection (14), Chapter 3 of Part 8 extends to Northern Ireland only.”

(3) In subsection (14)—

(**234**) Section 128(5)(aa) was inserted by section 25 of the Offender Management Act 2007 (c. 21) and amended by S.I. 2008/1216 (N.I. 1).

(**235**) 1953 c. 18 (N.I.).

- (a) after “Sections” insert “117A,”;
- (b) before “extend” insert “also”;
- (c) for the words from “but” to the end substitute “except that section 117A does not extend to any part of those islands outside the United Kingdom”.

SCHEDULE 8

Article 6(5)

Transfer of prisoners

Repatriation of Prisoners Act 1984

1. Amend the Repatriation of Prisoners Act 1984(236) as follows.
2. In section 1(9) (issue of warrant for transfer: meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland in a case where the person who is the subject of the proposed transfer is for the time being required to be detained in a prison, a hospital or any other institution either—
 - (i) in Northern Ireland; or
 - (ii) in the country or territory referred to in subsection (1)(b) above if it is proposed to transfer him from that country or territory to Northern Ireland; and”.
3. In section 2(3A) (transfer out of the UK: meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland where the order referred to in subsection (2) above relates to a person who has been removed from Northern Ireland by virtue of a warrant issued under section 1 above; and”.
- 4.—(1) Amend section 4 (temporary return) as follows.
 - (2) In subsection (5) (meaning of “relevant Minister”)—
 - (a) omit “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—
 - “(aa) the Department of Justice in Northern Ireland in a case where the prisoner is a person who is either—
 - (i) detained in Northern Ireland and the transfers are for the purpose of a temporary return of the prisoner to a country or territory outside the British Islands from which he has previously been transferred into Northern Ireland under this Act or any other enactment; or
 - (ii) detained in a country or territory outside the British Islands to which he has previously been transferred from Northern Ireland under this Act; and”.

(236) 1984 c. 47. Sections 1(9), 2(3A), 4(5), 5(8), 6(5), 7(3A) and 8(4) were inserted by S.I. 1999/1820. The Act was modified by S.I. 1999/1748 and amended by the Criminal Justice and Immigration Act 2008 (c. 4), sections 93-96 and Schedule 26. There have been other amendments to the Act, but none are relevant.

- (3) After subsection (6) insert—
- “(7) Any reference in subsection (5)(aa) to the prisoner having previously been transferred into or from Northern Ireland includes a reference to responsibility for his detention and release having previously been transferred to or from the Department of Justice in Northern Ireland (as the case may be).”
5. In section 4A (issue of warrant transferring responsibility for detention and release of offender)
-
- (a) in subsection (5) for “that Minister” (in both places) substitute “the relevant Minister”; and
- (b) in subsection (10) after paragraph (a) insert—
- “(aa) the Department of Justice in Northern Ireland in a case where the person who is the subject of the proposed transfer of responsibility is—
- (i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Northern Ireland; or
- (ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Northern Ireland;”.
6. In section 4B(4) (transfer of responsibility from the UK: meaning of “relevant Minister”) after paragraph (a) omit the “and” and insert—
- “(aa) the Department of Justice in Northern Ireland, where Northern Ireland is the part of the United Kingdom in which the order referred to in subsection (2) has effect; and”.
7. In section 4D(1) (issue of certificate to be sent to the appropriate judge with a view to obtaining the issue of a warrant under section 4D(3)) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
8. In section 4E—
- (a) in subsection (1) (issue of certificate to be sent to the appropriate judge with a view to obtaining the issue of a warrant under section 4E(3)) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”; and
- (b) in subsection (6) (application to the appropriate judge) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
9. In section 4F(2) (designation of a person for the purposes of sections 4D and 4E) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.
- 10.—(1) Amend section 5 (operation of warrant and retaking prisoners) as follows.
- (2) In subsection (8) (meaning of “relevant Minister”)—
- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—
- “(aa) the Department of Justice in Northern Ireland where the warrant provides for the transfer of a prisoner to or from Northern Ireland; and”.
- (3) In subsection (10) (modifications for warrants under section 4A) omit the “and” after paragraph (c) and after paragraph (d) insert—
- “; and
- (e) in subsection (8)(aa) for “transfer of a prisoner to or from Northern Ireland” there were substituted “transfer of responsibility for the detention and release of the relevant person to the Department of Justice”.”.

11. In section 6(5) (revocation etc. of warrants: meaning of “relevant Minister”) after paragraph (a) insert—

- “(aa) the Department of Justice in Northern Ireland in a case where—
- (i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Northern Ireland; or
 - (ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to the Department of Justice;”.

12. In section 7(3A) (expenses: meaning of “relevant Minister”)—

- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—

“(aa) the Department of Justice in Northern Ireland where the transfer is to Northern Ireland; and”.

13. In section 8(4) (certificates: meaning of “relevant Minister”)—

- (a) omit “and” at the end of paragraph (a); and
- (b) after paragraph (a) insert—

“(aa) the Department of Justice in Northern Ireland where the proceedings relate to a transfer which it has the responsibility under this Act to make or consider making; and”.

14. After section 8 insert—

“8A Northern Ireland: national security

(1) The Secretary of State may, by virtue of this subsection, make an agreement under section 1(1)(b) or 4A(5)(b) if—

- (a) the agreement is one that could be made by the Department of Justice in Northern Ireland by virtue of section 1(9)(aa) or 4A(10)(aa), and
- (b) the Secretary of State’s decision to make the agreement is arrived at (wholly or partly) on the basis of protected information.

(2) Subject to subsection (3), if the Secretary of State makes an agreement by virtue of subsection (1) in any case, in this Act references to the relevant Minister are to be read, for that case, as references to the Secretary of State (and the definitions of “relevant Minister” are to be read accordingly).

(3) In the case of an agreement under section 4A(5)(b), subsection (2) does not apply to—

- (a) the references in sections 4A(1) and 4B(1);
- (b) the last two references in section 4A(5);
- (c) the second reference in section 4A(6);
- (d) the first reference in section 4C(1);
- (e) the reference in paragraph 9 of the Schedule.

(4) The Secretary of State may notify the Department of Justice that no agreement is to be made under section 1(1)(b) or 4A(5)(b) in relation to a particular person without the Secretary of State’s agreement; and the Department may not make such an agreement in relation to that person without the Secretary of State’s agreement.

Status: This is the original version (as it was originally made).

(5) But the Secretary of State may give a notification or refuse his agreement only if his decision to do so is arrived at (wholly or partly) on the basis of protected information.

(6) In this section “protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.”

Crime (Sentences) Act 1997

15. Amend Schedule 1 to the Crime (Sentences) Act 1997(**237**) (transfer of prisoners within the British Islands) as follows.

16.—(1) Amend paragraph 1 (transfer of prisoners: general) as follows.

(2) In sub-paragraph (2A)—

- (a) after “appears to” insert “the Department of Justice in Northern Ireland or”; and
- (b) for “the Secretary of State may” substitute “the Department of Justice in Northern Ireland or (as the case may be) the Secretary of State may”.

(3) After sub-paragraph (2A) insert—

“(2B) But the Secretary of State may make an order under sub-paragraph (2A) only if—

- (a) the Secretary of State is of the view that the transfer is in the interests of national security, or
- (b) the Secretary of State’s view that the person should be transferred is arrived at (wholly or partly) on the basis of protected information.

“Protected information” means information the disclosure of which may, in the view of the Secretary of State, be against the interests of national security.”

(4) After sub-paragraph (4) insert—

“(5) This paragraph has effect subject to the following modifications—

- (a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in determining the meaning of “appropriate institution” in relation to a person transferred to Northern Ireland from another part of the United Kingdom, any reference in sub-paragraph (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

17. In paragraph 2 (transfer of prisoners for trial), after sub-paragraph (4) insert—

“(5) This paragraph has effect subject to the following modifications—

- (a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in relation to a person who has been transferred from Northern Ireland to another part of the United Kingdom, any reference in sub-paragraph (3) or (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

(237) 1997 c. 43. Schedule 1 was amended by the Crime and Disorder Act 1998 (c. 37) Schedule 8, paragraph 135; S.I. 1999/1820; S.I. 2001/2565; section 13 of the Justice (Northern Ireland) Act 2004 (c. 4); and S.I. 2008/1241.

18. In paragraph 3 (transfer of prisoners for other judicial purposes), after sub-paragraph (3) insert—

“(4) This paragraph has effect subject to the following modifications—

- (a) in relation to the attendance at a place in Northern Ireland or any other part of the United Kingdom of a person who is remanded in custody in, serving a sentence of imprisonment in, or otherwise detained in a prison in, Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in relation to a person who is directed by the Department of Justice in Northern Ireland to be taken to any place under this paragraph, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

19. In paragraph 4 (transfer of supervision of released prisoners), after sub-paragraph (2) insert—

“(3) In relation to the transfer to another part of the United Kingdom of the supervision of a person undergoing or about to undergo supervision in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

20. In paragraph 5 (conditions of transfers), after sub-paragraph (3) insert—

“(4) In relation to a transfer under this Part which is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

21.—(1) Amend paragraph 5A (conditions of transfer under paragraph 1(2A)) as follows.

(2) In sub-paragraph (1)(b) for “as the Secretary of State may think fit to impose” substitute

“—

- (i) as the Department of Justice in Northern Ireland may think fit to impose, in the case of an order made by the Department, or
 - (ii) as the Secretary of State may think fit to impose, in the case of an order made by the Secretary of State”.
- (3) At the end of sub-paragraph (3) insert “by the person who imposed it”.

22.—(1) Amend paragraph 7 (restricted transfers: general) as follows.

(2) After sub-paragraph (1) insert—

“(1A) An order for the transfer of a person or a person’s supervision back to the country from which he or it was transferred shall be made by the Department of Justice in Northern Ireland if the transfer of the person or, as the case may be, the transfer of his supervision was the subject of an order or direction made by the Department of Justice.”

(3) After sub-paragraph (2) insert—

“(2A) Where a transfer under paragraph 1 or 2 is the subject of an order made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (2) to the Secretary of State must be read as a reference to the Department of Justice.”

23. In paragraph 12 (restricted transfers from Northern Ireland to England and Wales) after sub-paragraph (3) insert—

Status: This is the original version (as it was originally made).

“(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.”

24. In paragraph 13 (restricted transfers from Northern Ireland to Scotland), after sub-paragraph (3) insert—

“(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.”

25. In paragraph 15 (unrestricted transfers: general) after sub-paragraph (4) insert—

“(4A) This paragraph has effect subject to the following modifications—

- (a) in relation to a person transferred to Northern Ireland, any reference in sub-paragraph (3) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) in relation to a person whose supervision has been transferred to Northern Ireland, sub-paragraph (4)(b) above applies as if—
 - (i) after “Secretary of State” where it first occurs there were inserted “or the Department of Justice in Northern Ireland”, and
 - (ii) after “Secretary of State” where it occurs second there were inserted “or the Department of Justice (as the case may be)”.

26. In paragraph 17 (prisoners unlawfully at large) after sub-paragraph (6) insert—

“(7) In relation to a person who, having been sentenced to imprisonment, is unlawfully at large during any period during which he is liable to be detained in a prison in England and Wales or Scotland and is sentenced to imprisonment by a court in Northern Ireland, any reference in sub-paragraph (5) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

SCHEDULE 9

Article 7

Corporate Manslaughter and Corporate Homicide Act 2007

1. Amend the Corporate Manslaughter and Corporate Homicide Act 2007(238) as follows.

2.—(1) Amend section 15 (procedure, evidence and sentencing) as follows.

(2) In subsection (2), in the definition of “prescribed”, for “prescribed by an order made by the Secretary of State” substitute

“—

- (a) in relation to proceedings under this Act in England and Wales, prescribed by an order made by the Secretary of State;
- (b) in relation to proceedings under this Act in Northern Ireland, prescribed by an order made by the Department of Justice in Northern Ireland;”.

(3) In subsection (3) after “section to proceedings” insert “(except in the definition of “prescribed” in subsection (2))”.

(4) In subsection (4) after “order” insert “of the Secretary of State”.

(238)2007 c. 19, to which there are amendments not relevant to this Order.

3. After section 23 insert—

“23A Powers of Department of Justice in Northern Ireland

(1) The power to make an order under any of the following provisions is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as the power may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(239)).

(2) The provisions are—

- (a) section 16(4);
- (b) section 16(6);
- (c) section 21;
- (d) section 22;
- (e) section 23.

(3) None of the following applies in relation to a power of the Department of Justice to make an order by virtue of this section—

- (a) section 16(7);
- (b) section 21(3);
- (c) section 22(2);
- (d) section 23(3).”

4.—(1) Amend section 24 (orders) as follows.

(2) After subsection (4) insert—

“(5) A power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(240).

(6) An order made by the Department of Justice under section 15 or 16 is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(241)).

(7) No order shall be made by the Department of Justice under section 21 or 23 or (subject to subsection (8)) section 22, unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) If the only amendments to Schedule 1 made by an order of the Department of Justice under section 22 are amendments within subsection (3) of that section—

- (a) subsection (7) of this section does not apply to the making of the order, and
- (b) the order is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(9) No order shall be made by the Department of Justice under section 27 bringing into force paragraph (d) of section 2(1) unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(239) 1998 c. 47.

(240) S.I. 1979/1573 (N.I. 12).

(241) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**242**) applies for the purposes of subsections (7) and (9) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

5.—(1) Amend section 27 (commencement and savings) as follows.

(2) In subsection (1) after “State” insert “(subject to subsection (1A))”.

(3) After subsection (1) insert—

“(1A) The power in subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) for the purposes of the law of Northern Ireland.”

(4) In subsection (2) after “order” insert “of the Secretary of State”.

SCHEDULE 10

Article 8

Serious Crime Act 2007

1. Amend the Serious Crime Act 2007(**243**) as follows.

2.—(1) Amend section 4 (involvement in serious crime: supplementary) as follows.

(2) In subsection (4) (power to amend Schedule 1 by order) after “amend” insert “Part 1 of”.

(3) After subsection (4) insert—

“(5) The Department of Justice in Northern Ireland may by order amend Part 2 of Schedule 1.”

3. For section 7 (serious crime prevention orders: other exceptions) substitute—

“7 Other exceptions

(1) A person may not be made the subject of a serious crime prevention order in England and Wales if the person falls within a description specified by order of the Secretary of State.

(2) A person may not be made the subject of a serious crime prevention order in Northern Ireland if the person falls within a description specified by order of the Department of Justice in Northern Ireland.”

4.—(1) Amend section 24 (serious crime prevention orders: appeals from Crown Court) as follows.

(2) After subsection (9) insert—

“(9A) The power to make an order under subsection (9) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as the power may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(**244**)).”

5.—(1) Amend section 28 (powers to wind up companies etc. in Northern Ireland following conviction under section 25) as follows.

(242)Section 41(3) was substituted by [S.I. 1999/663](#).

(243)[2007 c. 27](#).

(244)[1998 c. 47](#).

- (2) In subsection (11)—
- (a) in paragraph (b) of the definition of “appropriate Minister”, for “Secretary of State” substitute “Department of Justice in Northern Ireland”; and
 - (b) in paragraph (e) of the definition of “relevant body”, for “Secretary of State” substitute “Department of Justice in Northern Ireland”.
- 6.—**(1) Amend section 29 (powers to wind up: supplementary) as follows.
- (2) In subsection (1) omit the word “or” and paragraph (b).
- (3) After subsection (1) insert—
- “(1A) The Department of Justice in Northern Ireland may by order make such modifications as the Department considers appropriate to the application of the Insolvency (Northern Ireland) Order 1989(**245**) by virtue of section 28(2).”
- (4) In subsection (2) after “(1)” insert “or (1A)”.
- (5) In subsection (3) omit “or 28(2) to (4)”.
- (6) After subsection (3) insert—
- “(3A) The Department of Justice in Northern Ireland may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment, as the Department considers appropriate in connection with section 28(2) to (4).”
- (7) In subsection (4) after “(1)” insert “or (1A)”.
- 7.—**(1) Amend section 40 (serious crime prevention orders: costs in relation to authorised monitors) as follows.
- (2) In subsections (1) and (4) for “Secretary of State” substitute “appropriate authority”.
- (3) After subsection (8) insert—
- “(9) In this section “the appropriate authority” means—
- (a) in relation to serious crime prevention orders in England and Wales, the Secretary of State;
 - (b) in relation to serious crime prevention orders in Northern Ireland, the Department of Justice in Northern Ireland.”
- 8.—**(1) Amend section 49 (inchoate offences: supplemental provisions) as follows.
- (2) After subsection (6) insert—
- “(6A) The power to make an order under subsection (6) for the purposes of subsection (5) (b) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as the power may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”
- 9.—**(1) Amend section 63 (consequential amendments: Part 2) as follows.
- (2) In subsection (3) (power to amend Part 1 of Schedule 6 by order) after “Schedule 6” insert “as it applies to England and Wales”.
- (3) After subsection (3) insert—

Status: This is the original version (as it was originally made).

“(4) The Department of Justice in Northern Ireland may by order amend Part 1 of Schedule 6 as it applies to Northern Ireland by adding or removing a provision.”

10.—(1) Amend section 89 (orders) as follows.

(2) In subsection (3) after “made” insert “by statutory instrument”.

(3) In subsection (6)—

(a) after “order” insert “made by statutory instrument”;

(b) for “section 7” substitute “section 7(1)”; and

(c) omit “or (11)”.

(4) After subsection (6) insert—

“(7) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(246).

(8) Any power of the Department of Justice to make an order under this Act—

(a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes;

(b) includes power to make such supplementary, incidental, consequential, transitional, transitory or saving provision as the Department considers appropriate.

(9) No order is to be made by the Department of Justice under section 4(5), 49(6) or 63(4) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(247) applies for the purposes of subsection (9) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(11) An order made by the Department of Justice under section 7(2), 24(9), 28(6) or (11), 29 or 40 is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(248)).”

SCHEDULE 11

Article 9

Amendments relating to firearms

Firearms (Northern Ireland) Order 2004

1. Amend the Firearms (Northern Ireland) Order 2004(249) as follows.

2. In Article 2(2) (definitions), at the appropriate place, insert—

“the Minister of Justice” means the Minister in charge of the Department of Justice;”.

3. In each of the following provisions for “Secretary of State” (wherever occurring) substitute “Department of Justice”—

(246) S.I. 1979/1573 (N.I. 12).

(247) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(248) Section 41(6) was amended by S.I. 1999/663.

(249) S.I. 2004/702 (N.I. 3), as amended by S.I. 2005/1966 (N.I. 16). There are other amendments of that Order, but none are relevant.

- (a) Article 2(7) (interpretation: ceasing to be a firearm);
- (b) Article 8(3) (content and duration of firearms certificates);
- (c) Article 23(1)(b) (variation of European firearms pass);
- (d) Article 27(4) (conditions for firearms dealer's certificate);
- (e) Article 71(1) (power by order to exclude application of minimum sentence under Article 70 to those under 18);
- (f) Article 75(3) (power to amend sum in Schedule 6);
- (g) Article 77(2)(b) (persons in the service of the Crown in right of Her Majesty's government in Northern Ireland);
- (h) paragraphs 2(1), (3), (4) and (6), 3 and 4 of Schedule 2 (firearms and ammunition in museums).

4.—(1) Amend Article 48 (prohibition of movement of firearms and ammunition) as follows.

(2) In paragraphs (1) and (2) for "Secretary of State" substitute "appropriate authority".

(3) After paragraph (4) insert—

“(5) In this Article “the appropriate authority” means—

- (a) in relation to prohibited weapons and prohibited ammunition, the Secretary of State;
- (b) in relation to any other firearms or ammunition, the Department of Justice.”

5.—(1) Amend Article 63 (prohibition of possession etc. of firearm by certain persons) as follows.

(2) In paragraph (4) for "Secretary of State" substitute "Minister of Justice".

(3) In paragraph (7) omit the words after "remove the prohibition".

(4) After paragraph (7) insert—

“(7A) Where an application is made to the Secretary of State under paragraph (7) for the removal of a prohibition, the Secretary of State must—

- (a) remove the prohibition,
- (b) refuse the application, or
- (c) refer the application to the Minister of Justice.

(7B) But the Secretary of State may act under paragraph (7A)(a) or (b) only if the Secretary of State's view that the prohibition should be removed or the application should be refused is arrived at (wholly or partly) on the basis of information the disclosure of which may, in the view of the Secretary of State, be against the interests of national security.

(7C) Where an application is referred to the Minister of Justice under paragraph (7A) (c), the Minister may remove the prohibition or refuse the application.”

6. In Article 71(1)(b) (power by order to exclude application of minimum sentence under Article 70 to those under 18) for "he" substitute "the Department of Justice".

7.—(1) Amend Article 72 (forfeiture and disposal of firearms) as follows.

(2) In paragraph (1)(a) for "Secretary of State" substitute "Minister of Justice".

8.—(1) Amend Article 74 (appeal from decision of Chief Constable) as follows.

(2) In paragraph (1) for "Secretary of State" substitute "relevant authority".

Status: This is the original version (as it was originally made).

(3) In paragraph (2) for “Secretary of State may make such order as he” substitute “relevant authority may make such order as the relevant authority”.

(4) After paragraph (4) insert—

“(5) In this Article “the relevant authority” means—

(a) the Secretary of State, in any case where the Chief Constable’s decision was taken wholly or partly on the basis of information the disclosure of which may, in the view of the Secretary of State or of the Chief Constable, be against the interests of national security;

(b) the Department of Justice, in any other case.

(6) Where the Chief Constable makes a decision within paragraph (3)(a) to (d), he must notify (as the case may be)—

(a) the applicant, or

(b) the holder of the certificate,

who the relevant authority is for the purposes of any appeal against the decision.

(7) An order under Article 72(4) must be accompanied by a written statement by the Chief Constable specifying who the relevant authority is for the purposes of any appeal against the order.”

(5) Sub-paragraph (6) below applies to an appeal made, but not determined, under Article 74 before the coming into force of this Order.

(6) The Secretary of State must determine who the relevant authority (as defined in Article 74(5) (as inserted by sub-paragraph (4) above)) is for the purposes of the appeal and then—

(a) if the relevant authority is determined to be the Secretary of State, must proceed to determine the appeal;

(b) if not, must refer the appeal to the Department of Justice for determination.

9. In Article 75 (fees)—

(a) in paragraph (3) for “Treasury” substitute “Department of Finance and Personnel”; and

(b) omit paragraph (4).

10.—(1) For Article 80 (regulations and orders) substitute—

“Regulations and orders

80.—(1) The Department of Justice may make regulations—

(a) as to the manner in which the Chief Constable is to carry out his duties under this Order;

(b) generally for carrying this Order into effect.

(2) The Secretary of State may, for purposes connected with national security or any function of the Secretary of State under this Order, make regulations—

(a) as to the manner in which the Chief Constable is to carry out his duties under this Order;

(b) generally for carrying this Order into effect.

(3) Regulations under paragraph (2) may (in particular) make provision about the holding or use of information the disclosure of which may be against the interests of national security.

(4) Regulations made by the Department of Justice under paragraph (1) have effect subject to regulations made by the Secretary of State under paragraph (2).

(5) Regulations and orders made by the Department of Justice under this Order are subject to negative resolution.

(6) Regulations and orders made by the Secretary of State under this Order, except orders under Article 1, are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946(250) applies accordingly.”

(2) Any regulations in effect under Article 80(1) immediately before the coming into force of this Order continue in effect as if made by the Department of Justice under Article 80(1) (as inserted by sub-paragraph (1) above) and any functions of the Secretary of State under those regulations are transferred to the Department of Justice.

11.—(1) Amend Article 81 (saving and transitional provisions) as follows.

(2) After paragraph (2) insert—

“(2A) The Department of Justice may by order under Article 8(3) or paragraph 2(6) of Schedule 2 make such saving and transitional provisions as appear to the Department of Justice to be necessary or expedient.”

(3) In paragraph (3)—

(a) omit “, 8(3)”;

(b) after “Schedule 2” insert “(as applied by paragraph 3A(4) of that Schedule)”.

12.—(1) Amend Schedule 2 (firearms and ammunition in museums) as follows.

(2) In paragraph 2—

(a) in sub-paragraph (2) after “While a licence” insert “granted by the Department of Justice”;

(b) omit the word “and” at the end of sub-paragraph (2)(a);

(c) omit sub-paragraph (2)(b);

(d) in sub-paragraph (3) for “he” substitute “the Department of Justice”;

(e) in sub-paragraphs (4) and (5) after “licence” insert “granted by the Department of Justice”.

(3) In paragraph 3—

(a) in sub-paragraph (1)(a) for “held” substitute “granted by the Department of Justice”;

(b) in sub-paragraph (2) for “him” substitute “the Department of Justice”;

(c) in sub-paragraph (3) for “held” substitute “granted by the Department of Justice”;

(d) in sub-paragraph (3)(a) for “he” substitute “the Department of Justice”;

(e) in sub-paragraph (4) after “licence” (where it first occurs) insert “granted by the Department of Justice”;

(f) in sub-paragraph (4) for “him” substitute “the Department of Justice”.

(4) After paragraph 3 insert—

“Secretary of State’s power to grant museum firearms licences

3A.—(1) The Secretary of State may, on an application in writing made on behalf of a museum, grant a licence in respect of that museum.

(2) While a licence granted by the Secretary of State is in force in respect of a museum the persons responsible for its management and their employees may, without the authority

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of the Secretary of State under Article 45, have in their possession, purchase or acquire for the purposes of the museum any prohibited weapons and ammunition which are or are to be normally exhibited or kept on its premises or on such of them as are specified in the licence.

(3) The Secretary of State shall not grant a licence in respect of a museum unless the Secretary of State is satisfied that the arrangements for exhibiting and keeping the prohibited weapons and ammunition in question are or will be such as not to endanger public safety or the peace.

(4) Paragraphs 2(4) to (6) and 3 apply in relation to licences granted by the Secretary of State; and for this purpose references to the Department of Justice are to be read as references to the Secretary of State.”

(5) In paragraph 4 after “licence” insert “by the Department of Justice”.

(6) In paragraph 5—

(a) in sub-paragraph (1) for “the licence” substitute “a licence”;

(b) in sub-paragraph (2) after “paragraph 3” insert “(including as applied by paragraph 3A(4))”.

(7) A licence in force under Schedule 2 immediately before the coming into force of this Order which does not contain any provision within what was paragraph 2(2)(b) of Schedule 2 (before its repeal by sub-paragraph (2)(c) above) continues in force as if granted by the Department of Justice under paragraph 2 of Schedule 2.

(8) Any other licence in force under Schedule 2 immediately before the coming into force of this Order continues in force ignoring any amendments of Schedule 2 made by this Order and paragraph 13 below.

13. In Schedule 6 (fees)—

(a) in paragraph 5 after “licence” insert “by the Department of Justice”;

(b) in paragraph 6 after “licence” insert “granted by the Department of Justice”.

Violent Crime Reduction Act 2006

14. Amend Schedule 2 to the Violent Crime Reduction Act 2006(**251**) (weapons etc.: corresponding provisions for Northern Ireland) as follows.

15.—(1) Amend paragraph 4 (manufacture, import and sale of realistic imitation firearms) as follows.

(2) After sub-paragraph (2) insert—

“(2A) The Department of Justice may by regulations—

(a) provide for exceptions and exemptions from the offence under sub-paragraph (1) (a), (b) or (c); and

(b) provide for it to be a defence in proceedings for such an offence to show the matters specified or described in the regulations.”

(3) In sub-paragraph (3) for “(1)” substitute “(1)(d)”.

(4) In sub-paragraph (4)—

(a) for “(3)” substitute “(2A) or (3)”; and

(b) in paragraph (c) after “as” insert “the Department of Justice or (as the case may be)”.

(5) After sub-paragraph (4) insert—

(251)2006 c. 38, to which there are amendments not relevant to this Order.

“(4A) The power of the Department of Justice to make regulations under sub-paragraph (2A) shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(252).

(4B) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4C) Regulations under sub-paragraph (2A) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(253)).”

16.—(1) Amend paragraph 5 (defences to offence under paragraph 4) as follows.

(2) In sub-paragraph (2)(e) for “Secretary of State” substitute “appropriate authority”.

(3) After sub-paragraph (2) insert—

“(2A) In sub-paragraph (2)(e) “the appropriate authority” means—

- (a) in relation to the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
- (b) in relation to the offence under paragraph 4(1)(d), the Secretary of State.”

(4) After sub-paragraph (4) insert—

“(4A) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4B) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4C) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(254)).”

17.—(1) Amend paragraph 6 (meaning of “realistic imitation firearm”) as follows.

(2) In sub-paragraph (4) for “Secretary of State” substitute “appropriate authority”.

(3) After sub-paragraph (4) insert—

“(4A) In sub-paragraph (4) “the appropriate authority” means—

- (a) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(a), (b) or (c), the Department of Justice;
- (b) in the application of this paragraph for the purposes of the offence under paragraph 4(1)(d) or for the purposes of paragraph 4(7), the Secretary of State.

(252) S.I. 1979/1573 (N.I. 12).

(253) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(254) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(4B) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4C) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(4D) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

18.—(1) Amend paragraph 7 (specification for imitation firearms) as follows.

(2) Before sub-paragraph (1) insert—

“(A1) For the purposes of sub-paragraph (2)(a) to (c), the Department of Justice may by regulations make provision requiring imitation firearms to conform to specifications which are—

- (a) set out in the regulations; or
- (b) approved by such persons and in such manner as may be so set out.”

(3) In sub-paragraph (1) for “The” substitute “For the purposes of sub-paragraph (2)(d), the”.

(4) In sub-paragraph (2)—

- (a) in paragraph (a) for “this paragraph” substitute “sub-paragraph (A1)”; and
- (b) in paragraph (d) for “so required of it” substitute “required of it by regulations under sub-paragraph (1)”.

(5) In sub-paragraph (4)—

- (a) for “this paragraph”, where it occurs first, substitute “sub-paragraph (A1) or (1)”; and
- (b) for “this paragraph”, where it occurs second, substitute “sub-paragraph (2)(a) to (c) or (as the case may be) sub-paragraph (2)(d)”.

(6) In sub-paragraph (5) for “this paragraph” substitute “sub-paragraph (1)”.

(7) After sub-paragraph (6) insert—

“(6A) The power of the Department of Justice to make regulations under this paragraph shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(255).

(6B) That power includes power—

- (a) to make different provision for different cases;
- (b) to make provision subject to such exemptions and exceptions as the Department of Justice thinks fit; and
- (c) to make such incidental, supplemental, consequential and transitional provision as the Department of Justice thinks fit.

(6C) Regulations made by the Department of Justice under this paragraph shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(256)).”

SCHEDULE 12

Article 10

Explosives

Explosives Act 1875

1.—(1) The Secretary of State’s functions immediately before the coming into force of this Order under sections 43, 83 and 104 of the Explosives Act 1875(257) are transferred to the Department of Justice.

(2) Any power of the Department of Justice to make an order under any of those sections is to be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(3) An order made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(4) Any function of the Secretary of State immediately before the coming into force of this Order under section 96 of the Explosives Act 1875 is transferred to the Department of Justice.

(5) In this Schedule references to the Explosives Act 1875 are to that Act in its application to Northern Ireland.

(6) The functions transferred by sub-paragraphs (1) and (4) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in those sub-paragraphs to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

Explosives Act (Northern Ireland) 1970

2.—(1) The Secretary of State’s functions immediately before the coming into force of this Order under section 3 of the Explosives Act (Northern Ireland) 1970(258) (as extended by Article 3(1) of the Explosives (Northern Ireland) Order 1972(259)) are transferred to the Department of Justice.

(2) Any regulations made by the Department of Justice under section 3 of the 1970 Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(260)).

(3) Section 3(5) of the 1970 Act is omitted.

(4) The Secretary of State’s function immediately before the coming into force of this Order under Article 3(2) of the 1972 Order is transferred to the Department of Justice.

(256) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(257) 1875 c. 17, as modified, in relation to functions of Her Majesty, by S.R. & O. 1922 No. 183; Schedule 1 to the Irish Free State (Consequential Provisions) Act 1922 (Session 2 c. 2); Schedule 5 to the Northern Ireland Constitution Act 1973 (c. 36); Schedule 12 to the Northern Ireland Act 1998 (c. 47). Functions under the Act were transferred by S.I. 1973/2163. Section 43 was amended by the Customs and Excise Act 1952 (c. 44), Schedule 10; S.I. 1978/1885, Schedule 2, paragraphs 3 and 15; the Customs and Excise Management Act 1979 (c. 2), Schedule 4, paragraph 12; S.R. (N.I.) 2006 No. 425; and the Health and Safety (Offences) Act 2008 (c. 20) Schedule 3, paragraph 1. Section 83 was amended by S.R. (N.I.) 2006 No. 425. Section 96 was amended by S.I. 1974/1885. There are other amendments to the Act, but none are relevant.

(258) 1970 c.10 (N.I.) Section 3 was extended by S.I. 1972/730 (N.I. 3). Functions under section 3 were transferred by S.I. 1973/2163. Section 3 was amended by S.R. (N.I.) 2006 No. 425.

(259) S.I. 1972/730 (N.I. 3).

(260) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(5) The functions transferred by sub-paragraphs (1) and (4) include functions under any provision not yet in force at the time immediately before the coming into force of this Order (and a reference in those sub-paragraphs to an enactment includes a reference to the enactment as amended by any provision of an enactment or instrument passed or made before that time, but not yet in force).

Health and Safety at Work (Northern Ireland) Order 1978

3.—(1) Amend the Health and Safety at Work (Northern Ireland) Order 1978(261) as follows.

(2) Omit Article 3(5).

(3) Omit Article 53.

(4) In Schedule 1 (existing statutory provisions) after paragraph 2 insert—

“3. The provisions of—

(a) the Explosives Act 1875,

(b) the Explosives Act (Northern Ireland) 1970, and

(c) the Explosives (Northern Ireland) Order 1972,

and of any regulations, orders or other instruments of a legislative character made or having effect under any of those provisions.”

Powers exercisable by the Secretary of State

4.—(1) For purposes connected with any reserved matter falling within paragraph 12 or 20 of Schedule 3 to the Northern Ireland Act 1998(262) (reserved matters: firearms and explosives; import and export controls), the Secretary of State may continue to exercise the following functions (“transferred functions”)—

(a) any function that is transferred by paragraph 1(1) or 2(1) above;

(b) any power to make regulations that is transferred by virtue of paragraph 3 above.

(2) The Secretary of State may continue to exercise the function under Article 3(2) of the Explosives (Northern Ireland) Order 1972(263) for the purposes of the power to make regulations under section 3 of the Explosives Act (Northern Ireland) 1970(264) as exercisable by the Secretary of State by virtue of sub-paragraph (1) above.

(3) Any power of the Secretary of State by virtue of sub-paragraph (1) above to make orders or regulations is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(265).

(4) Orders and regulations made by the Secretary of State are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946(266) applies accordingly.

(5) Subject to what follows, sub-paragraphs (1) to (4) above do not affect the transfer of any function to a Northern Ireland department by or by virtue of any of paragraphs 1 to 3 above.

(6) The following regulations continue in effect as if made, by virtue of sub-paragraph (1) above, by the Secretary of State in the exercise of the relevant transferred function—

(261) S.I. 1978/1039 (N.I. 9).

(262) 1998 c. 47.

(263) S.I. 1972/730 (N.I. 3).

(264) 1970 c.10 (N.I.).

(265) S.I. 1979/1573 (N.I. 12).

(266) 1946 c. 36.

- (a) the Explosives Regulations (Northern Ireland) 1970(**267**);
- (b) the Explosives Regulations (Northern Ireland) 1971(**268**);
- (c) the Explosives Regulations (Northern Ireland) 1972(**269**);
- (d) the Explosives (No. 2) Regulations (Northern Ireland) 1972(**270**);
- (e) the Explosives (Amendment) Regulations (Northern Ireland) 1973(**271**);
- (f) the Explosives Regulations (Northern Ireland) 1973(**272**);
- (g) the Explosives (Amendment) (No. 2) Regulations (Northern Ireland) 1973(**273**);
- (h) the Explosives Regulations (Northern Ireland) 1974(**274**);
- (i) the Explosives Regulations (Northern Ireland) 1976(**275**);
- (j) the Explosives Regulations (Northern Ireland) 1977(**276**);
- (k) the Explosives Regulations (Northern Ireland) 1981(**277**);
- (l) regulation 21 of the Explosives in Harbour Areas Regulations (Northern Ireland) 1995(**278**);
- (m) the Marking of Plastic Explosive for Detection Regulations (Northern Ireland) 1996(**279**);
- (n) the Explosives (Amendment) Regulations (Northern Ireland) 1996(**280**);

and, so far as applicable to any of these regulations, the Secretary of State is treated as having exercised, by virtue of sub-paragraph (2) above, the function under Article 3(2) of the Explosives (Northern Ireland) Order 1972(**281**).

(7) So far as in effect immediately before the coming into force of this Order, any other order or regulations made in the exercise of a transferred function continue in effect as if made by the Department of Justice and, so far as applicable to any such regulations, the Department of Justice is treated as having exercised the function under Article 3(2) of the 1972 Order.

(8) The orders covered by sub-paragraph (7) include Orders in Council made under section 43, 83 or 104 of the Explosives Act 1875(**282**).

(9) The Secretary of State's functions—

- (a) under any regulations covered by sub-paragraph (6) are retained by the Secretary of State;
- (b) under any orders or regulations covered by sub-paragraph (7) are transferred to the Department of Justice.

(10) Orders and regulations made by Northern Ireland departments in the exercise of transferred functions have effect subject to orders and regulations made by the Secretary of State in the exercise of transferred functions.

(267) S.R. & O (N.I.) 1970 No. 110.

(268) S.R. & O (N.I.) 1971 No. 332.

(269) S.R. & O (N.I.) 1972 No. 118.

(270) S.R. & O (N.I.) 1972 No. 218.

(271) S.R. & O (N.I.) 1973 No. 171.

(272) S.R. & O (N.I.) 1973 No. 463.

(273) S.R. & O (N.I.) 1973 No. 474.

(274) S.R. (N.I.) 1974 No. 32.

(275) S.R. (N.I.) 1976 No. 51.

(276) S.R. (N.I.) 1977 No. 128.

(277) S.R. (N.I.) 1981 No. 31.

(278) S.R. (N.I.) 1995 No. 87.

(279) S.R. (N.I.) 1996 No. 262.

(280) S.R. (N.I.) 1996 No. 429.

(281) S.I. 1972/730 (N.I. 3).

(282) 1875 c. 17.

Status: This is the original version (as it was originally made).

(11) Further and in particular, a Northern Ireland department may not use any transferred function or the function under Article 3(2) of the 1972 Order to revoke, modify or otherwise affect the Secretary of State's functions by virtue of this paragraph (or any order or regulations made by the Secretary of State by virtue of this paragraph).

(12) In relation to orders and regulations made by the Secretary of State by virtue of this paragraph, the Health and Safety at Work (Northern Ireland) Order 1978(283) has effect as if references to the Department concerned were references to the Secretary of State.

Parliamentary procedure

5. No provision which (apart from this paragraph) would—
- (a) require to be laid before Parliament any order or regulations made by a Northern Ireland department by virtue of any of paragraphs 1 to 3 above, or
 - (b) provide for any such order or regulations to be subject to annulment in pursuance of a resolution of either House of Parliament,
- is to apply in relation to any such order or regulations.

SCHEDULE 13

Article 11

Amendments of the Justice (Northern Ireland) Act 2002

1. Amend the Justice (Northern Ireland) Act 2002(284) as follows.
2. In section 29 (Public Prosecution Service)—
 - (a) in subsection (3) for “by the Secretary of State” substitute “out of money appropriated for that purpose by Act of the Northern Ireland Assembly”; and
 - (b) in subsection (4) for “Secretary of State” substitute “Department of Finance and Personnel”.
3. For section 30(9) (Director of Public Prosecutions: payment of salary etc.) substitute—

“(9) There is to be paid (out of money appropriated as mentioned in section 29(3)) to or in respect of the Director, the Deputy Director and any person appointed to act as Deputy Director any such—

 - (a) salary,
 - (b) allowances, or
 - (c) sums for the provision of pensions,

as the Department of Finance and Personnel may determine.”
- 4.—(1) Amend section 45 (Chief Inspector of Criminal Justice) as follows.
 - (2) In subsection (2) for “Secretary of State” substitute “Department of Justice”.
- 5.—(1) Amend section 46(285) (functions of Chief Inspector of Criminal Justice) as follows.
 - (2) In subsection (1)(h) for “Secretary of State” substitute “Department of Justice”.

(283) S.I. 1978/1039 (N.I. 9).

(284) 2002 c. 26.

(285) Section 46(1) was amended by S.R. (N.I.) 2003 No. 552; section 9(1) and (3) of, and Schedule 4 to, the Justice (Northern Ireland) Act 2004 (c. 4); section 45 of the Justice and Security (Northern Ireland) Act 2007 (c. 6); S.I. 2008/1216 (N.I. 11).

(3) In subsection (6) for “Secretary of State” substitute “Department of Justice”.

6.—(1) Amend section 47(**286**) (further provisions about functions of Chief Inspector of Criminal Justice) as follows.

(2) In subsection (1) for “Secretary of State” substitute “Department of Justice”.

(3) After subsection (1) insert—

“(1A) The Chief Inspector must consult the Secretary of State if—

- (a) he proposes to specify an inspection in a programme under subsection (1), and
- (b) it appears to him that the inspection would cover activities relating to national security.”

(4) In subsection (2) before paragraph (a) insert—

“(za) the Department of Justice,”.

(5) In subsections (3), (4), (5) and (7) for “Secretary of State” substitute “Department of Justice”.

7.—(1) Amend section 49(**287**) (reports by Chief Inspector of Criminal Justice) as follows.

(2) For subsections (1) to (4) substitute—

“(1) The Chief Inspector must report to the Department of Justice on each inspection and review carried out by the Chief Inspector.

(1A) In this section “protected information” means information the inclusion of which in a report under subsection (1) would be against the public interest on the ground of national security.

(1B) If it appears to the Secretary of State that—

- (a) the Chief Inspector is required to prepare a report in compliance with subsection (1), and
 - (b) the report might contain (or once completed might contain) protected information,
- the Secretary of State may require the Chief Inspector to refer the report to the Secretary of State or, if the report is not completed when the requirement is imposed, to refer the report once it is completed.

(1C) The Secretary of State must, within—

- (a) the period of 30 days after the date on which the Chief Inspector refers the report to the Secretary of State under subsection (1B), or
- (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the Chief Inspector whether, in the opinion of the Secretary of State, the report contains any protected information.

(1D) If it appears to the Chief Inspector that a report in compliance with subsection (1) may contain protected information and the Chief Inspector has not been required to refer the report to the Secretary of State under subsection (1B), the Chief Inspector must refer the report to the Secretary of State.

(1E) The Secretary of State must, within—

- (a) the period of 30 days after the date on which the Chief Inspector refers the report to the Secretary of State under subsection (1D), or

(286) Section 47 was amended by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c. 6).

(287) Section 49 was amended by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c. 6).

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- (b) such longer period as may be agreed between the Secretary of State and the Department of Justice,

notify the Chief Inspector whether, in the opinion of the Secretary of State, the report contains any protected information.

(1F) Where the Secretary of State has required a report to be referred to him under subsection (1B), or the Chief Inspector is required to refer a report to the Secretary of State under subsection (1D), the Chief Inspector must not disclose the report to anyone apart from the Secretary of State, except—

- (a) in accordance with subsection (1G),
- (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any protected information, or
- (c) after the period mentioned in subsection (1C) or (1E) has expired without any notification being given by the Secretary of State.

(1G) Where the Secretary of State informs the Chief Inspector under subsection (1C) or (1E) that, in the opinion of the Secretary of State, a report contains protected information—

- (a) the Secretary of State may direct the Chief Inspector to exclude from the report any information that, in the opinion of the Secretary of State, is protected information;
- (b) the Chief Inspector must exclude that information from the report;
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has given a direction under paragraph (a);
- (d) the Secretary of State must, either before or as soon as practicable after the report is laid before the Northern Ireland Assembly under subsection (1I), lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(1H) When the Chief Inspector sends a report to the Department of Justice under subsection (1) from which information has been excluded under subsection (1G), the Chief Inspector must at the same time send a copy of the report to the Secretary of State.

(1I) Where a report is received by the Department of Justice under subsection (1), the Department must—

- (a) lay a copy of it before the Northern Ireland Assembly, and
- (b) arrange for it to be published.

(1J) But the Department of Justice may exclude a part of a report from the copy so laid or published if, in the opinion of the Department, the laying or publication of the part—

- (a) would be against the public interest, or
- (b) might jeopardise the safety of any person.

(1K) If the Department of Justice excludes a part of a report from laying or publication, the Department must lay or publish with the report a statement that it has been excluded.

(1L) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(288) applies for the purposes of subsections (1I) and (1K) in relation to the laying of a copy of a report or a statement as it applies in relation to the laying of a statutory document under an enactment.”

8.—(1) Amend section 50 (Northern Ireland Law Commission) as follows.

(288) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(2) In subsections (2), (4)(a), (b) and (c), (5) and (6) for “Secretary of State” substitute “Department of Justice”.

9.—(1) Amend section 51 (duties of Northern Ireland Law Commission) as follows.

(2) In subsection (2)—

(a) in paragraphs (b) to (d) for “Secretary of State” (wherever occurring) substitute “Department of Justice”; and

(b) for paragraph (e) substitute—

“(e) provide advice and information—

(i) to Northern Ireland departments, and

(ii) with the consent of the Department of Justice, to departments of the Government of the United Kingdom and other authorities or bodies concerned with proposals for the reform or amendment of any branch of the law of Northern Ireland, and”.

(3) In subsection (3)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) omit paragraphs (a) and (b).

(4) After subsection (3) insert—

“(3A) Before approving any programme prepared by the Commission that includes—

(a) the examination of any branch of law relating (in whole or in part) to a reserved matter or an excepted matter, or

(b) the consolidation or repeal of legislation relating (in whole or in part) to a reserved matter or an excepted matter,

the Department of Justice must consult the Secretary of State.

(3B) For the purposes of subsection (3A) “reserved matter” and “excepted matter” have the meanings given by section 4 of the Northern Ireland Act 1998(289).”

10. For section 52 (reports etc. by Northern Ireland Law Commission) substitute—

“52 Reports etc.

(1) The Commission must send to the Department of Justice a copy of—

(a) each programme prepared by the Commission and approved by the Department of Justice,

(b) each set of proposals for reform formulated by the Commission pursuant to such a programme, and

(c) each annual report of the Commission.

(2) The Department of Justice must lay before the Northern Ireland Assembly a copy of each document received by it under subsection (1).

(3) The Commission must send to the Secretary of State a copy of—

(a) any programme prepared by the Commission and approved by the Department of Justice which includes—

(i) the examination of any branch of law relating (in whole or in part) to a reserved matter or an excepted matter, or

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- (ii) the consolidation or repeal of legislation relating (in whole or in part) to a reserved matter or an excepted matter,
 - (b) any set of proposals for reform formulated by the Commission pursuant to an approved programme which relate (in whole or in part) to a reserved matter or an excepted matter, and
 - (c) any annual report of the Commission which contains anything relevant to a reserved matter or an excepted matter.
- (4) The Secretary of State must lay before each House of Parliament a copy of each document received by the Secretary of State under subsection (3).
- (5) After a copy of a document has been—
- (a) laid before the Assembly in accordance with subsection (2), and
 - (b) if so required by subsection (4), laid before Parliament in accordance with that subsection,

the Commission must arrange for the document to be published.

(6) In this section “reserved matter” and “excepted matter” have the meanings given by section 4 of the Northern Ireland Act 1998.

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽²⁹⁰⁾ applies for the purposes of subsection (2) in relation to the laying of a copy of a document as it applies in relation to the laying of a statutory document under an enactment.”

11.—(1) Amend section 56 (custody care orders) as follows.

(2) In the inserted Articles 44A to 44G for “Secretary of State” (wherever occurring) substitute “Department of Justice”.

(3) In the inserted Article 44E(5) for the words from “annulment” to “such rules” substitute “negative resolution”.

12.—(1) Amend section 63 (extension of youth justice system to 17 year olds) as follows.

(2) In subsection (2) for “Secretary of State” substitute “Department of Justice”.

13.—(1) Amend section 68 (information about discharge and temporary release of prisoners) as follows.

(2) In subsections (1), (2), (4), (5) and (6) for “Secretary of State” substitute “Department of Justice”.

(3) In subsection (8)—

- (a) for “Secretary of State” substitute “Department of Justice”;
- (b) in paragraph (a) for “he” substitute “the Department of Justice”;
- (c) in paragraph (b) for “he” substitute “the Department of Justice”.

14.—(1) Amend section 69 (views on temporary release) as follows.

(2) In subsection (1) for “Secretary of State” (in both places) substitute “Department of Justice”.

(3) In subsection (3) for “Secretary of State” substitute “Department of Justice”.

⁽²⁹⁰⁾1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

15.—(1) Amend section 69A(**291**) (information about discharge and leave of absence of mentally disordered persons) as follows.

(2) In subsections (1), (4) and (6) for “Secretary of State” (in all places) substitute “Department of Justice”.

(3) In subsection (7)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “him” substitute “it”.

(4) In subsection (11) for “Secretary of State” substitute “Department of Justice”.

16.—(1) Amend section 69B(**292**) (views on leave of absence) as follows.

(2) In subsection (1) for “Secretary of State” (in both places) substitute “Department of Justice”.

(3) In subsection (3)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “he should give his” substitute “the Department should give its”.

17. In section 70(1)(a) (victims of crime: supplementary) omit “of the Secretary of State”.

18.—(1) Amend section 71 (community safety strategy) as follows.

(2) In subsections (1), (3) and (4) for “Secretary of State” substitute “Department of Justice”.

(3) In subsection (5)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “him” substitute “the Department”;

(c) for “he” substitute “the Department”.

19.—(1) Amend section 72 (local community safety partnerships) as follows.

(2) In subsections (1), (2) and (3) for “Secretary of State” substitute “Department of Justice”.

(3) In subsection (4)—

(a) in paragraph (e) for “Secretary of State” substitute “Department of Justice”;

(b) in paragraph (f)—

(i) for “Secretary of State” substitute “Department of Justice”;

(ii) for “him” substitute “the Department”.

(4) In subsections (6), (7), (8), (9) and (10) for “Secretary of State” substitute “Department of Justice”.

20.—(1) Amend section 85 (youth justice: minor and consequential amendments) as follows.

(2) In subsection (2)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “him” substitute “the Department of Justice”.

21.—(1) Amend section 87 (commencement) as follows.

(2) In subsection (1) after “Secretary of State” insert “or the Department of Justice”.

(291) Section 69A was inserted by section 46 of the Domestic Violence, Crime and Victims Act 2003 (c. 28).

(292) Section 69B was inserted by section 46 of the Domestic Violence, Crime and Victims Act 2003 (c. 28).

Status: This is the original version (as it was originally made).

22.—(1) Amend section 89 (transitionals and savings) as follows.

(2) In subsection (1) after “Secretary of State” insert “or the Department of Justice”.

23. In section 90(**293**) (statutory rules) (as amended by the Northern Ireland Act 2009(**294**) and the Department of Justice Act (Northern Ireland) 2010(**295**))—

(a) for subsection (1A) substitute—

“(1A) No order containing (whether or not together with other provision) provision made by virtue of section 2(2)(b), 9(4), 19(4)(b), 46(6)(a) or (b) or 72(1), (3), (7) or (8) shall be made unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(1B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**296**) applies for the purposes of subsection (1A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”;

(b) in subsection (4) for the words from “section” to “78” substitute “section 78”;

(c) in subsection (5)—

(i) in paragraph (a) omit “28(2),”;

(ii) for the words from “each House of Parliament” to “accordingly” substitute “the Northern Ireland Assembly, be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**297**))”;

(d) after subsection (5) insert—

“(6) An order under section 28(2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946(**298**) applies accordingly.”

24.—(1) Amend Schedule 8 (Chief Inspector of Criminal Justice) as follows.

(2) In paragraph 1(3) and (4) (resignation and dismissal of Chief Inspector) for “Secretary of State” substitute “Department of Justice”.

(3) In paragraph 2 (salary etc. of Chief Inspector)—

(a) in sub-paragraph (1) for “Secretary of State” (in both places) substitute “Department of Justice”;

(b) after sub-paragraph (1) insert—

“(1A) If a person who, by reference to any office or employment, is a participant in a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(**299**) becomes the Chief Inspector, the Department of Finance and Personnel may determine that (instead of payments being made to him under sub-paragraph (1)(c)) his service as Chief Inspector is to be treated for the purposes of the scheme as service in that office or employment.”; and

(c) omit sub-paragraph (2).

(4) In paragraph 3 (staff)—

(**293**) Section 90 was amended by the Justice (Northern Ireland) Order 2004 (c. 4), Schedule 1, paragraph 4; section 46 of the Domestic Violence, Crime and Victims Act 2004 (c. 28); section 61 of the Tribunals, Courts and Enforcement Act 2007 (c. 15); the Northern Ireland Act 2009 (c. 3), Schedule 4, paragraph 34 and the Department of Justice Act (Northern Ireland) 2010 (c. 3) (N.I.), Schedule, paragraph 14(4).

(**294**) 2009 c. 3.

(**295**) 2010 c. 3 (N.I.)

(**296**) 1954 c. 33 (N.I.). Section 41(3) was amended by S.I. 1999/663.

(**297**) Section 41(6) was amended by S.I. 1999/663.

(**298**) 1946 c. 36.

(**299**) S.I. 1972/1073 (N.I. 10).

- (a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;
 - (b) after sub-paragraph (2) insert—
 - “(2A) Employment as a member of staff of the Chief Inspector is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply; and, accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—
 - “Employment by the Chief Inspector of Criminal Justice in Northern Ireland”.
 - (2B) The Chief Inspector must pay to the Department of Justice, at such times as the Department may direct, such sums as the Department may determine in respect of expenditure under the Superannuation (Northern Ireland) Order 1972 attributable to sub-paragraph (2A).”; and
 - (c) omit sub-paragraphs (3) and (4) (and the Superannuation Act 1972(300) has effect accordingly).
- (5) In paragraph 4 (annual report)—
- (a) after sub-paragraph (1) insert—
 - “(1A) The Chief Inspector must send a copy of each annual report to the Department of Justice.
 - (1B) In this paragraph “protected information” means information the inclusion of which in a report under sub-paragraph (1) would be against the public interest on the ground of national security.
 - (1C) If it appears to the Secretary of State that a report in compliance with sub-paragraph (1) may contain protected information (or once completed may contain protected information), the Secretary of State may require the Chief Inspector to refer the report to the Secretary of State (or, if the report is not completed when the requirement is imposed, to refer the report once it is completed).
 - (1D) If it appears to the Chief Inspector that a report in compliance with sub-paragraph (1) may contain protected information and the Chief Inspector has not been required to refer the report to the Secretary of State under sub-paragraph (1C), the Chief Inspector must refer the report to the Secretary of State.
 - (1E) The Secretary of State must, within the period of 30 days after the date of a referral under sub-paragraph (1C) or (1D), or within such longer period as may be agreed between the Secretary of State and the Department of Justice, notify the Chief Inspector whether, in the Secretary of State’s opinion, the report contains any protected information.
 - (1F) Where the Secretary of State has required that a report be referred to the Secretary of State under sub-paragraph (1C) or the Chief Inspector is required to refer a report to the Secretary of State under sub-paragraph (1D), the Chief Inspector must not disclose the report to anyone apart from the Secretary of State, except—
 - (a) in accordance with sub-paragraph (1G), or
 - (b) after being notified by the Secretary of State that, in the opinion of the Secretary of State, the report does not contain any protected information, or
 - (c) after the period mentioned in sub-paragraph (1E) has expired without any notification being given by the Secretary of State.

Status: This is the original version (as it was originally made).

(1G) Where the Secretary of State informs the Chief Inspector under sub-paragraph (1E) that, in the Secretary of State’s opinion, a report contains protected information—

- (a) the Secretary of State may direct the Chief Inspector to exclude from the report any information that, in the opinion of the Secretary of State, is protected information;
- (b) the Chief Inspector must exclude that information from the report;
- (c) the Secretary of State must inform the Department of Justice that the Secretary of State has given a direction under paragraph (a);
- (d) the Secretary of State must lay before Parliament a statement that the Secretary of State has given a direction under paragraph (a).

(1H) When the Chief Inspector sends a report to the Department of Justice under sub-paragraph (1A) from which information has been excluded under sub-paragraph (1G), the Chief Inspector must at the same time send a copy of the report to the Secretary of State.

(1I) Where a report is received by the Department of Justice under sub-paragraph (1A), it must—

- (a) lay a copy of it before the Northern Ireland Assembly, and
- (b) arrange for it to be published.

(1J) But the Department of Justice may exclude a part of a report from the copy so laid or published if, in its opinion, the laying or publication of the part—

- (a) would be against the public interest, or
- (b) might jeopardise the safety of any person.

(1K) If the Department of Justice excludes a part of a report from laying or publication, it must lay or publish with the report a statement that it has been excluded.

(1L) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(301) applies for the purposes of sub-paragraphs (1I) and (1K) in relation to the laying of a copy of a report or a statement as it applies in relation to the laying of a statutory document under an enactment.”; and

(b) omit sub-paragraphs (2) to (4).

(6) In paragraph 5 (power of Secretary of State to make grants to Chief Inspector) for “Secretary of State” substitute “Department of Justice”.

(7) In paragraph 6 (financial provisions: accounts and statements)—

- (a) in sub-paragraphs (2) and (3) for “Secretary of State” (in all places) substitute “Department of Justice”;
- (b) in sub-paragraph (3)(b) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
- (c) in sub-paragraph (4)—
 - (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”; and
 - (ii) in paragraph (b) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (d) after sub-paragraph (4) insert—

(301)1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

“(4A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”

(8) In paragraph 7(3) (delegation of functions) for “Secretary of State” substitute “Department of Justice”.

(9) In paragraph 8(3) (inspections of PSNI)—

(a) for “Secretary of State” substitute “Department of Justice”;

(b) for “his” substitute “the Department’s”.

25.—(1) Amend Schedule 9 (Northern Ireland Law Commission) as follows.

(2) In paragraph 1(3) and (4) (resignation and dismissal of Commissioners) for “Secretary of State” substitute “Department of Justice”.

(3) In paragraph 3 (salary etc. of Commissioners not holding full-time judicial office)—

(a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;

(b) after sub-paragraph (1) insert—

“(1A) If a person who, by reference to any office or employment, is a participant in a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972⁽³⁰²⁾ becomes a Commissioner, the Department of Finance and Personnel may determine that (instead of payments being made to him under sub-paragraph (1)(d)) his service as Commissioner is to be treated for the purposes of the scheme as service in that office or employment.

(1B) The Commission must pay to the Department of Justice, at such times as the Department may direct, such sums as the Department may determine in respect of expenditure under the Superannuation (Northern Ireland) Order 1972 attributable to sub-paragraph (1A).”; and

(c) omit sub-paragraphs (2) and (3).

(4) In paragraph 4 (staff)—

(a) in sub-paragraph (1) for “Secretary of State” substitute “Department of Justice”;

(b) after sub-paragraph (2) insert—

“(2A) Employment as a member of staff of the Commission is among the kinds of employment to which a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 can apply; and, accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—
“Employment by the Northern Ireland Law Commission.”

(2B) The Commission must pay to the Department of Justice, at such times as the Department may direct, such sums as the Department may determine in respect of expenditure under the Superannuation (Northern Ireland) Order 1972 attributable to sub-paragraph (2A).”; and

(c) omit sub-paragraphs (3) and (4) (and the Superannuation Act 1972⁽³⁰³⁾ has effect accordingly).

(5) In paragraph 5 (power of Secretary of State to make grants to Commission) for “Secretary of State” substitute “Department of Justice”.

(6) In paragraph 6 (financial provisions: accounts and statements)—

⁽³⁰²⁾S.I. 1972/1073 (N.I. 10).

⁽³⁰³⁾1972 c. 11.

Status: This is the original version (as it was originally made).

- (a) in sub-paragraphs (2) and (3) for “Secretary of State” (in all places) substitute “Department of Justice”;
- (b) in sub-paragraph (3)(b) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
- (c) in sub-paragraph (4)—
 - (i) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”; and
 - (ii) in paragraph (b) for “each House of Parliament” substitute “the Northern Ireland Assembly”; and
- (d) after sub-paragraph (4) insert—

“(4A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(304) applies for the purposes of sub-paragraph (4)(b) in relation to the laying of a copy of a statement or report as it applies in relation to the laying of a statutory document under an enactment.”

26.—(1) Paragraphs 24(3)(c) and (4)(c) and 25(3)(c) and (4)(c) above do not affect the position of any person under the Superannuation Act 1972 in relation to the person’s employment by the Chief Inspector or the Commission, or the person’s service as the Chief Inspector or a Commissioner, before the coming into force of this Order.

(2) The Chief Inspector and the Commission must, accordingly, continue to make payments to the Minister for the Civil Service under the following provisions despite their repeal by the provisions mentioned in sub-paragraph (1) above—

- (a) paragraph 3(4) of Schedule 8 to the Justice (Northern Ireland) Act 2002(305);
- (b) paragraphs 3(3) and 4(4) of Schedule 9 to that Act.

(3) Sub-paragraph (5) below applies in relation to a person who immediately before the coming into force of this Order is, by virtue of a provision mentioned in sub-paragraph (4) below, a participant in the principal civil service pension scheme as defined in section 2(10) of the Superannuation Act 1972.

(4) The provisions are—

- (a) paragraph 2(2) or 3(3) of Schedule 8 to the Justice (Northern Ireland) Act 2002;
- (b) paragraph 3(2) or 4(3) of Schedule 9 to that Act.

(5) In relation to the person’s employment by the Chief Inspector or the Commission, or (as the case may be) service as the Chief Inspector or a Commissioner, after the coming into force of this Order, the person is entitled to be a participant in the principal civil service pension scheme as defined in Article 4(10) of the Superannuation (Northern Ireland) Order 1972(306); and the person’s terms and conditions of service have effect accordingly.

(6) The expenditure covered by—

- (a) paragraph 3(2B) of Schedule 8 to the Justice (Northern Ireland) Act 2002 (as inserted by paragraph 24(4)(b) above), and
- (b) paragraphs 3(1B) and 4(2B) of Schedule 9 to that Act (as inserted by paragraph 25(3)(b) and (4)(b) above),

includes, in particular, expenditure attributable to sub-paragraph (5) above.

27. Neither paragraph 24(7) nor paragraph 25(6) above applies in relation to a financial year ending before the coming into force of this Order.

(304) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(305) 2002 c. 26

(306) S.I. 1972/1073 (N.I. 10).

SCHEDULE 14

Article 12

Criminal Justice

Coroners Act (Northern Ireland) 1959

1.—(1) Amend section 14 of the Coroners Act (Northern Ireland) 1959(307) (inquest on order of Attorney General) as follows.

(2) Make the existing text subsection (1).

(3) After subsection (1) insert—

“(2) Subsection (3) applies in relation to the death of a person if the Secretary of State certifies that there is information relevant to the question of whether a direction should be given under this section in relation to the death which is or includes information the disclosure of which may be against the interests of national security.

(3) The functions of the Attorney General under this section are to be exercised by the Advocate General for Northern Ireland instead.”

(4) Sub-paragraphs (5) to (7) below apply if—

(a) before the coming into force of this Order, the Attorney General for Northern Ireland began to consider whether to give a direction under section 14 in relation to the death of a person, but

(b) immediately before the coming into force of this Order, the Attorney had neither given a direction nor decided not to give a direction.

(5) The Advocate General for Northern Ireland must take a view as to whether there is information relevant to the question of whether a direction should be given which is or includes information the disclosure of which may be against the interests of national security.

(6) If the Advocate General takes the view that there is such information, the Advocate General must deal with the case as if section 14(3) (as inserted by sub-paragraph (3) above) applied.

(7) Otherwise, the Advocate General must refer the case to the Attorney General for Northern Ireland to be dealt with by the Attorney accordingly.

Costs in Criminal Cases Act (Northern Ireland) 1968

2. Amend the Costs in Criminal Cases Act (Northern Ireland) 1968(308) as follows.

3.—(1) Amend section 1(309) (expenses of prosecution) as follows.

(2) For subsection (1) substitute—

“(1) Where any criminal proceedings are instituted by or on behalf of, or taken over by, the Director of Public Prosecutions, the costs of the prosecution of such proceedings (including any costs incurred in connection with any matter preliminary or incidental to, and with any appeal from, those proceedings) shall, in accordance with arrangements approved by the Department of Finance and Personnel, be defrayed in the first instance by the Director.”

(3) In subsection (3) for “Ministry of Finance” substitute “Department of Finance and Personnel”.

(307) 1959 c. 15 (N.I.). Functions under the Act were transferred to the Secretary of State by S.I. 1973/2163. There are other amendments to the Act, but none are relevant.

(308) 1968 c. 10 (N.I.). Functions under the Act were transferred by S.I. 1973/2163.

(309) Section 1 was amended by S.I. 1973/2163 and S.I. 2003/1247 (N.I. 13).

Status: This is the original version (as it was originally made).

- 4.**—(1) Amend section 2 (costs of prosecution in cases of conviction) as follows.
- (2) For subsection (1)(a) substitute—
- “(a) in the case of proceedings to which section 1(1) applies, to the Director of Public Prosecutions; and”.
- 5.**—(1) Amend section 3 (costs of defence in cases of acquittal, dismissal or discharge) as follows.
- (2) For subsection (1)(i) substitute—
- “(i) in the case of proceedings to which section 1(1) applies, order the Director of Public Prosecutions; and”.
- (3) In subsection (5) for “Ministry” substitute “Director of Public Prosecutions”.
- 6.**—(1) Amend section 4(**310**) (costs awarded by Court of Appeal) as follows.
- (2) In subsection (1)(a)—
- (a) for “to the Secretary of State” substitute “to the Director of Public Prosecutions or any other person the Court thinks appropriate”;
- (b) for “by the Secretary of State” substitute “by the Director of Public Prosecutions”.
- (3) In subsection (2) for “Ministry” substitute “Director of Public Prosecutions or any other person the Court thinks appropriate”.
- (4) In subsection (2A) for “Secretary of State” substitute “Director of Public Prosecutions or any other person the Court thinks appropriate”.
- (5) In subsection (4) for the words from “subject,” to the end substitute “subject to section 25 of the Crown Proceedings Act 1947 where that section is applicable”.
- 7.** In section 5A(**311**) (fees of required interpreter) for “Ministry” substitute “Department of Justice”.
- 8.** In section 6(b)(**312**) (effect of costs of legal aid) for “Ministry” substitute “Director of Public Prosecutions”.
- 9.** In section 8 (saving) for “Ministry” substitute “Director of Public Prosecutions”.
- 10.** Omit section 9(**313**) (financial provisions).
- 11.**—(1) Amend section 10(**314**) (interpretation) as follows.
- (2) In subsection (1), in the definition of “private prosecutor”, for “the Attorney General” substitute “the Director of Public Prosecutions, the Attorney General or the Advocate General”.
- (3) Omit subsection (1A).
- (4) In subsection (2) for the words from “the Ministry” to “as the case may be,” substitute “any person”.

(310) Section 4(1) was substituted by [S.I. 1982/159](#); and amended by the Criminal Appeal (Northern Ireland) Act 1980 (c. 47), Schedule 4, paragraph 6; [S.I. 1988/1846 \(N.I. 16\)](#); and [S.I. 2004/1500 \(N.I. 9\)](#).

(311) Section 5A was inserted by section 18 of the Administration of Justice Act 1973 (c. 15).

(312) Section 6(b) was amended by [S.I. 1973/2163](#) and [S.I. 1982/159](#).

(313) Section 9 was amended by [S.I. 1973/2163](#).

(314) Section 10 was amended by [S.I. 2003/1247 \(N.I. 13\)](#) and the Statute Law Revision (Northern Ireland) Act 1980 (c. 50), Schedule, Part 4.

Administration of Justice Act 1973

12.—(1) Amend the Administration of Justice Act 1973(**315**) as follows.

(2) In section 18(2) (payment of interpreters in criminal cases: Northern Ireland) for “Secretary of State” substitute “Department of Justice”.

Criminal Appeal (Northern Ireland) Act 1980

13. Amend the Criminal Appeal (Northern Ireland) Act 1980(**316**) as follows.

14. In section 15(3) (reference of point of law) for “out of money provided by Parliament” substitute “by the Department of Justice”.

15.—(1) Amend section 21 (court transcripts) as follows.

(2) In subsection (1)(b) for “Treasury” substitute “Department of Finance and Personnel”.

(3) In subsections (2) and (3) for “Secretary of State” substitute “Department of Justice”.

(4) In subsection (2) for “he” and “him” substitute “it”.

(5) In subsection (3)—

(a) for “Treasury” substitute “Department of Finance and Personnel”;

(b) for “out of money provided by Parliament” substitute “by the Department of Justice”; and

(c) for “out of money so provided” substitute “by the Department of Justice”.

16.—(1) Amend section 28 (costs) as follows.

(2) In subsection (2) for “Secretary of State” substitute “Director of Public Prosecutions”.

(3) In subsection (3) for “Secretary of State” substitute “Department of Justice”.

17. In section 34(3) (further reference on point of law) for “out of money provided by Parliament” substitute “by the Department of Justice”.

Probation Board (Northern Ireland) Order 1982

18. Amend the Probation Board (Northern Ireland) Order 1982(**317**) as follows.

19. In Article 2(2) (interpretation), in the definition of “prescribed”, for “Secretary of State” substitute “Department of Justice”.

20. In Article 4(1)(c) and (2) (functions of the Probation Board) for “Secretary of State” substitute “Department of Justice”.

21. In Article 6 (directions to Probation Board), and the heading to that Article, for “Secretary of State” substitute “Department of Justice”.

22.—(1) Amend Article 7 (financial control of the Probation Board) as follows.

(2) In paragraph (1)—

(a) for “Secretary of State” substitute “Department of Justice”;

(315) 1973 c. 15. Section 18(2) was amended by S.I. 1980/704 (NI 6) and 2005 c. 4.

(316) 1980 c. 47. Functions under the Act were transferred to the Lord Chancellor, and relevant amendments were made to the Act, by S.I. 1982/159. Other relevant amendments were made by the Criminal Justice and Public Order Act 1994 (c. 33), section 53; the Criminal Justice Act 2003 (c. 44) Schedule 36, Part VI, paragraphs 91 and 93; and the Constitutional Reform Act 2005 (c. 4) Schedule 9, paragraph 33.

(317) S.I. 1982/713 (N.I. 10). Article 15 was substituted by S.I. 1991/1711 (N.I. 16) and amended by the Justice (Northern Ireland) Act 2002 (c. 26).

Status: This is the original version (as it was originally made).

- (b) for “he” substitute “the Department of Justice”;
 - (c) for “Treasury” substitute “Department of Finance and Personnel”.
 - (3) In paragraph (2) for “Secretary of State” substitute “Department of Justice”.
- 23.** In Articles 8(1) and (3), 10(2), 11(1)(a), (2), (3) and (4) and 12 for “Secretary of State” substitute “Department of Justice”.
- 24.**—(1) Amend Article 15 (rules and regulations) as follows.
- (2) In paragraph (1) for “Secretary of State” substitute “Department of Justice”.
 - (3) For paragraph (2) substitute—
 - “(2) Rules and regulations made by the Department of Justice under this Order are subject to negative resolution.”
- 25.**—(1) Amend Schedule 1 (the Probation Board for Northern Ireland) as follows.
- (2) In paragraph 3 for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.
 - (3) After paragraph 3(7) insert—
 - “(8) In this paragraph “the Minister of Justice” means the Minister in charge of the Department of Justice.”
 - (4) In paragraph 4 for “Secretary of State, with the approval of the Treasury” substitute “Department of Justice, with the approval of the Department of Finance and Personnel”.
 - (5) In paragraph 5—
 - (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (b) for “Treasury” (wherever occurring) substitute “Department of Finance and Personnel”.
 - (6) In paragraph 9 for “Secretary of State” substitute “Department of Justice”.
 - (7) In paragraph 12 for “Secretary of State” (wherever occurring) substitute “Department of Justice”.
 - (8) In paragraph 13—
 - (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (b) for “Treasury” (wherever occurring) substitute “Department of Finance and Personnel”.
 - (9) In paragraph 14 for “Secretary of State” substitute “Department of Justice”.
- 26.** After paragraph 1(2) of Schedule 2 (transfer of property and staff) insert—
 - “(3) Regulations made by the Secretary of State under sub-paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946(318) shall apply accordingly.”
- 27.**—(1) Amend Schedule 3 (reports and accounts, etc.) as follows.
- (2) In paragraph 1—
 - (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (b) in sub-paragraph (1) for “he” substitute “the Department of Justice”.
 - (3) In paragraph 2—
 - (a) in sub-paragraphs (1) and (2) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;

- (b) in sub-paragraph (1)(b) for “Treasury” substitute “Department of Finance and Personnel”;
- (c) in sub-paragraph (1)(b) for “he” substitute “the Department of Justice”.
- (4) In paragraph 2(2) and (3) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”.
- (5) In paragraph 2(3) for “each House of Parliament” substitute “the Assembly”.
- (6) In paragraph 2(4) omit “; and “Comptroller and Auditor General” has the meaning assigned to it by Schedule 1 to the Interpretation Act 1978(319)”.
- (7) Sub-paragraphs (3) to (6) above do not apply in relation to an accounting period ending before the coming into force of this Order.

Mental Health Act 1983

- 28.**—(1) Amend the Mental Health Act 1983(320) as follows.
- (2) In section 82(7) (responsible authority for the purposes of moving patients from Northern Ireland to England and Wales) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.
 - (3) In section 82A (transfer of responsibility for conditionally discharged patients)—
 - (a) in subsection (1) for “the relevant Minister” and “that Minister” substitute “the Department of Justice in Northern Ireland”;
 - (b) omit subsection (4).
 - (4) In section 86(4) (removal of alien patients) after “that Order” insert “and any reference in subsection (2) or (3) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland”.
 - (5) At the end of section 139(4) (exclusion from protection for acts done in pursuance of Act) insert “or against the Department of Justice in Northern Ireland”.

Criminal Justice Act 1988

- 29.** Amend the Criminal Justice Act 1988(321) as follows.
- 30.**—(1) Amend section 35 (reviews of sentencing: scope of Part 4) as follows.
- (2) After subsection (9) insert—

“(9A) Any reference in subsection (4) to the Secretary of State must be construed as a reference to the Department of Justice in Northern Ireland.”
 - (3) In subsection (10), in the text substituted for subsection (5), for the words from “such statutory rule” to “accordingly” substitute “such order shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(322))”.
- 31.**—(1) Amend section 141 (offensive weapons) as follows.

(319) 1978 c. 30.

(320) 1983 c. 20. Section 82 was amended by S.I. 1986/595; and the Mental Health Act 2007 (c. 12), Schedule 5, paragraph 8. Section 82A was inserted by the Crime (Sentences) Act 1997 (c. 43), section 48 and Schedule 3, paragraph 3; and amended by Schedule 5 to the Mental Health Act 2007 (c. 12), Schedule 5, paragraph 9. Section 86 was amended by the Mental Health Act 2007, Schedule 1, paragraph 15; and S.I. 2008/2833. Section 139 was amended by S.I. 2007/961. There are other amendments to the Act, but none are relevant.

(321) 1988 c. 33. Section 35 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraph 34. Section 141 was amended by the Violent Crime Reduction Act 2006 (c. 38), Schedule 2, paragraph 11; and S.I. 2008/1216 (N.I. 1).

(322) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(2) In subsection (13) for “the reference in subsection (2) above” substitute “in subsection (2) above the reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland and the reference”.

(3) After subsection (13) insert—

“(14) In the application of this section to Northern Ireland, the power under subsection (11D) above to provide by order—

(a) for exceptions and exemptions from the offence under subsection (1) above; and

(b) for it to be a defence in proceedings for such an offence to show the matters specified or described in the order,

is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).

(15) Any power of the Department of Justice in Northern Ireland to make an order under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽³²³⁾ (and not by statutory instrument).

(16) No order shall be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(17) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³²⁴⁾ applies for the purposes of subsection (16) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Criminal Procedure (Scotland) Act 1995

32.—(1) Amend the Criminal Procedure (Scotland) Act 1995⁽³²⁵⁾ as follows.

(2) In section 303 (fixed penalty: enforcement)—

(a) in subsection (4) omit “or Northern Ireland” and “or, as the case may be, Northern Ireland”; and

(b) after subsection (4) insert—

“(5) The Department of Justice in Northern Ireland may by order make such provision as it considers necessary for the enforcement in Northern Ireland of any penalty, treated in pursuance of subsection (1) above as a fine, which is transferred as a fine to a court in Northern Ireland.

(6) The power of the Department of Justice to make an order under subsection (5) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(7) An order made by the Department of Justice under subsection (5) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

(3) In section 309(4) for “303(4)” substitute “303(4) to (7)”.

(4) In section 309(5) for “303(4)” substitute “303(4) to (7)”.

⁽³²³⁾ S.I. 1979/1573 (N.I. 12).

⁽³²⁴⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽³²⁵⁾ 1995 c. 46. Section 303 was amended by section 50 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). There are other amendments to the Act, but none are relevant.

Children's Evidence (Northern Ireland) Order 1995

33. In paragraph 3(2) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995(**326**) (notice of transfer: regulations) for the words from "annulment" to "accordingly" substitute "negative resolution".

Criminal Procedure and Investigations Act 1996

34.—(1) Amend Schedule 4 to the Criminal Procedure and Investigations Act 1996(**327**) (modifications for Northern Ireland) as follows.

(2) After paragraph 4 insert—

“**4A.** After section 2(5) insert—

“(5A) References to the appropriate authority—

(a) in relation to cases where a certificate has been issued under section 1 of the Justice and Security (Northern Ireland) Act 2007(**328**), are references to the Secretary of State;

(b) in relation to all other cases, are references to the Department of Justice.”

(3) After paragraph 5 insert—

“**5A.** In section 6A(4) for “Secretary of State” substitute “appropriate authority”.

5B. In section 12(2) and (4) for “Secretary of State” substitute “appropriate authority”.”

(4) After paragraph 14 insert—

“**14A.** In section 21A—

(a) in subsections (1) and (4) to (6) for “Secretary of State” substitute “appropriate authority”;

(b) in subsection (4)(c) for “he” substitute “the appropriate authority”;

(c) in subsection (7) after “made” insert “by the Secretary of State”;

(d) in subsection (8) after “An order” insert “made by the Secretary of State”;

(e) after subsection (8) insert—

“(8A) An order bringing the code into operation may not be made by the Department of Justice unless a draft of the order has been laid before and approved by a resolution of the Northern Ireland Assembly.

(8B) An order made by the Department of Justice bringing a revised code into operation shall be laid before the Northern Ireland Assembly if the order has been made without a draft having been so laid and approved by a resolution of that Assembly.”;

(f) in subsection (9) for “or (8)” substitute “, (8), (8A) or (8B)”;

(g) after subsection (13) insert—

(**326**) S.I. 1995/757 (N.I. 3).

(**327**) 1996 c. 25. Schedule 4 modifies provisions of the Act in their application to Northern Ireland. There are relevant amendments to the provisions modified by Schedule 4. Section 6A was inserted by section 33(2) of the Criminal Justice Act 2003 (c. 44). Section 12 was amended by the Criminal Justice Act 2003 (c. 44), Schedule 36, paragraph 28. Section 21A was inserted by section 40 of the Criminal Justice Act 2003 (c. 44). Section 23 was amended by the Regulation of Investigatory Powers Act 2000 (c. 23), section 82, Schedule 4, paragraph 7.

(**328**) 2007 c. 6.

Status: This is the original version (as it was originally made).

“(14) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³²⁹⁾ applies for the purposes of this section in relation to the laying of an order, a draft of an order or a code as it applies in relation to the laying of a statutory document under an enactment.”

(5) After paragraph 14A insert—

“Part 2 of this Act

14B. In section 23—

- (a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;
- (b) after subsection (8) insert—

“(9) For purposes connected with national security or any matter within paragraph 9(1)(a) or (b) of Schedule 3 to the Northern Ireland Act 1998⁽³³⁰⁾, the Secretary of State may prepare a code of practice containing any provision that may be included in a code prepared by the Department of Justice under this section.

(10) Any code prepared by the Department of Justice has effect subject to any code prepared by the Secretary of State.”

14C. In section 25—

- (a) in subsection (1)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “he” (wherever occurring) substitute “the Department”;
 - (iii) for “him” substitute “it”;
- (b) in subsection (2)—
 - (i) for “Secretary of State” substitute “Department of Justice”;
 - (ii) for “he” (wherever occurring) substitute “the Department”;
 - (iii) for “each House of Parliament” substitute “the Northern Ireland Assembly”;

(c) after subsection (2) insert—

“(2A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (2) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.”;

- (d) in subsection (4) for “Secretary of State” substitute “Department of Justice”;
- (e) after subsection (4) insert—

“(5) Subsections (1) to (4) above apply in relation to a code prepared by the Secretary of State under section 23(9) as they apply in relation to a code prepared by the Department of Justice and for this purpose—

- (a) references to the Department of Justice are to be read as references to the Secretary of State;
- (b) in subsection (2) the reference to the Northern Ireland Assembly is to be read as a reference to Parliament.”

(6) After paragraph 33 insert—

“**33A.** After section 77 insert—

⁽³²⁹⁾1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.
⁽³³⁰⁾1998 c. 47.

“77A Orders and regulations (Department of Justice)

(1) This section concerns the powers of the Department of Justice to make orders or regulations under this Act.

(2) Any power to make an order or regulations may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.

(3) Any order or regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Department of Justice to be necessary or expedient.

(4) Any power to make an order or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(331).

(5) No regulations shall be made under section 6A unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(6) Regulations (other than regulations under section 6A) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(332)).

(7) No order shall be made under section 25 unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(333) applies for the purposes of subsections (5) and (7) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.””

Knives Act 1997

35.—(1) Amend section 11 of the Knives Act 1997(334) (short title, commencement and extent etc.) as follows.

(2) After subsection (7) insert—

“(8) In its application to Northern Ireland, this Act has effect with the following modifications—

- (a) any reference in section 3 or 7 to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) any power of the Department of Justice to make regulations under section 3 or 7 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument); and
- (c) regulations made by the Department of Justice under section 3 or 7 shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Police Act 1997

36. Amend the Police Act 1997(335) as follows.

(331) S.I. 1979/1573 (N.I. 12).

(332) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(333) Section 41(3) was substituted by S.I. 1999/663.

(334) 1997 c. 21 as amended by S.I. 2008/1216 (N.I. 1).

(335) 1997 c. 50. Sections 113A and 113B were inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by Schedule 9, paragraph 14 of the Safeguarding Vulnerable Groups Act 2006 (c. 47). Sections 113BA,

Status: This is the original version (as it was originally made).

37.—(1) Amend section 119B (independent monitor) as follows.

(2) After subsection (4) insert—

“(4A) Before appointing a person to be the independent monitor, or terminating the appointment of the independent monitor, the Secretary of State must consult the Department of Justice in Northern Ireland.”

38. After section 126 insert—

“126A Part 5: Modifications for Northern Ireland

(1) This Part applies to Northern Ireland subject to the following modifications.

(2) Any reference to the Secretary of State, except in—

- (a) section 118(2A)(d),
- (b) section 119(1), (3), (5) and (8),
- (c) section 119B(2), (4) and (4A), and
- (d) section 122A as it applies to a function of the Secretary of State under section 119 or 119B(2), (4) or (4A),

shall be construed as a reference to the Department of Justice in Northern Ireland.

(3) Section 119 has effect subject to the following modifications—

- (a) in subsection (1), in relation to a relevant function within subsection (8)(a) or (b), any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
- (b) in subsection (3), except in relation to a request for the purposes of the provision of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that corresponds to section 24 of the Safeguarding Vulnerable Groups Act 2006, any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
- (c) subsections (5) and (8) have effect as if any reference to the Secretary of State included a reference to the Department of Justice in Northern Ireland.

(4) The following provisions shall not have effect—

- (a) section 113A(8);
- (b) in section 113BC—
 - (i) in subsection (1) the words “made by statutory instrument”;
 - (ii) subsection (2);
- (c) in section 120A—
 - (i) in subsection (7) the words “made by statutory instrument”;
 - (ii) subsection (8);
- (d) section 125(2), (4) and (6).

(5) In section 122 any reference to Parliament shall be construed as a reference to the Northern Ireland Assembly.

113BB and 113BC were inserted by the Safeguarding Vulnerable Groups Act 2006 (c. 47), Schedule 9, paragraph 14. Section 118(2A) was inserted by section 164 of the Serious Organised Crime and Police Act 2005 (c. 15). Section 119B was inserted by section 28 of the Safeguarding Vulnerable Groups Act 2006 (c. 47). Section 122A was inserted by the Criminal Justice Act 2003 (c. 44), section 328 and Schedule 35, paragraphs 1, 10. Section 125 was amended by the Criminal Justice Act 2003 (c. 44), Schedule 35, paragraph 12. Relevant amendments have also been made by Article 60(1) of, and paragraph 3 of Schedule 7 to, S.I. 2007/1351 (N.I. 11); sections 81(3)(h) and 96 and 97 of, and paragraph 118 of Schedule 7 to, the Policing and Crime Act 2009 (c. 26) (not yet in force).

(6) In relation to the delegation of any function of the Department of Justice, any reference in section 122A to Parliament shall be construed as a reference to the Northern Ireland Assembly.

(7) Any power of the Department of Justice under this Part to make orders or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(336).

(8) No order shall be made by the Department of Justice under section 113A(7) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(9) Any other order or regulations made under this Part by the Department of Justice shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(337)).

(10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(338) applies for the purposes of this Part in relation to the laying of anything before the Northern Ireland Assembly as it applies in relation to the laying of a statutory document under an enactment.

Criminal Justice (Children) (Northern Ireland) Order 1998

39. Amend the Criminal Justice (Children) (Northern Ireland) Order 1998(339) as follows.

40.—(1) Amend Article 45 (punishment of certain grave crimes) as follows.

(2) For “Secretary of State” (wherever occurring) substitute “Minister of Justice”.

(3) After paragraph (7) insert—

“(8) In this Article and Article 46 “the Minister of Justice” means the Minister in charge of the Department of Justice.”

41. In Article 46 (discharge on licence) for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.

Youth Justice and Criminal Evidence Act 1999

42. Amend the Youth Justice and Criminal Evidence Act 1999(340) as follows.

43. In section 44 (restrictions on reporting alleged offences involving persons under 18) after subsection (5) insert—

“(5A) In the application of this section to Northern Ireland, the reference in subsection (5) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

44. In section 64 (regulations and orders) after subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make an order under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(6) No order shall be made by the Department of Justice under section 44(5) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly

(336) S.I. 1979/1573 (N.I. 12).

(337) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(338) Section 41(3) was substituted by S.I. 1999/663.

(339) S.I. 1998/1504 (N.I. 9). Article 45 was amended by the Justice (Northern Ireland) Order 2002, Schedule 11, paragraph 19.

Article 46 was amended by S.I. 2001/2564 (N.I. 2).

(340) 1999 c. 23, to which there are amendments not relevant to this Order.

Status: This is the original version (as it was originally made).

(and subsection (3) above shall not apply to the making of any order by the Department of Justice).

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(8) Any order made by the Department of Justice under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Department of Justice thinks fit.”

45. In section 68 (short title, commencement and extent) after subsection (3) insert—

“(3A) In relation to the coming into force of any provision of this Act for the purposes of the law of Northern Ireland, the reference in subsection (3) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

Criminal Justice and Police Act 2001

46.—(1) Amend the Criminal Justice and Police Act 2001(**341**) as follows.

(2) In section 52(5) (regulations about notice of exercise of powers of seizure) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

(3) In section 69 (powers of seizure designated by order) after subsection (2) insert—

“(2A) Where the power designated by the order made under subsection (1) is a power conferred in relation to Northern Ireland, the Secretary of State shall consult the Department of Justice in Northern Ireland before making the order.”

Proceeds of Crime Act 2002

47. Amend the Proceeds of Crime Act 2002(**342**) as follows.

48. In section 174 (confiscation: inadequacy of available amount: discharge of order)—

(a) in subsection (4)(b) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;

(b) in subsection (5) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

49. In section 175(3) (confiscation: small amount outstanding: discharge of order) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

50. In section 215(7) (seized money) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

51. In section 223 (criminal lifestyle)—

(a) in subsection (7) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;

(b) in subsection (8) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

52. In section 237(2) (procedure on appeal to Court of Appeal) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

(341)2001 c. 16.

(342)2002 c. 29, as amended by the Serious Crime Act 2007, section 74 and Schedule 8, paragraphs 66, 91, 119, 138, 139, 141 and section 79 and Schedule 11, paragraph 2, 3, 4, 5, 11 and 15. There are other amendments to the Act, but none are relevant.

- 53.**—(1) Amend section 238 (procedure on appeal to Supreme Court) as follows.
- (2) Make the existing text subsection (1).
- (3) After subsection (1) insert—
- “(2) The power under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(**343**)).”
- 54.** In section 275(3) (recovery orders: pension schemes: supplementary) after “Scottish Ministers” insert “or, in relation to Northern Ireland, regulations made by the Department of Justice”.
- 55.** In section 282(1) (recovery orders: other exemptions) after “Scottish Ministers” insert “or, in relation to Northern Ireland, prescribed by an order made by the Department of Justice”.
- 56.** In section 287(2) (recovery orders: financial threshold) after “Scottish Ministers” insert “or, in relation to Northern Ireland, exercisable by the Department of Justice”.
- 57.** In section 289(7) (recovery of cash in summary proceedings: searches) after “Scottish Ministers” insert “or, in relation to Northern Ireland, is specified by the Department of Justice by an order”.
- 58.** In section 290(8) (recovery of cash in summary proceedings: appointed person)—
- (a) in paragraph (a) omit “and Northern Ireland”; and
- (b) after paragraph (b) insert—
- “(c) in relation to Northern Ireland, a person appointed by the Department of Justice.”
- 59.**—(1) Amend section 291 (recovery of cash in summary proceedings: report on exercise of powers) as follows.
- (2) In subsection (4) after “Scottish Ministers” insert “or the Department of Justice”.
- (3) In subsection (5) after “Scottish Parliament” insert “; and the Department of Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly”.
- (4) After subsection (5) insert—
- “(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**344**) applies for the purposes of subsection (5) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 60.**—(1) Amend section 292 (recovery of cash in summary proceedings: code of practice) as follows.
- (2) In subsection (1) omit “and Northern Ireland”.
- (3) In subsection (2)(b) after “Scottish Ministers” insert “, the Department of Justice”.
- 61.** After section 293 insert—

“293A Code of practice (Northern Ireland)

- (1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by virtue of section 289.

(343) 1998 c. 47.

(344) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

Status: This is the original version (as it was originally made).

- (2) Where the Department of Justice proposes to issue a code of practice it must—
 - (a) publish a draft,
 - (b) consider any representations made to the Department of Justice about the draft,
 - (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.

(3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.

(4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(6) The Department of Justice may revise the whole or any part of the code issued by it and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.

(7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.”

62.—(1) Amend section 302 (compensation) as follows.

(2) After subsection (8)—

“(9) The power in subsection (7B) is exercisable by the Department of Justice (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

63. In section 303(1) (definition of “the minimum amount”) after “Scottish Ministers” insert “and the Department of Justice”.

64. In section 309(4) (exemptions) after “Scottish Ministers” insert “and the Department of Justice”.

65. In section 316(1) (interpretation of Part 5) after the definition of “dealing” insert—

““the Department of Justice” means the Department of Justice in Northern Ireland;”.

66.—(1) Amend section 355 (further provisions: confiscation and money laundering) as follows.

(2) In subsection (2)—

(a) after “applies” insert “, in relation to England and Wales,”;

(b) for “subsections (3) and (4) apply” substitute “subsection (3) applies”.

(3) After subsection (3) insert—

“(3A) In relation to such warrants and powers, the Department of Justice in Northern Ireland may make an order which applies, in relation to Northern Ireland, the provisions to which subsection (4) applies subject to any specified modifications.”

67.—(1) Amend section 377 (code of practice) as follows.

(2) In subsection (1) at the beginning of each of paragraphs (c) and (d) insert “in relation to England and Wales.”.

(3) Omit subsection (9).

68. After section 377 insert—

“377ZA Code of practice (Northern Ireland)

(1) The Department of Justice in Northern Ireland must prepare a code of practice as to the exercise, in relation to Northern Ireland, by constables and accredited financial investigators of functions they have under this Chapter.

(2) After preparing a draft of the code the Department of Justice—

(a) must publish the draft;

(b) must consider any representations made to the Department of Justice about the draft;

(c) may amend the draft accordingly.

(3) After the Department of Justice has proceeded under subsection (2) it must lay the code before the Northern Ireland Assembly.

(4) When the Department of Justice has done so it may bring the code into operation on such day as the Department of Justice may appoint by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.

(6) A constable or accredited financial investigator must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.

(7) If a constable or accredited financial investigator fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.

(8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

(9) The Department of Justice may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

377ZB Disapplication of PACE codes

377ZB The following provisions do not apply to an appropriate officer or the relevant authority in the exercise of any function either has under this Chapter—

(a) section 67(9) of the Police and Criminal Evidence Act 1984(**345**) (application of codes of practice under that Act to persons other than police officers);

(b) Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**346**) (which makes similar provision for Northern Ireland).”

69. In section 436 (disclosure of information to Directors) after subsection (7) insert—

(345) 1984 c. 60.

(346) S.I. 1989/1341 (N.I. 12).

Status: This is the original version (as it was originally made).

“(7A) In relation to persons exercising functions in Northern Ireland, any reference in subsection (6) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

70. In section 444(4) (external requests and orders) after paragraph (c) insert—

“(ca) the Department of Justice in Northern Ireland;”.

71. In section 445(2)(b) (external investigations) after “Scottish Ministers,” insert “the Department of Justice in Northern Ireland.”.

72. In section 452 (Crown servants) after subsection (2) insert—

“(3) In relation to Northern Ireland, the power to make regulations under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) in relation to persons in the public service of the Crown in right of Her Majesty’s Government in Northern Ireland.”

73. In section 458 (commencement)—

- (a) in subsection (1) after “(3)” insert “or (4)”;
- (b) in subsection (2) after “made” insert “by the Secretary of State”;
- (c) after subsection (3) insert—

“(4) Any provision of this Act which provides for the repeal of any provision of the Proceeds of Crime (Northern Ireland) Order 1996(347) comes into force in accordance with provision made by the Department of Justice in Northern Ireland by order.”

74.—(1) Amend section 459 (orders and regulations) as follows.

(2) In subsection (3) for the words from “other than” to “which is” substitute

“other than—

- (a) the power of the Advocate General for Northern Ireland to make an order under section 377A(5), and
- (b) any power of the Department of Justice in Northern Ireland to make subordinate legislation,

which are”.

(3) In subsections (4)(a) and (6)(a) omit “223(7) or (8),”.

(4) After subsection (7) insert—

“(7A) Subordinate legislation made by the Department of Justice in Northern Ireland is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(348)) other than an order under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4), 436(6) or 458.

(7B) No order shall be made by the Department of Justice under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4) or 436(6) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7C) The Department of Justice must lay before the Northern Ireland Assembly a copy of every statutory instrument containing an Order in Council under section 444 or 445.

(7D) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(349) applies for the purposes of subsections (7B) and (7C) in relation to the laying of a draft or copy as it applies in relation to the laying of a statutory document under an enactment.”

(347) S.I. 1996/1299 (N.I. 9).

(348) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(349) Section 41(3) was substituted by S.I. 1999/663.

75. In section 460(3)(b) (sums received by the DPPNI) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Crime (International Co-operation) Act 2003

76.—(1) Amend the Crime (International Co-operation) Act 2003(350) as follows.

(2) In section 29 (hearing witnesses abroad through television links)—

(a) in subsection (1) omit “or Article 80A(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12))”;

(b) after subsection (2) insert—

“(3) The Department of Justice in Northern Ireland may by order provide for Article 80A(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989(351) (proceedings in which evidence may be given through television link) to apply to any further description of criminal proceedings, or to all criminal proceedings.”

(3) In section 50 (subordinate legislation)—

(a) after subsection (1) insert—

“(1A) Any power to make an order conferred by this Part on the Department of Justice in Northern Ireland is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(352).”;

(b) in subsection (2) for “Such an order” substitute “An order made under this Part by the Secretary of State, the Treasury, the Scottish Ministers or the Department of Justice”;

(c) after subsection (5) insert—

“(6) An order made by the Department of Justice is to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Sexual Offences Act 2003

77.—(1) Amend the Sexual Offences Act 2003(353) as follows.

(2) In section 136 (modifications of Part 2 for Northern Ireland) after subsection (10) insert—

“(11) References to the Secretary of State, except in sections 94 and 95, are to be read as references to the Department of Justice in Northern Ireland.”

(3) In section 138 (orders and regulations) after subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make orders or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(354).

(6) An order or regulations under any of sections 83 to 86 or section 130 may not be made by the Department of Justice unless a draft of the order or regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(350) 2003 c. 32. Section 29 was amended by S.I. 2005/1965 (N.I. 15). There are other amendments to the Act, but none are relevant.

(351) S.I. 1989/1341 (N.I. 12).

(352) S.I. 1979/1573 (N.I. 12).

(353) 2003 c. 42. Section 138 was amended by the Criminal Justice and Immigration Act 2008, s.142(10) and Sch.26 para.57. There have been other amendments to the Act but none are relevant.

(354) S.I. 1979/1573 (N.I. 12).

Status: This is the original version (as it was originally made).

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³⁵⁵⁾ applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(8) Any other order or regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽³⁵⁶⁾).

(9) Orders or regulations made by the Department of Justice may—

- (a) make different provision for different purposes;
- (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.”

Criminal Justice Act 2003

78.—(1) Amend the Criminal Justice Act 2003⁽³⁵⁷⁾ as follows.

(2) In section 50(10) (application of Part 7 to Northern Ireland), after “47(8)” insert

“—

- (a) for “Secretary of State” substitute “Department of Justice in Northern Ireland”; and
- (b)”.

(3) In section 97 (application of Criminal Appeal Acts to proceedings under Part 10)—

- (a) omit the words “or the Criminal Appeal (Northern Ireland) Act 1980 (c.47)”;
- (b) the remaining words become subsection (1);
- (c) in subsection (1) after “to proceedings” insert “in England and Wales”;
- (d) after subsection (1) insert—

“(2) Subject to the provisions of this Part, the Department of Justice in Northern Ireland may make an order containing provision, in relation to proceedings in Northern Ireland before the Court of Appeal under this Part, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal (Northern Ireland) Act 1980⁽³⁵⁸⁾ (subject to any specified modifications).”

(4) After section 330 insert—

“330A Orders: Northern Ireland

(1) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽³⁵⁹⁾.

(2) The Department of Justice shall not make any order—

- (a) making any provision by virtue of section 333(2)(b) which adds to, replaces or omits any part of the text of an Act, or
- (b) under section 336(3) bringing section 43 into force,

unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

⁽³⁵⁵⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽³⁵⁶⁾ Section 41(6) was amended by S.I. 1999/663.

⁽³⁵⁷⁾ 2003 c. 44, to which there are amendments not relevant to this Order.

⁽³⁵⁸⁾ 1980 c. 47.

⁽³⁵⁹⁾ S.I. 1979/1573 (N.I. 12).

(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**360**) applies for the purposes of subsection (2) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(4) Any other order made by the Department of Justice under section 333, or an order made by the Department of Justice under section 47(8) or 97(2), is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**361**)).

(5) Any power of the Department of Justice to make an order under this Act—

(a) may be exercised so as to make different provision for different purposes or different areas, and

(b) may be exercised either for all the purposes to which the power extends, or for those purposes subject to specified exceptions, or only for specified purposes.

(6) The power includes power to make—

(a) any supplementary, incidental or consequential provision, and

(b) any transitory, transitional or saving provision,

which the Department of Justice considers necessary or expedient.”

(5) In section 333 (supplementary and consequential provision, etc.)—

(a) after subsection (1) insert—

“(1A) In the application of this section to Northern Ireland, any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.”;

(b) in subsection (3) after “330(4)(b)” insert “or 330A(6)(b)”.

(6) In section 336 (commencement) after subsection (4) insert—

“(5) For the purposes of the law of Northern Ireland, the power in subsection (3) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).”

Commissioner for Children and Young People (Northern Ireland) Order 2003

79.—(1) Amend the Commissioner for Children and Young People (Northern Ireland) Order 2003(**362**) as follows.

(2) In paragraph 13 of Schedule 1 (relevant authorities) for “Secretary of State” substitute “Department of Justice”.

Justice (Northern Ireland) Act 2004

80. Amend the Justice (Northern Ireland) Act 2004(**363**) as follows.

81.—(1) Amend section 8 (guidance on human rights standards) as follows.

(2) In subsection (3)(b) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(3) After subsection (3) insert—

(**360**) Section 41(3) was substituted by [S.I. 1999/663](#).

(**361**) Section 41(6) was amended by [S.I. 1999/663](#).

(**362**) [S.I. 2003/439 \(N.I. 11\)](#); as amended by section 9(5) of the Justice (Northern Ireland) Act 2004.

(**363**) 2004 c. 4.

Status: This is the original version (as it was originally made).

“(3A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3)(b) in relation to the laying of any guidance as it applies in relation to the laying of a statutory document under an enactment.”

(4) In subsection (4)—

(a) for “Northern Ireland Office” (in both places) substitute “Department of Justice”;

(b) in paragraph (e)—

(i) omit “functions exercised by”;

(ii) before sub-paragraph (i) insert—

“(ai) the Department’s functions mentioned in section 69(1) of the Judicature (Northern Ireland) Act 1978(364),”;

(iii) at the beginning of each of sub-paragraphs (i) to (v) insert “functions exercised by”.

82.—(1) Amend section 21 (statutory rules) as follows.

(2) In subsection (2) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(3) After subsection (2) insert—

“(2A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (2) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(4) In subsection (3) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

Gender Recognition Act 2004

83.—(1) Amend section 22 of the Gender Recognition Act 2004(365) (prohibition on disclosure of information) as follows.

(2) After subsection (6) insert—

“(6A) The power conferred by subsection (5) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) where the provision to be made could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(366)).”

Domestic Violence, Crime and Victims Act 2004

84. Amend the Domestic Violence, Crime and Victims Act 2004(367) as follows.

85.—(1) Amend section 9 (establishment and conduct of domestic homicide reviews) as follows.

(2) After subsection (3) insert—

“(3A) Any reference in subsection (2) or (3) to the Secretary of State shall, in relation to persons and bodies within subsection (4)(b), be construed as a reference to the Department of Justice in Northern Ireland.”

(3) In subsection (6)—

(a) after “may” insert “, in relation to England and Wales,”;

(364) 1978 c. 23.

(365) 2004 c. 7. Section 22 was amended by section 250 of the Civil Partnership Act 2004. There are other amendments to the Act, but none are relevant.

(366) 1998 c. 47.

(367) 2004 c. 28, to which there are amendments not relevant to this Order.

(b) for “(4)” substitute “(4)(a)”.

(4) After subsection (6) insert—

“(7) The Department of Justice in Northern Ireland may, in relation to Northern Ireland, by order amend subsection (4)(b).”

86.—(1) Amend section 18A (appeals in respect of hearings under section 18(1)(b)), as it applies to Northern Ireland by virtue of section 21 and paragraph 1 of Schedule 1, as follows.

(2) In subsection (7) for “Secretary of State” substitute “Department of Justice”.

(3) Omit subsection (8).

87. In section 56 (grants for assisting victims, witnesses etc.) after subsection (2) insert—

“(3) In the application of this section to Northern Ireland, any reference in subsection (1) or (2) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

88.—(1) Amend section 61 (orders) as follows.

(2) In subsection (2) after “power” insert “of the Secretary of State”.

(3) After subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**368**).

(6) An order made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**369**)).”

Constitutional Reform Act 2005

89.—(1) Amend the Constitutional Reform Act 2005(**370**) as follows.

(2) In sections 27(2)(e) and 28(5)(e) (consultation during selection process for judge of Supreme Court) for “Secretary of State for Northern Ireland” substitute “Northern Ireland Judicial Appointments Commission”.

Police and Justice Act 2006

90.—(1) Amend the Police and Justice Act 2006(**371**) as follows.

(2) In section 13(2)(b) (supply of information to police etc. by Registrar General: exercise of power to make order under section 13(1)(d)) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

(3) In section 49 (orders and regulations) after subsection (8) insert—

“(9) The power of the Department of Justice in Northern Ireland to make an order under section 13(1)(d) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subsection (3) above applies in relation to the power as it applies in relation to a power mentioned in subsection (1) above.

(368) S.I. 1979/1573 (N.I. 12).

(369) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(370) 2005 c. 4, to which there are amendments not relevant to this Order.

(371) 2006 c. 48. Section 13 was amended by S.I. 2008/678.

Status: This is the original version (as it was originally made).

(10) An order made by the Department of Justice under section 13(1)(d) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Counter-Terrorism Act 2008

91.—(1) Amend the Counter-Terrorism Act 2008(**372**) as follows.

(2) In section 45(3)(a)(vi) (sentences or orders triggering notification requirements) for “Secretary of State” substitute “Minister in charge of the Department of Justice”.

(3) In section 53(2)(c)(v) (period for which notification requirements apply) for “Secretary of State” substitute “Minister in charge of the Department of Justice”.

Taxis Act (Northern Ireland) 2008

92.—(1) Amend the Taxis Act (Northern Ireland) 2008(**373**) as follows.

(2) In section 42(1) (regulations concerning seized vehicles and equipment) for “Secretary of State” substitute “Department of Justice”.

(3) In section 56 (orders and regulations)—

(a) in subsection (2) for “Secretary of State” substitute “Department of Justice”;

(b) in subsection (4) for “Subject to subsection (5), an” substitute “An”;

(c) omit subsection (5).

Coroners and Justice Act 2009

93. Amend the Coroners and Justice Act 2009(**374**) as follows.

94.—(1) Amend section 74 (anonymity in investigations: qualifying offences) as follows.

(2) In subsection (4) for “Secretary of State” substitute “appropriate authority”.

(3) In subsection (5), at the appropriate place, insert—

““the appropriate authority” means, in relation to England and Wales, the Secretary of State and, in relation to Northern Ireland, the Department of Justice in Northern Ireland;”.

95.—(1) Amend section 75 (anonymity in investigations: qualifying investigations) as follows.

(2) After subsection (4) insert—

“(5) The power to make an order under subsection (3) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(**375**)).”

96.—(1) Amend section 77 (anonymity in investigations: applications) as follows.

(2) After subsection (8) insert—

“(9) The power to make an order under subsection (7) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to

(372) 2008 c. 28, to which there are amendments not relevant to this Order.

(373) 2008 c. 4 (N.I.).

(374) 2009 c. 25.

(375) 1998 c. 47.

make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

97.—(1) Amend section 78 (anonymity in investigations: conditions for making order) as follows.

(2) In subsection (10) for “Secretary of State” substitute “appropriate authority”.

(3) After subsection (11) insert—

“(12) In subsection (10) “the appropriate authority” means, in relation to England and Wales, the Secretary of State and, in relation to Northern Ireland, the Department of Justice in Northern Ireland.”

98.—(1) Amend section 83 (review of Chapter 1 of Part 3) as follows.

(2) In subsection (1) after “Chapter” insert “in England and Wales”.

(3) After subsection (2) insert—

“(3) The Department of Justice in Northern Ireland must review the operation of this Chapter in Northern Ireland and prepare a report of that review.

(4) The Department of Justice must lay a copy of the report before the Northern Ireland Assembly before the end of the period of 2 years beginning with the day on which section 77 comes into force.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³⁷⁶⁾ applies for the purposes of subsection (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

99. In section 161 (exploitation proceeds orders: applications) after subsection (5) insert—

“(6) In the application of this section to Northern Ireland, in subsections (2)(a)(ii) and (4) references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

100. In section 166 (exploitation proceeds orders: effect of conviction being quashed etc) after subsection (9) insert—

“(9A) In the case of an exploitation proceeds order made in Northern Ireland on the application of an enforcement authority other than the Serious Organised Crime Agency, references in this section to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

101.—(1) Amend section 176 (orders etc) as follows.

(2) After subsection (2) insert—

“(2A) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽³⁷⁷⁾.”

(3) After subsection (6) insert—

“(7) No order may be made under this Act by the Department of Justice in Northern Ireland unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

⁽³⁷⁶⁾1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽³⁷⁷⁾S.I. 1979/1573 (N.I. 12).

Status: This is the original version (as it was originally made).

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (7) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(9) Subsection (7) does not apply to the making by the Department of Justice of—

- (a) an order under section 177 which does not contain any provision amending or repealing any provision of an Act;
- (b) an order under section 182;

and an order within paragraph (a) above made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽³⁷⁸⁾).

102.—(1) Amend section 177 (consequential amendments etc) as follows.

(2) After subsection (3) insert—

“(3A) In relation to the making of provision that could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998⁽³⁷⁹⁾), in subsection (3) references to the appropriate minister are to be read as references to the Department of Justice in Northern Ireland.”

103.—(1) Amend section 182 (commencement) as follows.

(2) After subsection (5) insert—

“(6) The power to make provision by order under subsection (4) or (5) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor or the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).

(7) Before making an order under subsection (4) or (5) bringing into force any provision for the purposes of the law of Northern Ireland, the Lord Chancellor or the Secretary of State must consult the Department of Justice.”

104.—(1) Amend Schedule 16 (extension of disqualification for driving) as follows.

(2) In paragraph 1, in the inserted Article 8A(10), for the words from “annulment” to “accordingly” substitute “negative resolution”.

(3) In paragraph 4, in the inserted Article 40A—

- (a) in paragraph (9) for “Secretary of State” substitute “Department of Justice”;
- (b) in paragraph (10) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Policing and Crime Act 2009

105. Amend the Policing and Crime Act 2009⁽³⁸⁰⁾ as follows.

106. After section 113 insert—

⁽³⁷⁸⁾Section 41(6) was amended by S.I. 1999/663.

⁽³⁷⁹⁾1998 c. 47.

⁽³⁸⁰⁾2009 c. 26.

“113A Northern Ireland: minor and consequential amendments etc

(1) In relation to the making of provision that could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(381)), in sections 112(3) and 113 references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.

(2) The power of the Department of Justice to make an order under section 112 or 113 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(3) Section 112(6) to (8) does not apply in relation to the power of the Department of Justice to make an order under section 112.

(4) The Department of Justice may not make an order under section 112 unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5) Subsection (4) does not apply to an order if the order does not amend or repeal a provision of a public general Act.

(6) An order made by the Department of Justice under section 112 to which subsection (4) does not apply is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(7) Section 112(9) applies for the purposes of subsection (5) as it applies for the purposes of section 112(7).

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

107.—(1) Amend section 116 (commencement) as follows.

(2) After subsection (1) insert—

“(1A) The power to make provision by order under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

(3) In subsection (2) after “Secretary of State” insert “(but not the Department of Justice)”.

(4) In subsection (7)(a) after “instrument” insert “(subject to subsection (8))”.

(5) After subsection (7) insert—

“(8) The power of the Department of Justice in Northern Ireland to make an order under subsection (1) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

108.—(1) Amend Schedule 2 (closure orders) as follows.

(2) In paragraph 1, in the inserted section 136R, after subsection (8) insert—

“(8A) In the application of this Part to Northern Ireland, references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

(3) In paragraph 2 for “subsection (2)” substitute “subsections (2) and (6)”.

SCHEDULE 15

Article 13

Serious Organised Crime and Police Act 2005

1. Amend the Serious Organised Crime and Police Act 2005(382) as follows.
- 2.—(1) Amend section 6 (annual plans) as follows.
 - (2) In subsection (7) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland,”.
 - (3) In subsection (9)—
 - (a) omit the word “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—

“(aa) consult the Department of Justice in Northern Ireland and agree with the Department what provision the plan is to make for Northern Ireland by virtue of subsection (2); and”.
- 3.—(1) Amend section 7 (annual reports) as follows.
 - (2) In subsection (4) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland,”.
 - (3) After subsection (7) insert—

“(8) The Department of Justice in Northern Ireland must lay a copy of the annual report before the Northern Ireland Assembly.

(9) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(383) applies for the purposes of subsection (8) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
4. After section 8 insert—

“8A General duty of the Department of Justice in Northern Ireland

The Department of Justice in Northern Ireland must exercise the powers conferred on it under this Chapter in such manner and to such extent as appears to it to be best calculated to promote the efficiency and effectiveness of SOCA.”
5. In section 9(2) (strategic priorities for SOCA)—
 - (a) omit the word “and” at the end of paragraph (b); and
 - (b) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland, and”.
- 6.—(1) Amend section 10 (codes of practice for SOCA) as follows.
 - (2) In subsection (3)—
 - (a) omit the word “and” at the end of paragraph (b); and
 - (b) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland, and”.
 - (3) After subsection (7) insert—

(382)2005 c. 15; as amended by S.I. 2007/1098. There are other amendments to the Act, but none are relevant.

(383)1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

- “(8) The Secretary of State must provide the Department of Justice in Northern Ireland with a copy of anything laid before Parliament under subsection (4).”
7. In section 11 (reports to Secretary of State) after subsection (3) insert—
- “(3A) The Secretary of State must consult the Department of Justice in Northern Ireland before imposing any requirement under that subsection relating to any functions or activities of SOCA—
- (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
8. In section 12 (power to direct submission of action plan) after subsection (6) insert—
- “(6A) The Secretary of State must consult the Department of Justice in Northern Ireland before giving any direction under this section in connection with any functions or activities of SOCA—
- (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
9. In section 13 (revision of inadequate action plan) after subsection (3) insert—
- “(3A) The Secretary of State must consult the Department of Justice in Northern Ireland before forming an opinion for the purposes of subsection (1) as to any remedial measures proposed in connection with any functions or activities of SOCA—
- (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
10. In section 15 (reports relating to directions under section 12)—
- (a) in subsection (4)(b) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”; and
 - (b) after subsection (5) insert—
- “(6) The Department of Justice in Northern Ireland must lay before the Northern Ireland Assembly any copy of a report sent to it under subsection (4).
- (7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 11.—(1) Amend section 16 (inspections of SOCA) as follows.
- (2) After subsection (3) insert—
- “(3A) Before requesting an inspection that would fall to be carried out wholly or partly in Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.”
- (3) In subsection (9) after paragraph (b) insert—
- “and
- (c) if the inspection was carried out wholly or partly in Northern Ireland, to the Department of Justice in Northern Ireland.”
- (4) In subsection (11) after paragraph (b) insert—
- “and
- (c) if the inspection was carried out wholly or partly in Northern Ireland, to the Department of Justice in Northern Ireland.”

Status: This is the original version (as it was originally made).

12. In section 23 (mutual assistance between SOCA and law enforcement agencies: voluntary arrangements) after subsection (10) insert—

“(10A) If the assistance mentioned in subsection (8) or (9) is provided for or (as the case may be) by—

- (a) the Police Service of Northern Ireland, or
- (b) the Police Service of Northern Ireland Reserve,

the Secretary of State must, before making a determination under the subsection in question, consult the Department of Justice in Northern Ireland.”

13.—(1) Amend section 24 (mutual assistance between SOCA and law enforcement agencies: directed arrangements) as follows.

(2) In subsection (2)(a) omit “or Northern Ireland”.

(3) In subsection (2)(c) after “Scottish Administration” insert “or a Northern Ireland department”.

14. After section 25 insert—

“25A Directed arrangements: Northern Ireland

(1) This section applies where it appears to the Department of Justice in Northern Ireland—

- (a) that a body within subsection (2) has a special need for assistance from SOCA or SOCA has a special need for assistance from a body within subsection (2),
- (b) that it is expedient for such assistance to be provided by SOCA or (as the case may be) the body, and
- (c) that satisfactory arrangements cannot be made, or cannot be made in time, under section 23.

(2) The bodies within this subsection are—

- (a) the Police Service of Northern Ireland, and
- (b) the Police Service of Northern Ireland Reserve.

(3) In a case where this section applies the Department of Justice in Northern Ireland may (as appropriate)—

- (a) direct the Chief Constable of the Police Service of Northern Ireland to provide such constables or other assistance for the purpose of meeting the need in question as may be specified in the direction;
- (b) with the agreement of the Secretary of State, direct the Director General of SOCA to provide such members of the staff of SOCA or other assistance for the purpose of meeting the need in question as may be so specified.

(4) Subsections (6) to (9) and (10A) of section 23 apply in relation to assistance provided under this section—

- (a) by SOCA to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, or
- (b) to SOCA by the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve,

as they apply in relation to assistance so provided under that section.”

15. In section 26 (use by SOCA of police premises etc.) after subsection (6) insert—

“(6A) In the application of this section in relation to arrangements with the Northern Ireland Policing Board, any reference in subsection (2), (3), (5) or (6) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.

(6B) But the Department may give a direction under subsection (2) to SOCA only with the agreement of the Secretary of State.”

16. In section 41 (directions) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.

17. In section 47(5)(a) (agreement about exercise of powers of constable in Northern Ireland) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

18. In section 52 (modification of enactments) after subsection (7) insert—

“(8) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.

(9) The power conferred by subsection (1) is exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made is within the legislative competence of the Northern Ireland Assembly.

(10) But the Department of Justice may make an order under subsection (1) only with the agreement of the Secretary of State.”

19.—(1) Amend section 74 (assistance by defendant: review of sentence) as follows.

(2) In subsection (12) for the words from “the Secretary of State” to the end substitute—

“(a) the Secretary of State may, in relation to proceedings in England and Wales, make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968(**384**) (subject to any specified modifications);

(b) the Department of Justice in Northern Ireland may, in relation to proceedings in Northern Ireland, make an order containing provision corresponding to any provision in the Criminal Appeal (Northern Ireland) Act 1980(**385**) (subject to any specified modifications).”

20. In section 82(6) (protection of persons involved in investigations or proceedings) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

21. In section 87 (defences to liability under section 86)—

(a) in subsection (5) omit “or in Northern Ireland”; and

(b) after subsection (6) insert—

“(6A) The Department of Justice in Northern Ireland may by order make provision prescribing circumstances in which a person who discloses information as mentioned in section 86(1) is not guilty in Northern Ireland of an offence under that section.”

22. In section 89 (defences to liability under section 88)—

(a) in subsection (5) omit “or in Northern Ireland”; and

(b) after subsection (6) insert—

“(6A) The Department of Justice in Northern Ireland may by order make provision prescribing circumstances in which a person who discloses information as mentioned in subsection (1) or (2) of section 88 is not guilty in Northern Ireland of an offence under that subsection.”

(384) 1968 c. 19.

(385) 1980 c. 47.

- 23.**—(1) Amend section 97 (confiscation orders) as follows.
- (2) In subsection (1) omit—
- (a) the “or” after paragraph (a),
 - (b) paragraph (b), and
 - (c) the words “or Northern Ireland (as the case may be)”.
- (3) After subsection (1) insert—
- “(1A) The Department of Justice in Northern Ireland may by order make such provision as the Department considers appropriate for or in connection with enabling confiscation orders under Part 4 of the 2002 Act(**386**) (confiscation: Northern Ireland) to be made by magistrates’ courts in Northern Ireland.”
- (4) In subsections (2) and (3) after “(1)” insert “or (1A)”.
- (5) In subsection (3)—
- (a) after “2002 Act” insert “(as the case may be)”;
 - (b) for “either (or any provision) of those Parts” substitute “that Part (or any provision of that Part)”.
- 24.** In section 172 (orders and regulations) after subsection (8) insert—
- “(9) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**387**).
- (10) Any such power—
- (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
 - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Department of Justice considers appropriate.
- (11) Subject to subsections (12) and (13), orders made by the Department of Justice under this Act are to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**388**)).
- (12) Subsection (11) does not apply to any order under section 178.
- (13) Subsection (11) also does not apply to—
- (a) any order under section 52;
 - (b) any order under section 87(6A);
 - (c) any order under section 89(6A);
 - (d) any order under section 97(1A);
 - (e) any order under section 173 which amends or repeals any provision of an Act, and no such order may be made by the Department of Justice (whether alone or with other provisions) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(386) The “2002 Act” is the Proceeds of Crime Act 2002 (c. 29).

(387) S.I. 1979/1573 (N.I. 12).

(388) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(14) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³⁸⁹⁾ applies for the purposes of subsection (13) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

25. In section 173 (supplementary, incidental, consequential etc. provision) after subsection (6) insert—

“(6A) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.

(6B) The power conferred by subsection (1) is exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made is for the general purposes of this Act and would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6C) The power conferred by subsection (1) is also exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made—

(a) is for the purposes of, in consequence of, or for giving full effect to—

(i) section 78, or

(ii) so far as extending to Northern Ireland, any provision mentioned in section 178(7A), and

(b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6D) The Department of Justice shall not, without the consent of the Secretary of State, make an order by virtue of subsection (6B) or (6C) in relation to which, were the order a Bill of the Northern Ireland Assembly, the Secretary of State’s consent would be required under section 8 of the Northern Ireland Act 1998⁽³⁹⁰⁾.”

26.—(1) Amend section 178 (commencement) as follows.

(2) After subsection (7) insert—

“(7A) The following provisions, so far as they extend to Northern Ireland, come into force on such day as the Department of Justice in Northern Ireland may by order appoint—

(a) section 144 so far as it relates to Part 2 of Schedule 10,

(b) section 163(1),

(c) section 163(3) so far as it relates to paragraphs 4 and 10 of Schedule 14,

(d) Part 2 of Schedule 10, and

(e) paragraphs 4 and 10 of Schedule 14.”

(3) After subsection (11) insert—

“(12) The power conferred by subsection (10) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) in connection with any provision of this Act which comes into force by order made by the Department of Justice.”

27.—(1) Amend Schedule 1 (SOCA) as follows.

(2) In paragraph 1(4) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

(3) In paragraph 9(3)—

⁽³⁸⁹⁾Section 41(3) was substituted by S.I. 1999/663.

⁽³⁹⁰⁾1998 c. 47.

Status: This is the original version (as it was originally made).

- (a) omit the word “and” at the end of paragraph (a); and
- (b) after paragraph (b) insert—
 - “, and
 - (c) the Department of Justice in Northern Ireland.”
- (4) In paragraph 10(6)—
 - (a) omit the word “and” at the end of paragraph (a); and
 - (b) after paragraph (b) insert—
 - “, and
 - (c) the Department of Justice in Northern Ireland.”

SCHEDULE 16

Article 14

Amendments relating to the Private Security Industry

Private Security Industry Act 2001

1. Amend the Private Security Industry Act 2001(**391**) as follows.
- 2.—(1) Amend section 2 (directions etc. by the Secretary of State) as follows.
 - (2) After subsection (2) insert—
 - “(2A) Before giving a direction under subsection (1) the Secretary of State must obtain the consent of the Department of Justice so far as the direction relates to the Authority’s activities in or as regards Northern Ireland.”
 - (3) In subsection (3)—
 - (a) at the end of paragraph (b) insert “and”; and
 - (b) after paragraph (b) insert—
 - “(c) the Department of Justice with such information about the Authority’s activities in or as regards Northern Ireland as the Department of Justice may request.”
3. In section 3 (conduct prohibited without a licence), after subsection (3A) insert—
 - “(3B) In the application of this Act to Northern Ireland—
 - (a) the reference in subsection (3) to the Secretary of State must be construed as a reference to the Department of Justice;
 - (b) before making any order under subsection (3) the Department of Justice must consult the Secretary of State.”
4. In section 7(5A) (licensing criteria) after “Scottish Ministers” insert “and the Department of Justice”.
- 5.—(1) Amend section 24 (orders and regulations) as follows.
 - (2) In subsection (1A) after “Scottish Ministers” insert “; and in Northern Ireland “prescribed” in that paragraph includes prescribed by regulations made by the Department of Justice”.

(391)2001 c. 12; as amended by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 15; sections 48-49 of the Justice and Security (Northern Ireland) Act 2007 (c. 6); and S.I. 2007/2201.

- (3) After subsection (3A) insert—
- “(3B) Any power of the Department of Justice to make orders or regulations under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**392**).
- (3C) Orders and regulations made by the Department of Justice under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**393**)).”
- (4) In subsection (4) before “and the Authority” insert “, the Department of Justice”.
- (5) After subsection (4) insert—
- “(4A) Before making any order or regulations under any provision of this Act, the Department of Justice shall consult the Authority.”
- (6) In subsection (5)(b), in the parentheses, after “Scottish Ministers think fit” insert “, or where the order is, or the regulations are, made by the Department of Justice, as the Department of Justice thinks fit”.
6. In section 25(1) (interpretation) after the definition of “contravention” insert—
- ““the Department of Justice” means the Department of Justice in Northern Ireland;”.
- 7.—(1) Amend Schedule 1 (the Security Industry Authority) as follows.
- (2) In paragraph 1(4) after “Scottish Ministers” insert “and the Department of Justice”.
- (3) In paragraph 3(2) after “Scottish Ministers” insert “and the Department of Justice”.
- (4) In paragraph 6(2A) after “Scottish Ministers” insert “and the Department of Justice”.
- (5) In paragraph 14 after sub-paragraph (1A) insert—
- “(1B) The Department of Justice may make payments to the Authority in relation to the exercise by the Authority of its functions in or as regards Northern Ireland.”
- (6) In paragraph 16—
- (a) in sub-paragraph (3) after “Scottish Ministers” insert “, to the Department of Justice”; and
- (b) after sub-paragraph (3A) insert—
- “(3B) The Department of Justice shall lay documents received by it under sub-paragraph (3) before the Northern Ireland Assembly.
- (3C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**394**) applies for the purposes of sub-paragraph (3B) in relation to the laying of documents received under sub-paragraph (3) as it applies in relation to the laying of a statutory document under an enactment.”
- (7) In paragraph 17—
- (a) in sub-paragraph (1) for “and to the Scottish Ministers” substitute “, the Scottish Ministers and the Department of Justice”; and
- (b) after sub-paragraph (3) insert—
- “(4) The Department of Justice shall lay a copy of each such report before the Northern Ireland Assembly.

(392) S.I. 1979/1573 (N.I. 12).

(393) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(394) Section 41(3) was substituted by S.I. 1999/663.

Status: This is the original version (as it was originally made).

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(395) applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

SCHEDULE 17

Article 15(1)

Enactments under which functions of Lord Chancellor are transferred to the Department of Justice

Acts of the Parliament of the United Kingdom

1. Maintenance Orders (Facilities for Enforcement) Act 1920(396) so far as relating to Northern Ireland.
2. Arbitration (International Investment Disputes) Act 1966(397) so far as relating to Northern Ireland.
3. Paragraph 13 of Schedule 3 to the Misuse of Drugs Act 1971(398) so far as relating to Northern Ireland.
4. Maintenance Orders (Reciprocal Enforcement) Act 1972(399) so far as relating to Northern Ireland, except section 49(2).
5. Litigants in Person (Costs and Expenses) Act 1975(400) so far as relating to Northern Ireland.
6. The following provisions of the Judicature (Northern Ireland) Act 1978(401)—
 - (a) section 7(4)(402), so far as relating to the payment (but not the determination) of remuneration and allowances;
 - (b) sections 47(5)(403) and 53(1)(f) and (2)(404);
 - (c) section 53A(405), except so far as relating to the functions of the Lord Chancellor in relation to Crown Court rules which deal (or would deal) with an excepted matter;
 - (d) section 54(1)(c), (5)(406) and (6);
 - (e) section 55A(407), except so far as relating to the functions of the Lord Chancellor in relation to rules which deal (or would deal) with an excepted matter;
 - (f) sections 56(4)(408), 68(3), (5) and (6) and 68A(409);

(395) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(396) 1920 c. 33. Functions under the Act were transferred to the Lord Chancellor by S.I. 1992/709. Section 11 (application to Ireland) was amended by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), Schedule 1, Part 1, paragraph 5; S.I. 1993/1576 (N.I. 6); S.I. 1995/755 (N.I. 2).

(397) 1966 c.41. Section 3 was substituted by the Arbitration Act 1996 (c. 23).

(398) 1971 c. 38.

(399) 1972 c. 18. Functions of the Secretary of State under the Act, except in relation to Scotland, were transferred to the Lord Chancellor by S.I. 1992/709. Relevant amendments were made by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c.56).

(400) 1975 c. 47.

(401) 1978 c. 23.

(402) Section 7(4) was amended by S.I. 1981/1670; the Constitutional Reform Act 2005 (c.4), section 145 and Schedule 17, paragraph 21.

(403) Section 47(5) was amended by the Constitutional Reform Act 2005 (c.4), section 15(2) and Schedule 5, paragraphs 22 and 24. Section 53(2) was amended by section 17(2) of the Justice (Northern Ireland) Act 2002 (c.26).

(405) Sections 53A was inserted by the Constitutional Reform Act 2005 (c. 4), section 15(2) and Schedule 5, paragraphs 22, 28.

(406) Section 54(5) was amended by section 17(3) of the Justice (Northern Ireland) Act 2002 (c. 26).

(407) Section 55A was inserted by the Constitutional Reform Act 2005 (c. 4), section 15(2) and Schedule 5, paragraphs 22, 30.

(408) Section 56(4) was amended by S.I. 1979/1573.

(409) Section 68A was inserted by section 10 of the Constitutional Reform Act 2005 (c. 4).

- (g) section 74(5)(**410**), so far as relating to the payment (but not the determination) of remuneration and allowances;
 - (h) sections 75(1), (7) and (9)(**411**), 77(1)(**412**), 79(1)(**413**), 81(a)(iv)(**414**), 82(1), 85(**415**), 102(2), 103(6), (7) and (9)(**416**) and 116(1) and (2);
 - (i) section 117A(**417**), so far as relating to the payment (but not the determination) of allowances;
 - (j) paragraph 9 of Schedule 6(**418**).
7. Criminal Appeal (Northern Ireland) Act 1980(**419**).
 8. Civil Jurisdiction and Judgments Act 1982(**420**) so far as relating to Northern Ireland.
 9. Section 25(3)(c) of the Administration of Justice Act 1982(**421**).
 10. Section 4F(3)(c) of the Repatriation of Prisoners Act 1984(**422**).
 11. Multilateral Investment Guarantee Agency Act 1988(**423**) so far as relating to Northern Ireland.
 12. Social Security Administration (Northern Ireland) Act 1992(**424**), except functions transferred by virtue of paragraph 24 of Schedule 4 to the Northern Ireland Act 2009(**425**).
 13. Arbitration Act 1996(**426**) so far as relating to Northern Ireland.
 14. Defamation Act 1996(**427**) so far as relating to Northern Ireland.
 15. Damages Act 1996(**428**) so far as relating to Northern Ireland.
 16. Paragraph 39(6) of Schedule 10 to the Northern Ireland Act 1998(**429**).

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- (**410**) Section 74 was amended by S.I. 1981/1670; the Northern Ireland Act 2009 (c. 3), section 2 and Schedule 4, paragraph 16.
- (**411**) Section 75 was substituted by S.R. 1982/300; subsection (1) was substituted, and subsections (6) to (9) were inserted, by section 103 of the Courts Act 2003 (c. 39). There are other amendments to section 75 in the Constitutional Reform Act 2005 (c. 4), section 15(2) and Schedule 5, paragraphs 22 and 35.
- (**412**) Section 77(1) was amended by the Constitutional Reform Act 2005 (c. 4), section 59 and Schedule 11, paragraph 6.
- (**413**) Section 79(1) was amended by the Constitutional Reform Act 2005 (c. 4), section 59 and Schedule 11, paragraph 6.
- (**414**) Section 81 was amended by S.I. 1980/397; the Administration of Justice Act 1982 (c. 53), section 70 and Schedule 8, paragraph 7; the Constitutional Reform Act 2005 (c. 4), section 59 and Schedule 11, paragraph 6.
- (**415**) Section 85 was amended by the Administration of Justice Act 1982 (c. 53), section 70 and Schedule 8, paragraph 9; and the Constitutional Reform Act 2005 (c. 4), section 59 and Schedule 11, paragraph 6.
- (**416**) Section 103 was amended by the Constitutional Reform Act 2005 (c. 4), section 15(2), Schedule 5, paragraphs 22 and 36.
- (**417**) Section 117A was inserted by the Administration of Justice Act 1982 (c. 53), section 70 and Schedule 8, paragraph 12.
- (**418**) Paragraph 9 of Schedule 6 was amended by the Constitutional Reform Act 2005 (c. 4), section 15(2) and Schedule 5, paragraphs 22 and 40.
- (**419**) 1980 c. 47. Functions under the Act were transferred to the Lord Chancellor, and relevant amendments were made to the Act, by S.I. 1982/159. Other relevant amendments were made by the Criminal Justice and Public Order Act 1994 (c. 33), section 53; the Criminal Justice Act 2003 (c. 44) Schedule 36, Part VI, paragraphs 91 and 93; and the Constitutional Reform Act 2005 (c. 4) Schedule 9, paragraph 33.
- (**420**) 1982 c. 27. Functions under section 5 of the Act were transferred to the Lord Chancellor, and section 5 was amended, by S.I. 1992/709. Section 5A was inserted by S.I. 2009/3131. There are other amendments to the Act, but none are relevant.
- (**421**) 1982 c. 53. Section 25(3)(c) was amended by the Constitutional Reform Act 2005 (c. 4), section 59 and Schedule 11, paragraph 27.
- (**422**) 1984 c. 47. Section 4F was inserted by section 95 of the Criminal Justice and Immigration Act 2008 (c. 4).
- (**423**) 1988 c. 8. Relevant amendments were made by the Arbitration Act 1996 (c. 23), section 107 and Schedule 3, paragraph 49 and Schedule 4.
- (**424**) 1992 c. 8. Relevant amendments were made by S.I. 1998/1506 (N.I. 10), Article 59; S.I. 1999/671, Article 4 and Schedule 3, paragraph 50(4) and Article 5 and Schedule 4, paragraph 8; the Tax Credits Act 2002 (c. 21), Schedule 4, paragraph 11; the Northern Ireland Act 2009 (c. 3), Schedule 4, paragraph 24.
- (**425**) 2009 c. 3.
- (**426**) 1996 c. 23; Relevant amendments were made by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, paragraph 250. There are other amendments to the Act, but none are relevant.
- (**427**) 1996 c. 31. Relevant amendments were made by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, paragraph 255.
- (**428**) 1996 c. 48. Relevant amendments were made by S.I. 1999/1820; the Courts Act 2003 (c.39), section 100; S.I. 2005/1452 (N.I. 7).
- (**429**) 1998 c. 47.

Status: This is the original version (as it was originally made).

17. Sections 2(2), 9A(2), 10(4) and 12(1B)(c) of, and paragraphs 1(2), 5, 6, 7, 10(3), 11, 13, 14 and 15 of Schedule 3A and paragraphs 4 and 5 of Schedule 4 to, the Justice (Northern Ireland) Act 2002(**430**).

18. Section 221(3)(b) of the Proceeds of Crime Act 2002(**431**).

19. The following provisions of the Courts Act 2003(**432**)—

(a) section 102;

(b) section 109, so far as relating to Northern Ireland.

20. Schedule 3 to the Justice (Northern Ireland) Act 2004(**433**).

21. The following provisions of the Civil Partnership Act 2004(**434**)—

(a) section 188;

(b) Schedules 15 to 17.

22. Paragraphs 9(1), 12(1) and 14(2) and (3) of Schedule 1 to the Forced Marriage (Civil Protection) Act 2007(**435**).

23. Sections 132(1) and 163(1) of the Banking Act 2009(**436**) so far as relating to Northern Ireland.

Acts of the Parliament of Northern Ireland

24. Administration of Justice Act (Northern Ireland) 1954(**437**).

25. Coroners Act (Northern Ireland) 1959(**438**), except for sections 2(1) and 36.

26. Costs in Criminal Cases Act (Northern Ireland) 1968(**439**).

27. Children and Young Persons Act (Northern Ireland) 1968(**440**).

Orders in Council

28. Family Law Reform (Northern Ireland) Order 1977(**441**).

(430) 2002 c.26. Relevant amendments were made by the Justice (Northern Ireland) Act 2004 (c.4), section 1 and Schedule 1, paragraph 1; and by the Constitutional Reform Act 2005 (c. 4), sections 11, 15 and 124 and Schedule 5, paragraphs 115(1), 118 and 124 and Schedule 15.

(431) 2002 c. 29.

(432) 2003 c. 39. Section 102 was amended by the Constitutional Reform Act 2005 (c. 4), sections 15 and 59, Schedule 4, paragraph 346 and Schedule 11, paragraph 6; section 47 of the Justice and Security (Northern Ireland) Act 2007 (c. 6). Section 109 was amended by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, paragraph 349.

(433) 2004 c. 4.

(434) 2004 c. 33. Section 188(4A) was inserted by S.I. 2006/1016; Schedule 1, paragraph 22. Relevant amendments are made to Schedule 15 by the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13) (N.I.), Schedule 5. Relevant amendments are made to Schedule 16 by S.I. 2006/1945 (N.I. 14) and S.I. 2006/1016, Schedule 1, paragraph 24.

(435) 2007 c. 20.

(436) 2009 c. 1.

(437) 1954 c. 9 (N.I.). Relevant amendments were made by S.I. 1973/2163.

(438) 1959 c. 15 (N.I.). Functions under section 2 were transferred to the Lord Chancellor by S.I. 1973/2163. Relevant amendments were made by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122 and Schedule 5; the Access to Justice Act 1999 (c. 22), section 104(2); the Justice (Northern Ireland) Act 2002 (c. 26), section 5 and Schedule 3, paragraphs 11-15; the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 2-6; and the Northern Ireland Act 2009 (c. 3), section 2(3) and Schedule 4.

(439) 1968 c. 10 (N.I.).

(440) 1968 c. 34 (N.I.); Relevant amendments were made by the Judicature (Northern Ireland) Act 1978 (c. 23), Schedule 5; the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5. Functions under the Act were transferred by S.I. 1973/2163.

(441) S.I. 1977/1250 (N.I. 17). Relevant amendments are made by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.), section 65; the Family Law Act (Northern Ireland) 2001 (c. 12) (N.I.), section 3. Functions under the Order were transferred to the Lord Chancellor by S.I. 1993/1576 (N.I. 6).

29. Fatal Accidents (Northern Ireland) Order 1977(442).
30. Rates (Northern Ireland) Order 1977(443), except functions which are transferred by virtue of paragraph 9 of Schedule 4 to the Northern Ireland Act 2009(444).
31. Matrimonial Causes (Northern Ireland) Order 1978(445).
32. Administration of Estates (Northern Ireland) Order 1979(446).
33. County Courts (Northern Ireland) Order 1980(447), except for Article 47 so far as relating to the functions of the Lord Chancellor in relation to county court rules which deal (or would deal) with an excepted matter.
34. Domestic Proceedings (Northern Ireland) Order 1980(448).
35. Judgments Enforcement (Northern Ireland) Order 1981(449).
36. Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(450).
37. Magistrates' Courts (Northern Ireland) Order 1981(451), except for Article 13(3A) to (3D) so far as relating to the functions of the Lord Chancellor in relation to magistrates' courts rules which deal (or would deal) with an excepted matter.
38. Forfeiture (Northern Ireland) Order 1982(452).
39. Mental Health (Northern Ireland) Order 1986(453), except functions which are transferred by virtue of paragraph 20 of Schedule 4 to the Northern Ireland Act 2009(454).
40. Matrimonial and Family Proceedings (Northern Ireland) Order 1989(455).
41. Police and Criminal Evidence (Northern Ireland) Order 1989(456).
42. Child Support (Northern Ireland) Order 1991(457), except for paragraph 4 of Schedule 4 so far as relating to the determination (but not the payment) of pensions.
43. Family Law (Northern Ireland) Order 1993(458).
44. Children (Northern Ireland) Order 1995(459).

(442) S.I. 1977/1251 (N.I. 18). Relevant amendments were made by the Administration of Justice Act 1982 (c. 53), section 69 and Schedule 6, paragraph 4.

(443) S.I. 1977/2157 (N.I. 28). Relevant amendments were made by S.I. 2006/2954 (N.I. 18).

(444) 2009 c. 3.

(445) S.I. 1978/1045 (N.I. 15); Relevant amendments were made by S.I. 1995/3213 (N.I. 22); S.I. 1999/3147 (N.I. 11); the Constitutional Reform Act 2005 (c. 4), Schedule 5, paragraph 41; S.I. 2005/255 (N.I. 1). There are other amendments to the Order, but none are relevant. Amendments by the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13) are not yet in force.

(446) S.I. 1979/1575 (N.I. 14).

(447) S.I. 1980/397 (N.I. 3); Relevant amendments were made by the Justice (Northern Ireland) Act 2002 (c. 26), section 12 and Schedule 5, paragraphs 12-19; and the Constitutional Reform Act (c. 4), section 15 and Schedule 5, paragraphs 48-59. There are other amendments to the Order, but none are relevant.

(448) S.I. 1980/563 (N.I. 5). Functions under Article 4 were transferred to the Lord Chancellor by S.I. 1993/1576 (N.I. 6). Article 4 was amended by S.R. (N.I.) 1989 No. 323; the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraph 60.

(449) S.I. 1981/226 (N.I. 6); Relevant amendments were made by S.I. 1983/1904 (N.I. 22) and S.I. 1986/1166 (N.I. 11). There are other amendments to the Order, but none are relevant.

(450) S.I. 1981/228 (N.I. 8). Relevant amendments were made by section 40 of the Civil Jurisdiction and Judgments Act 1982 (c. 27); S.I. 1982/159; S.R. (N.I.) 1988 No. 417.

(451) S.I. 1981/1675 (N.I. 26). Relevant amendments were made by S.I. 1993/1576 (N.I. 6); section 98(2) of the Access to Justice Act 1999 (c. 22); the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 62 and 65.

(452) S.I. 1982/1082 (N.I. 4).

(453) S.I. 1986/595 (N.I. 4).

(454) 2009 c. 3.

(455) S.I. 1989/677 (N.I. 4). Relevant amendments were made by S.I. 1999/3147 (N.I. 11).

(456) S.I. 1989/1341 (N.I. 12).

(457) S.I. 1991/2628 (N.I. 23).

(458) S.I. 1993/1576 (N.I. 6).

(459) S.I. 1995/755 (N.I. 2).

Status: This is the original version (as it was originally made).

45. Juries (Northern Ireland) Order 1996(460).
46. Road Traffic Offenders (Northern Ireland) Order 1996(461).
47. Family Homes and Domestic Violence (Northern Ireland) Order 1998(462).
48. Road Traffic (New Drivers) (Northern Ireland) Order 1998(463).
49. Social Security (Northern Ireland) Order 1998(464), except functions which are transferred by virtue of paragraphs 29 to 31 of Schedule 4 to the Northern Ireland Act 2009(465).
50. Fair Employment and Treatment (Northern Ireland) Order 1998(466), except functions which are transferred by virtue of paragraph 32 of Schedule 4 to the Northern Ireland Act 2009(467).
51. Criminal Evidence (Northern Ireland) Order 1999(468).
52. Insolvency (Northern Ireland) Order 2002(469).
53. Access to Justice (Northern Ireland) Order 2003(470), except for paragraph 17 of Schedule 1.
54. Insolvency (Northern Ireland) Order 2005(471).
55. Traffic Management (Northern Ireland) Order 2005(472), except functions which are transferred by virtue of paragraph 42 of Schedule 4 to the Northern Ireland Act 2009(473).
56. Article 61(6) of the Criminal Justice (Northern Ireland) Order 2008(474).

Acts of the Northern Ireland Assembly

57. Paragraph 20 of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(475).
58. The following provisions of the Charities Act (Northern Ireland) 2008(476)—
 - (a) section 13;
 - (b) paragraph 6 of Schedule 2.

(460) S.I. 1996/1141 (N.I. 6).
(461) S.I. 1996/1320 (N.I. 10).
(462) S.I. 1998/1071 (N.I. 6).
(463) S.I. 1998/1074 (N.I. 7).
(464) S.I. 1998/1506 (N.I. 10).
(465) 2009 c. 3.
(466) S.I. 1998/3162 (N.I. 21).
(467) 2009 c. 3.
(468) S.I. 1999/2789 (N.I. 8).
(469) S.I. 2002/3152 (N.I. 6).
(470) S.I. 2003/435 (N.I. 10).
(471) S.I. 2005/1455 (N.I. 10).
(472) S.I. 2005/1964 (N.I. 14).
(473) 2009 c. 3.
(474) S.I. 2008/1216 (N.I. 1).
(475) 2000 c. 4 (N.I.).
(476) 2008 c. 12 (N.I.).

SCHEDULE 18

Article 15(5)

Amendments relating to Article 15(1) to (4) etc

PART 1

Acts of the Parliament of the United Kingdom

Arbitration (International Investment Disputes) Act 1966

- 1.—(1) Amend the Arbitration (International Investment Disputes) Act 1966(477) as follows.
- (2) In section 8 (application to Northern Ireland) after paragraph (b) insert—
 - “(c) in relation to the power by order under section 3 to direct that provisions of the Arbitration Act 1996(478) shall apply to such proceedings pursuant to the Convention as are specified in the order, being proceedings taking place in Northern Ireland, for the reference in that section to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland;
 - (d) section 3(3)(b) shall not apply to an order made by the Department of Justice in Northern Ireland under section 3; but any such order shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

Misuse of Drugs Act 1971

2. Amend the Misuse of Drugs Act 1971(479) as follows.
3. In paragraph 21 of Schedule 3 (application to Northern Ireland), in the entry for paragraph 13—
 - (a) after “Minister of Home Affairs for Northern Ireland” insert “and for any reference to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland”;
 - (b) in the inserted sub-paragraph (3) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

Maintenance Orders (Reciprocal Enforcement) Act 1972

4. Amend the Maintenance Orders (Reciprocal Enforcement) Act 1972(480) as follows.
5. In sections 14(2)(b) and 38(3)(b) (obtaining evidence) for “Parliament” substitute “the Northern Ireland Assembly”.
- 6.—(1) Amend section 48 (special provisions relating to Northern Ireland) as follows.
 - (2) Omit subsection (1).
 - (3) After subsection (5) insert—

(477) 1966 c. 41. Section 8 was amended by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122(1) and Schedule 5, Part II. Section 3 was substituted by the Arbitration Act 1996 (c.23), section 170(1) and Schedule 3, paragraph 24.

(478) 1996 c. 23.

(479) 1971 c.38. Relevant amendments were made by the Constitutional Reform Act 2005 (c.4).

(480) 1972 c.18. Sections 14(2)(b) and 38(3)(b) were amended by S.I. 1973/2163. Functions of the Secretary of State under the Act, except in relation to Scotland, were transferred to the Lord Chancellor by S.I. 1992/709. Relevant amendments were made by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c.56).

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“(6) In the application of this Act to Northern Ireland, for any reference to the Lord Chancellor (including any reference which is treated as a reference to the Lord Chancellor, but not including any such reference in section 49(2)) there shall be substituted a reference to the Department of Justice in Northern Ireland.”

Litigants in Person (Costs and Expenses) Act 1975

7. Amend the Litigants in Person (Costs and Expenses) Act 1975**(481)** as follows.
8. For section 1(5) (costs or expenses recoverable: application to Northern Ireland) substitute—
- “(5) In the application of this section to Northern Ireland—
- (a) in subsection (1)—
- (i) the expressions “county court”, “the High Court” and “the Court of Appeal” shall have the meanings respectively assigned to them by section 29(1) of the Northern Ireland Act 1962**(482)**;
- (ii) the reference to the Lord Chancellor shall be construed as a reference to the Department of Justice in Northern Ireland;
- (b) in subsection (3) for “by statutory instrument” to “Parliament” there is substituted “by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979**(483)**”; and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954**(484)**.”

Aircraft and Shipbuilding Industries Act 1977

- 9.—(1) Amend Schedule 7 to the Aircraft and Shipbuilding Industries Act 1977**(485)** (procedure etc for arbitration tribunal) as follows.
- (2) In Part 1, in paragraph 5 after sub-paragraph (2) insert—
- “(3) In relation to proceedings in Northern Ireland—
- (a) sub-paragraph (1) above shall have effect as if for “Lord Chancellor by statutory instrument” there were substituted “Department of Justice in Northern Ireland”;
- (b) rules made under this paragraph by the Department of Justice in Northern Ireland shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

Judicature (Northern Ireland) Act 1978

10. Amend the Judicature (Northern Ireland) Act 1978**(486)** as follows.
- 11.—(1) Amend section 3 (the Court of Appeal) as follows.
- (2) Omit subsection (5).

(481) 1975 c. 47.

(482) 1962 c. 30.

(483) S.I. 1979/1573 (N.I. 12).

(484) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(485) 1977 c.3. Part 1 of Schedule 7 was amended by the Arbitration Act 1996 (c. 23) Schedule 3, paragraph 32. Section 42, which introduces Schedule 7, was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 89.

(486) 1978 c.23. Section 117A was inserted by the Administration of Justice Act 1982, section 70 and Schedule 8, paragraph 12. Sections 53A and 55A were inserted by the Constitutional Reform Act 2005, section 15(2) and Schedule 5, paragraphs 22, 28 and 30. Section 70(1B) was inserted by paragraph 15(2) of Schedule 4 to the Northern Act 2009 (c.3). Section 119 was amended by paragraph 18 of Schedule 4 to the Northern Act 2009 (c.3).

(3) For subsection (6) substitute—

“(6) The Department of Justice may by order from time to time create divisions or additional divisions of the Court of Appeal or provide any division be abolished; and any such order—

- (a) may contain such provision as may appear to the Department to be necessary or proper for that purpose; and
- (b) may amend or repeal any statutory provision (including any provision of this Act) so far as it appears to the Department to be necessary or expedient in consequence of the order.”

12. In section 5(2) (divisions of the High Court)—

- (a) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
- (b) for “such Order in Council” substitute “such order”.

13. In section 7(4) (further assistance for transaction of judicial business) for “there may be paid” substitute “the Department of Justice shall pay”.

14. In section 53A (making of Crown Court rules)—

(a) after subsection (1) insert—

“(1A) For the purposes of this section, “relevant authority” means—

- (a) in relation to Crown Court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;

and for the purposes of this subsection “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998(487).”;

- (b) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;
- (c) in subsection (3) for “him” substitute “it”;
- (d) in subsections (5) and (6) for “he” substitute “it”.

15. In section 55A (making of rules for High Court and Court of Appeal)—

(a) after subsection (1) insert—

“(1A) For the purposes of this section, “relevant authority” means—

- (a) in relation to rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;

and for the purposes of this subsection “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.”;

- (b) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;
- (c) in subsections (3), (4) and (5) for “him” substitute “it”;
- (d) in subsections (5) and (6) for “he” (wherever occurring) substitute “it”.

16. In section 56 (control and publication of rules) for subsection (1) substitute—

“(1) Rules made by the Rules Committee shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(488).”

(487) 1998 c. 47.

(488) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

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- 17.** In section 62 (trial with and without jury)—
- (a) in subsection (6) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
 - (b) omit subsection (7).
- 18.** In section 68A (duty to secure system to support courts’ business)—
- (a) in the heading for “Lord Chancellor’s duty” substitute “Department of Justice’s duty”;
 - (b) in subsection (2) for “both Houses of Parliament” substitute “the Northern Ireland Assembly”;
 - (c) after subsection (2) insert—

“(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954~~(489)~~ applies for the purposes of subsection (2) in relation to the laying of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 19.** In section 70 (appointment of statutory officers) after subsection (1B) insert—
- “(1C) Any salary or other amounts payable under subsection (1B) shall be paid by the Department of Justice.”
- 20.** In section 74(5) (deputies and temporary appointments)—
- (a) for “The Lord Chancellor may pay” substitute “The Department of Justice shall pay”;
 - (b) for “as he may” substitute “as the Lord Chancellor may”.
- 21.** In section 75(8) (Official Solicitor) for “of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme)” substitute “of Northern Ireland for the purposes of Article 3 of the Superannuation (Northern Ireland) Order 1972~~(490)~~”.
- 22.—**(1) In section 78 (accounts of funds in court)—
- (a) in subsection (1)(b) for “Treasury” substitute “Department of Finance and Personnel”;
 - (b) in subsections (2) and (3) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (c) in subsection (3) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
 - (d) after subsection (4) insert—

“(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a copy of a statement of accounts or report as it applies in relation to the laying of a statutory document under an enactment.”
- (2) Sub-paragraph (1) above does not apply in relation to an accounting period ending before the coming into force of this Order.
- 23.** In section 85 (provision for default to be made good) for “Consolidated Fund” substitute “Consolidated Fund of Northern Ireland”.
- 24.** In section 97 (civil jurisdiction exercisable by circuit registrars)—
- (a) in subsection (2) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
 - (b) in subsection (3)—
 - (i) for “Order in Council” substitute “order”;

~~(489)~~ Section 41(3) was substituted by S.I. 1999/663.

~~(490)~~ S.I. 1972/1073 (N.I. 10).

- (ii) for “Her Majesty” substitute “the Department of Justice”;
 - (c) omit subsection (4).
- 25.** In section 117A (allowances for judges) for “The Lord Chancellor shall pay” substitute “The Department of Justice shall pay”.
- 26.—**(1) Section 119 (subordinate legislation) (as amended by the Northern Ireland Act 2009⁽⁴⁹¹⁾) and the Department of Justice Act (Northern Ireland) 2010⁽⁴⁹²⁾) is amended as follows.
- (2) For subsections (1) to (3) substitute—
 - “(1) Any power conferred by the preceding provisions of this Act on the Department of Justice to make an order or rules or on the Lord Chief Justice to make regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁴⁹³⁾.
 - (2) Any statutory rule made under section 2(3), 3(4) or (6), 62(6) or 97(2) is subject to affirmative resolution (within the meaning of section 41(4) of the Interpretation Act (Northern Ireland) 1954⁽⁴⁹⁴⁾).
 - (3) Any other statutory rule made under this Act by the Department of Justice (except an order under section 68(3) or 116) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”
 - (3) In subsection (4)—
 - (a) omit “and any power conferred by this Act to make an Order in Council”;
 - (b) for “or Order in Council by a subsequent order or Order in Council” substitute “by a subsequent order”.
- 27.** In section 121(1) (financial provisions) for “government department” substitute “department of the Government of the United Kingdom”.

Civil Jurisdiction and Judgments Act 1982

- 28.** Amend the Civil Jurisdiction and Judgments Act 1982⁽⁴⁹⁵⁾ as follows.
- 29.** In section 5(1) (maintenance orders under 1968 Convention)—
- (a) in paragraph (a) omit “and Northern Ireland”;
 - (b) after paragraph (b) insert—
 - “; and
 - (c) as respects Northern Ireland, by the Department of Justice in Northern Ireland.”
- 30.** In section 5A(1) (maintenance orders under Lugano Convention)—
- (a) in paragraph (a) omit “and Northern Ireland”;
 - (b) after paragraph (b) insert—
 - “; and
 - (c) as respects Northern Ireland, by the Department of Justice in Northern Ireland”.

⁽⁴⁹¹⁾2009 c. 3.

⁽⁴⁹²⁾2010 c. 3 (N.I.).

⁽⁴⁹³⁾S.I. 1979/1573 (N.I. 12).

⁽⁴⁹⁴⁾1954 c. 33 (N.I.) Section 41(4) was amended by S.I. 1999/663.

⁽⁴⁹⁵⁾1982 c.27. Functions under section 5 of the Act were transferred to the Lord Chancellor, and section 5 was amended, by S.I. 1992/709. Section 5A was inserted by S.I. 2009/3131.

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Administration of Justice Act 1982

31. Amend the Administration of Justice Act 1982⁽⁴⁹⁶⁾ as follows.
32. In section 25 (regulations as to deposit and registration of wills)—
- (a) in subsection (6) for the words from “Parliament” to “accordingly” substitute “the Northern Ireland Assembly after being made”;
 - (b) after subsection (6) insert—

“(6A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁴⁹⁷⁾ applies for the purposes of subsection (6) in relation to the laying of a statutory rule as it applies in relation to the laying of a statutory document under an enactment.”;
 - (c) in subsection (7) omit “or (c)”.
33. In section 46 (procedure for making regulations etc)—
- (a) at the end of subsection (1) insert “(subject to subsection (1A))”;
 - (b) after subsection (1) insert—

“(1A) Where the power is exercisable by a Northern Ireland department it shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁴⁹⁸⁾ subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁴⁹⁹⁾).”
- 34.—(1) After section 48 insert—

“48A Application of Part VI to Northern Ireland

- (1) In its application to Northern Ireland this Part of this Act shall have effect subject to the following modifications.
- (2) For any reference to the Lord Chancellor substitute a reference to the Department of Justice in Northern Ireland.
- (3) For any reference to the Treasury substitute a reference to the Department of Finance and Personnel in Northern Ireland.
- (4) For any reference to the Consolidated Fund (except the reference in section 39(4A)) substitute a reference to the Consolidated Fund of Northern Ireland.
- (5) For any reference to moneys provided by Parliament (except the reference in section 39(4A)) substitute a reference to moneys provided by the Northern Ireland Assembly.
- (6) For the reference in section 45(1) to the Comptroller and Auditor General substitute a reference to the Comptroller and Auditor General for Northern Ireland.
- (7) For section 42(5) substitute—

“(5) Shares in a common investment fund—

 - (a) shall be allotted to and held by the Accountant General of the Court of Judicature of Northern Ireland, and
 - (b) may be allotted to and held by any other person authorised by the Department of Justice in Northern Ireland.”
- (8) For section 45(3) substitute—

⁽⁴⁹⁶⁾1982 c.53; to which there are amendments not relevant to this Schedule.

⁽⁴⁹⁷⁾1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁴⁹⁸⁾S.I. 1979/1573 (N.I. 12).

⁽⁴⁹⁹⁾1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

“(3) The Comptroller and Auditor General for Northern Ireland shall examine, certify and report on accounts sent to him under subsection (1) above and lay copies of them and his report on them before the Northern Ireland Assembly.

(3A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a copy of accounts or a report as it applies in relation to the laying of a statutory document under an enactment.””

(2) The following provisions of section 48A (as inserted by sub-paragraph (1) above) do not apply in relation to any accounts that are, in accordance with a direction under section 45(2) given before the coming into force of this Order, required to be prepared for any period ending before the coming into force of this Order—

- (a) subsection (3) so far as it applies for the purposes of section 45;
- (b) subsections (6) and (8).

Child Abduction and Custody Act 1985

35. Amend the Child Abduction and Custody Act 1985(**500**) as follows.

36. In section 3 (Central authorities)—

- (a) in subsection (1)(a) omit “and in Northern Ireland”;
- (b) after subsection (1)(b) insert—
 - “; and
 - (c) in Northern Ireland by the Department of Justice in Northern Ireland”;
- (c) for subsection (3) substitute—

“(3) Where any such application relates to a function to be discharged under subsection (1) above by an authority (“the responsible authority”) other than the authority to which the application is addressed, the authority to which the application is addressed shall transmit it to the responsible authority.”

37. In sections 6, 21 and 23 (reports) after “Lord Chancellor” (wherever occurring) insert “, the Department of Justice in Northern Ireland”.

38. In section 14 (Central authorities)—

- (a) in subsection (1)(a) omit “and in Northern Ireland”;
- (b) after subsection (1)(b) insert—
 - “; and
 - (c) in Northern Ireland by the Department of Justice in Northern Ireland”;
- (c) for subsection (3) substitute—

“(3) Where any such application relates to a function to be discharged under subsection (1) above by an authority (“the responsible authority”) other than the authority to which the application is addressed, the authority to which the application is addressed shall transmit it to the responsible authority.”

39. In section 16 (registration of decisions) for subsection (5) substitute—

“(5) Where an authority mentioned in subsection (1) of section 14 above is requested to assist in making an application under this section to the appropriate court in a part of the United Kingdom (“the relevant part of the United Kingdom”) other than the part in relation to which the authority has functions under that subsection, the authority shall transmit the

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request to the authority which has functions under that subsection in relation to the relevant part of the United Kingdom.”

Multilateral Investment Guarantee Agency Act 1988

- 40.**—(1) Amend the Multilateral Investment Guarantee Agency Act 1988(**501**) as follows.
- (2) In section 8 (Northern Ireland) after subsection (2) insert—
- “(2A) In section 6—
- (a) for the reference to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland;
 - (b) for the reference to the making of an order by statutory instrument there shall be substituted a reference to the making of an order by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

Child Support Act 1991

- 41.** Amend the Child Support Act 1991(**502**) as follows.
- 42.** In paragraph 2 of Schedule 4(**503**) (remuneration of Child Support Commissioners for Northern Ireland)—
- (a) in sub-paragraph (1)—
 - (i) for “Lord Chancellor may” substitute “Department of Justice shall”;
 - (ii) for “he” substitute “the Lord Chancellor”;
 - (b) in sub-paragraph (2) for “Lord Chancellor” substitute “Department of Justice”.

Social Security Administration Act 1992

- 43.** Amend the Social Security Administration Act 1992(**504**) as follows.
- 44.** In section 24 (appeal from Commissioners on point of law) after subsection (6) insert—
- “(6A) In the application of this section in relation to Northern Ireland, subsection (6) shall have effect as if for “the Lord Chancellor” there were substituted “the Department of Justice in Northern Ireland”.
- (6B) Regulations made under this section by the Department of Justice in Northern Ireland shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”
- 45.**—(1) Amend section 189 (regulations and orders) as follows.
- (2) At the end of subsection (2) insert “(subject to section 24(6A))”.
 - (3) At the end of subsection (3) insert “(subject to section 24(6B))”.

(501) 1988 c.8. Relevant amendments are made by the Arbitration Act 1996 (c. 23), section 107 and Schedule 3, paragraph 49, and Schedule 4.

(502) 1991 c.48.

(503) Paragraph 2(1) and (2) was amended by S.I. 2008/2833.

(504) 1992 c.5.

Social Security Administration (Northern Ireland) Act 1992

46. Amend the Social Security Administration (Northern Ireland) Act 1992(**505**) as follows.

47. In section 166 (Assembly etc control of orders and regulations)—

(a) in subsection (5) omit “the Lord Chancellor,” and omit the words from “(in the case of” to the end;

(b) after subsection (5) insert—

“(5A) All regulations made under this Act by the Department of Justice shall be subject to negative resolution.”

Tribunals and Inquiries Act 1992

48.—(1) Amend the Tribunals and Inquiries Act 1992(**506**) as follows.

(2) In section 9 (procedure in connection with statutory inquiries) at the end insert—

“(6) In the application of this section to inquiries held in Northern Ireland, the power to make rules is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor) so far as the power may be used to make Northern Ireland devolved provision.”

(3) In section 10 (reasons to be given for decisions of tribunals and Ministers) after subsection (8) insert—

“(9) In relation to—

(a) any tribunal specified in Schedule 1 which sits in Northern Ireland, and

(b) statutory inquiries held in Northern Ireland,

the power to make an order under subsection (7) or (8) is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and those subsections are to be read accordingly.”

(4) In section 13 (power to apply Act to additional tribunals etc) after subsection (5) insert—

“(5A) In relation to Northern Ireland, any power to make an order under this section is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and this section is to be read accordingly.”

(5) In section 15 (rules and orders), the existing provision becomes subsection (1), and after that subsection insert—

“(2) Any rules or orders made by the Department of Justice in Northern Ireland under this Act shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**507**) and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**508**).”

(6) In section 16(1) (interpretation), at the appropriate place, insert—

(505) 1992 c.8. Section 165 was amended by the Tax Credits Act 2002 (c. 21), Schedule 4, paragraph 10. Section 166 was amended by S.I. 1999/671; the Tax Credits Act 2002 (c. 21), Schedule 4, paragraph 11. Other amendments have been made to those sections, but none are relevant.

(506) 1992 c.53.

(507) S.I. 1979/1573 (N.I. 12).

(508) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

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““Northern Ireland devolved provision” means provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”.

(7) In section 16 (interpretation) after subsection (2) insert—

“(2A) In relation to inquiries or hearings held or to be held in Northern Ireland, the power to make an order under subsection (2) is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and subsection (2) is to be read accordingly.”

Judicial Pensions and Retirement Act 1993

49. After section 28 of the Judicial Pensions and Retirement Act 1993(**509**) insert—

“28A Northern Ireland

The Lord Chancellor and the Department of Justice in Northern Ireland may make arrangements under which the Department is to make contributions to the cost of the liabilities under this Act for pensions, lump sums or other payments in respect of persons’ service in qualifying judicial office in Northern Ireland.”

Arbitration Act 1996

50.—(1) Amend the Arbitration Act 1996(**510**) as follows.

(2) In section 105(6) (jurisdiction of High Court and county court) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

Defamation Act 1996

51. Amend the Defamation Act 1996(**511**) as follows.

52. In section 9 (meaning of summary relief)—

- (a) in subsection (3) at the beginning insert “Subject to subsection (4)”;
- (b) after subsection (3) insert—

“(4) Any order made by the Department of Justice in Northern Ireland under subsection (1)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**512**), and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**513**).”

53. In Schedule 1 (qualified privilege)—

(a) in paragraph 15—

(i) for sub-paragraph (1)(a) substitute—

“(a) for England and Wales, by order of the Lord Chancellor;”;

(ii) after sub-paragraph (1)(b) insert—

(**509**) 1993 c. 8.

(**510**) 1996 c. 23. Section 105 was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 250.

(**511**) 1996 c.31. Relevant amendments are made by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, paragraph 255.

(**512**) S.I. 1979/1573 (N.I. 12).

(**513**) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

- “, and
 - (c) for Northern Ireland, by order of the Department of Justice in Northern Ireland”;
- (iii) in sub-paragraph (2) at the beginning insert “Subject to sub-paragraph (3),”;
- (iv) after sub-paragraph (2) insert—
 - “(3) An order under sub-paragraph (1)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”;
- (b) in paragraph 17—
 - (i) for sub-paragraph (2)(a) substitute—
 - “(a) for England and Wales, by the Lord Chancellor,”;
 - (ii) after sub-paragraph (2)(b) insert—
 - “, and
 - (c) for Northern Ireland, by the Department of Justice in Northern Ireland”;
 - (iii) in sub-paragraph (3) at the beginning insert “Subject to sub-paragraph (4),”;
 - (iv) after sub-paragraph (3) insert—
 - “(4) An order under sub-paragraph (2)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

Damages Act 1996

- 54.** Amend the Damages Act 1996(**514**) as follows.
- 55.** In section 1 (assumed rate of return on investment of damages) after subsection (5) insert—
 - “(6) In the application of this section to Northern Ireland—
 - (a) for the reference to the Lord Chancellor in subsections (1) and (4) there is substituted a reference to the Department of Justice in Northern Ireland; and
 - (b) in subsection (4)—
 - (i) for the reference to the Treasury there is substituted a reference to the Department of Finance and Personnel in Northern Ireland; and
 - (ii) for “by statutory instrument” to “Parliament” there is substituted “by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.
- 56.** In section 2A (periodical payments: supplementary) in subsection (6)—
 - (a) at the end of paragraph (a) omit “and”;
 - (b) after paragraph (b) insert—
 - “(c) a reference to the Lord Chancellor shall be taken as a reference to the Department of Justice in Northern Ireland, and

(514) 1996 c.48. Section 1(5) was substituted by *S.I. 1999/1820*. Sections 2A and 2B were inserted by section 100 of the Courts Act 2003 (c.39). Section 2A was amended by *S.I. 2005/1452 (N.I. 7)*.

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- (d) for subsection (3)(a) and (b) of this section there is substituted “shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

57. In section 2B (variation of orders and settlements) after subsection (7) insert—

- “(8) In the application of this section to Northern Ireland—
- (a) a reference to the Lord Chancellor shall be taken as a reference to the Department of Justice in Northern Ireland;
- (b) in subsection (6)(a) for “statutory instrument” substitute “statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979**(515)**”;
- (c) in subsection (6)(c) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (d) section 41(3) of the Interpretation Act (Northern Ireland) 1954**(516)** applies for the purposes of subsection (6)(c) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Northern Ireland Act 1998

58.—(1) Amend the Northern Ireland Act 1998**(517)** as follows.

- (2) In paragraph 39(6) of Schedule 10 (devolution issues: bail and legal aid in criminal proceedings) omit “out of money provided by Parliament”.

Tax Credits Act 2002

59. Amend the Tax Credits Act 2002**(518)** as follows.

- 60.** In section 65(6) (regulations, orders and schemes) after “Lord Chancellor” insert “, the Department of Justice in Northern Ireland”.

Justice (Northern Ireland) Act 2002

61. Amend the Justice (Northern Ireland) Act 2002**(519)** as follows.

62. In section 9F**(520)** (procedure for reports by Northern Ireland Judicial Appointments Ombudsman)—

- (a) for subsection (2)(a) and (b) substitute—
- “(a) if the complaint was a Commission complaint, to the First Minister and deputy First Minister and to the Commission;
- (b) otherwise, to the Lord Chancellor.”;
- (b) in subsection (3)(a) for the words from “by the Lord Chancellor” to the end substitute “for changes in the draft report which is made—
- (i) if the complaint was a Commission complaint, by the First Minister and deputy First Minister acting jointly or by the Commission;

(515) S.I. 1979/1573 (N.I. 12).

(516) Section 41(3) was substituted by S.I. 1999/663.

(517) 1998 c. 47.

(518) 2002 c.21.

(519) 2002 c.26. Relevant amendments were made by the Justice (Northern Ireland) Act 2004 (c.4).

(520) Section 9F was inserted by section 129 of the Constitutional Reform Act 2005 (c. 4).

- (ii) otherwise, by the Lord Chancellor;”;
 - (c) in subsection (5) for “Lord Chancellor and” substitute “First Minister and deputy First Minister and to”.
- 63.** In section 47(**521**) (further provision about functions of Chief Inspector of Criminal Justice)
 - (a) in subsection (1) omit “, the Lord Chancellor”;
 - (b) in subsection (2) omit paragraph (aa);
 - (c) omit subsections (5A) and (5B).
- 64.** In section 49(**522**) (reports by Chief Inspector of Criminal Justice) omit subsection (6).
- 65.** In section 50 (Northern Ireland Law Commission) omit subsection (5)(a).
- 66.** In section 73 (constitution of Rules Committee)—
 - (a) in subsection (1), in the inserted paragraphs (d), (e) and (f) of section 54(1) of the Judicature (Northern Ireland) Act 1978(**523**), for “Lord Chancellor” substitute “Department of Justice”;
 - (b) in subsection (2), in the amendment of Article 46(1) of the County Courts (Northern Ireland) Order 1980(**524**)—
 - (i) in the inserted sub-paragraphs (d), (e) and (g) for “Lord Chancellor” substitute “Department of Justice”;
 - (ii) in the inserted sub-paragraph (f) for “the Lord Chancellor” substitute “that Department”.
- 67.**—(1) Amend Schedule 2 (Judicial Appointments Commission) as follows.
 - (2) After paragraph 4(2) insert—

“(2A) Employment as a member of staff of the Commission is among the kinds of employment to which a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(**525**) can apply; and accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—

“Employment by the Northern Ireland Judicial Appointments Commission.””
 - (3) Omit paragraph 4(3)(**526**) (and the Superannuation Act 1972(**527**) has effect accordingly).
 - (4) Sub-paragraph (3) above does not affect the position of any person under the Superannuation Act 1972 in relation to the person’s employment by the Northern Ireland Judicial Appointments Commission before the coming into force of this Order.
 - (5) Sub-paragraph (6) below applies in relation to a person who immediately before the coming into force of this Order is, by virtue of paragraph 4(3) of Schedule 2 to the Justice (Northern Ireland) Act 2002(**528**), a participant in the principal civil service pension scheme as defined in section 2(10) of the Superannuation Act 1972.

(**521**) Section 47 was amended by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c.6).

(**522**) Section 49(6) was inserted by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c. 6).

(**523**) 1978 c. 23.

(**524**) S.I. 1980/397 (N.I. 3).

(**525**) S.I. 1972/1073 (N.I. 10).

(**526**) Paragraph 4(3) was substituted by the Justice (Northern Ireland) Act 2004 (c.4), section 1 and Schedule 1, paragraph 5.

(**527**) 1972 c. 11.

(**528**) 2002 c. 26

Status: This is the original version (as it was originally made).

(6) In relation to the person’s employment by the Northern Ireland Judicial Appointments Commission after the coming into force of this Order, the person is entitled to be a participant in the principal civil service pension scheme as defined in Article 4(10) of the Superannuation (Northern Ireland) Order 1972⁽⁵²⁹⁾; and the person’s terms and conditions of service have effect accordingly.

(7) In paragraph 5—

- (a) in sub-paragraph (6) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (b) in sub-paragraph (7) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (c) after sub-paragraph (7) insert—

“(7A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁵³⁰⁾ applies for the purposes of sub-paragraph (6) in relation to the laying of a copy of an annual report as it applies in relation to the laying of a statutory document under an enactment.”

(8) In paragraph 7—

- (a) in sub-paragraph (2) for “Lord Chancellor directs” substitute “First Minister and deputy First Minister acting jointly direct”;
- (b) in sub-paragraph (3) for “Lord Chancellor” (in both places) substitute “Office of the First Minister and deputy First Minister”;
- (c) in sub-paragraphs (3)(b) and (4) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
- (d) in sub-paragraph (4)(b) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (e) after sub-paragraph (4) insert—

“(4A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a statement of accounts or report as it applies in relation to the laying of a statutory document under an enactment.”

(9) Sub-paragraph (8) above does not apply in relation to a financial year ending before the coming into force of this Order.

68. In paragraph 15 of Schedule 3A (reports of Northern Ireland Judicial Appointments Ombudsman)—

- (a) in sub-paragraph (4) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (b) after sub-paragraph (5) insert—

“(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

Courts Act 2003

69.—(1) Amend the Courts Act 2003⁽⁵³¹⁾ as follows.

⁽⁵²⁹⁾S.I. 1972/1073 (N.I. 10).

⁽⁵³⁰⁾1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽⁵³¹⁾2003 c.39. Section 102 was amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraph 346 and section 59, Schedule 11, paragraph 6; section 47 of the Justice and Security (Northern Ireland) Act 2007. Section 109 was amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraph 349.

(2) In section 102(8) (power to alter judicial titles: Northern Ireland) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

(3) In section 108 (rules, regulations and orders) omit subsection (7)(b).

(4) In section 109 (minor and consequential amendments etc) after subsection (8) insert—

“(9) Any order made by the Department of Justice in Northern Ireland under subsection (4) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**532**).

(10) No order containing any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act may be made by the Department of Justice in Northern Ireland under subsection (4) unless a draft has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(11) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**533**) applies for the purposes of subsection (10) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(12) Any other order made by the Department of Justice under subsection (4) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**534**)).”

Extradition Act 2003

70.—(1) Amend the Extradition Act 2003(**535**) as follows.

(2) In sections 61 and 134 (costs where discharge ordered) after subsection (8) insert—

“(9) In relation to proceedings in Northern Ireland (including proceedings in the Supreme Court on an appeal, or on an application for leave to appeal, from proceedings in Northern Ireland)—

(a) subsection (5) has effect as if for “out of money provided by Parliament” there were substituted “by the Department of Justice in Northern Ireland”;

(b) the power to make regulations under subsection (8)(b) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor).”

(3) In sections 67(1)(c) and 139(1)(c) (appropriate judge) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

(4) In section 185(4) (free legal aid: supplementary) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

(5) In section 223 (orders and regulations)—

(a) in subsection (4) after “instrument” insert “(subject to subsection (10))”;

(b) after subsection (9) insert—

“(10) The power of the Department of Justice in Northern Ireland to make regulations under section 61(8)(b) or 134(8)(b) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**536**).

(532) S.I. 1979/1573 (N.I. 12).

(533) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(534) Section 41(6) was amended by S.I. 1999/663.

(535) 2003 c. 41. Sections 61 and 134 were amended by the Constitutional Reform Act 2005 (c. 4), section 40, Schedule 9, paragraph 81. Sections 67 and 139 were amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraphs 353 and 354. Section 185 was prospectively repealed by S.I. 2005/1965. There are other amendments to the Act, but none relevant.

(536) S.I. 1979/1573 (N.I. 12).

Status: This is the original version (as it was originally made).

(11) Regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Justice (Northern Ireland) Act 2004

71.—(1) Amend Schedule 3 to the Justice (Northern Ireland) Act 2004(**537**) (court security) as follows.

- (2) In paragraph 1(3)(a) for “the Lord Chancellor” substitute “that Department”.
- (3) In paragraph 1(4) for “Lord Chancellor” substitute “Department of Justice”.
- (4) In paragraph 3(6)(d) for “the Lord Chancellor” substitute “that Department”.
- (5) In paragraph 5A(5) for “Lord Chancellor” substitute “Department of Justice”.
- (6) In paragraph 6(1) for “Lord Chancellor” substitute “Department of Justice”.

Civil Partnership Act 2004

72. Amend the Civil Partnership Act 2004(**538**) as follows.

73. In section 219 (dissolution etc: power to make provision corresponding to EC Regulation 2201/2003)—

- (a) in subsection (1)(a) and (b) omit “or Northern Ireland”;
- (b) after subsection (1) insert—
 - “(1A) The Department of Justice in Northern Ireland may by regulations make provision—
 - (a) as to the jurisdiction of courts in Northern Ireland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and
 - (b) as to the recognition in Northern Ireland of any such judgment as is mentioned in subsection (1)(b).”;
- (c) in subsection (5) after “(1)(b)” insert “, (1A)(b)”;
- (d) after subsection (6) insert—
 - “(6A) Regulations under subsection (1A) are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
 - (6B) No regulations shall be made under subsection (1A) unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.
 - (6C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

74. In section 237 (supplementary provisions relating to recognition of dissolution etc)—

- (a) in subsection (2) after “Lord Chancellor” insert “, the Department of Justice in Northern Ireland”;
- (b) in subsection (3) after “power” insert “of the Lord Chancellor or the Scottish Ministers”;
- (c) after subsection (4) insert—

(537)2004 c. 4; to which there are amendments not relevant to this Schedule.

(538)2004 c. 33; Relevant amendments are made to Schedule 15 by the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13) (N.I.), Schedule 5. Relevant amendments are made to Schedule 16 by S.I. 2006/1945 (N.I. 14) and S.I. 2006/1016.

“(4A) The power of the Department of Justice in Northern Ireland to make regulations under subsection (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(4B) Regulations made by the Department of Justice under subsection (2) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

75.—(1) Amend Schedule 15 (financial relief in the High Court or a county court etc: Northern Ireland) as follows.

(2) In paragraph 14(4) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(3) In paragraph 23(4) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(4) In paragraph 31(3) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(5) In paragraph 50(5) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

76. In paragraph 2(4) of Schedule 16 (financial relief in court of summary jurisdiction: Northern Ireland) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

77. In paragraph 14(6) of Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc of civil partnership) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

Constitutional Reform Act 2005

78. Amend paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005(**539**) (protected functions of the Lord Chancellor) as follows.

79. In Part A omit the entries for—

- (a) section 25(3)(c) of the Administration of Justice Act 1982(**540**);
- (b) section 91(3)(c) of the Arbitration Act 1996(**541**).

80. In Part B under the heading of the Child Support (Northern Ireland) Order 1991(**542**)—

- (a) omit the entries for Articles 25(6)(a) and (7), 26(2)(a), (3)(c) and (5), 48(1) and 51(1);
- (b) for “Schedule 4, paragraphs 1, 1A, 3A(1) and 4” substitute “Schedule 4, paragraph 4”.

81. In Part B omit the entries for—

- (a) sections 1, 5A and 11(3) of the Coroners Act (Northern Ireland) 1959(**543**);
- (b) section 19(3) of the Registration of Deeds Act (Northern Ireland) 1970(**544**);

(**539**)2005 c. 4. Paragraph 4 of Schedule 7 was amended by the Northern Ireland Act 2009 (c. 3), Schedule 5, paragraph 7. There are other amendments to Schedule 7, and to other provisions of the Act, but none are relevant.

(**540**)1982 c. 53.

(**541**)1996 c. 23.

(**542**)S.I. 1991/2628 (N.I. 23).

(**543**)1959 c. 15 (N.I.).

(**544**)1970 c. 25 (N.I.).

Status: This is the original version (as it was originally made).

- (c) sections 53(1)(f) and (2), 54(1), (5) and (6), 56(4), 68(3), (5) and (6), 75(1), (7) and (9), 82(1) and 116(1) and (2) of the Judicature (Northern Ireland) Act 1978**(545)**;
- (d) Article 33(4C) of the Matrimonial Causes (Northern Ireland) Order 1978**(546)**;
- (e) Articles 2(2), 46(1)(d) to (g), 46(4) and (5) and 59 of the County Courts (Northern Ireland) Order 1980**(547)**;
- (f) Articles 6A(3), 10(1), 13(5) and 24(7) of the Magistrates' Courts (Northern Ireland) Order 1981**(548)**;
- (g) Article 6(2) of the Forfeiture (Northern Ireland) Order 1982**(549)**;
- (h) Article 104(5) of the Mental Health (Northern Ireland) Order 1986**(550)**;
- (i) sections 22(6), 165(2) and 167(1) of, and paragraph 7 of Schedule 2 to, the Social Security Administration (Northern Ireland) Act 1992**(551)**;
- (j) paragraphs 2(1)(g), 6 and 9 of Schedule 2 to the Family Law (Northern Ireland) Order 1993**(552)**;
- (k) Articles 164(5), 181 and 183(3) of the Children (Northern Ireland) Order 1995**(553)**;
- (l) Articles 36(1) and 40(1) and (2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998**(554)**;
- (m) Article 7(8) of the Road Traffic (New Drivers) (Northern Ireland) Order 1998**(555)**;
- (n) Articles 15(12) and (13) and 74(2) of the Social Security (Northern Ireland) Order 1998**(556)**;
- (o) Article 40(7)(b) of the Fair Employment and Treatment (Northern Ireland) Order 1998**(557)**;
- (p) paragraph 20(1) and (6) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000**(558)**;
- (q) sections 2(2), 3(2)(b), 19(4), 50(5) and 51(3) of, and paragraphs 1(2) and (3), 2(3) and (4), 3, 4(1), 5(5) and (6), 6 and 7(2) and (3) of Schedule 2 to, the Justice (Northern Ireland) Act 2002**(559)**;
- (r) paragraph 1(3)(a) of Schedule 3 to the Justice (Northern Ireland) Act 2004**(560)**.

Forced Marriage (Civil Protection) Act 2007

82.—(1) Amend paragraph 14 of Schedule 1 to the Forced Marriage (Civil Protection) Act 2007**(561)** (protection against forced marriage: Northern Ireland) as follows.

(545) 1978 c. 23.
(546) S.I. 1978/1045 (N.I. 15).
(547) S.I. 1980/397 (N.I. 3).
(548) S.I. 1981/1675 (N.I. 26).
(549) S.I. 1982/1082 (N.I. 14).
(550) S.I. 1986/595 (N.I. 4).
(551) 1992 c. 8.
(552) S.I. 1993/1576 (N.I. 6).
(553) S.I. 1995/755 (N.I. 2).
(554) S.I. 1998/1071 (N.I. 6).
(555) S.I. 1998/1074 (N.I. 7).
(556) S.I. 1998/1506 (N.I. 10).
(557) S.I. 1998/3162 (N.I. 21).
(558) 2000 c. 4 (N.I.).
(559) 2002 c. 26.
(560) 2004 c. 4.
(561) 2007 c. 20.

(2) In sub-paragraph (2)(d) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

(3) In sub-paragraph (3)(d) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(4) After sub-paragraph (3) insert—

“(4) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**562**) applies for the purposes of sub-paragraph (3) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Criminal Justice and Immigration Act 2008

83. Amend the Criminal Justice and Immigration Act 2008(**563**) as follows.

84. In section 82(4)(a) and (b)(vi) (requests to other member States: Northern Ireland) for “Lord Chancellor” substitute “Department of Justice”.

85. In section 83 (procedure on issue of certificate: Northern Ireland)—

(a) omit subsection (2);

(b) in subsection (3) for the words from the beginning to “those documents” substitute “The Department of Justice must give the documents mentioned in subsection (3A)”;

(c) after subsection (3) insert—

“(3A) The documents are—

(a) the certificate;

(b) a certified copy of the decision requiring payment of the financial penalty.”;

(d) in subsection (4) for “Lord Chancellor” substitute “Department of Justice”.

86. In section 84 (requests from other member States: England and Wales) after subsection (6) insert—

“(7) Where the documents mentioned in subsection (1)(a) are given to the Lord Chancellor by the Department of Justice under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.”

87. In section 87 (requests from other member States: Northern Ireland)—

(a) in subsections (1), (2), (3), (4) and (6) for “Lord Chancellor” (wherever occurring) substitute “Department of Justice”;

(b) after subsection (6) insert—

“(7) Where the documents mentioned in subsection (1)(a) are given to the Department of Justice by the Lord Chancellor under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Department of Justice.”

88. In section 88(1) and (4) (procedure on receipt of certificate by clerk of petty sessions) for “Lord Chancellor” substitute “Department of Justice”.

(**562**) Section 41(3) was substituted by *S.I. 1999/663*.

(**563**) 2008 c. 4.

89. In section 89(5) (modification of the Magistrates’ Courts (Northern Ireland) Order 1981(**564**)), in the modification of Article 95 of that Order, for “Lord Chancellor” substitute “Department of Justice”.

90. In section 90 (transfer of certificates to central authority for Scotland)—

- (a) in subsection (1)(a) after “Lord Chancellor” insert “or the Department of Justice”;
- (b) for subsection (1)(b) substitute—
 - “(b) the financial penalty is not suitable for enforcement in England and Wales or Northern Ireland for the purposes of section 84(1) or 87(1).”;
- (c) in subsection (2) for the words from “Lord Chancellor” to the end substitute “documents must be given to the central authority for Scotland—
 - (a) in a case to which paragraph 6 of Schedule 18 applies, by the Lord Chancellor;
 - (b) in a case to which paragraph 7 of Schedule 18 applies, by the Department of Justice;
 - (c) in any other case, by whoever was given the documents by the competent authority or central authority of the other member State”.

91. After section 90 insert—

“90A Transfer of certificates by Department of Justice to Lord Chancellor and vice versa

- (1) Subsection (2) applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Department of Justice—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or
 - (b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Department of Justice.
- (2) The Department of Justice must give the documents to the Lord Chancellor if—
 - (a) it is a case to which paragraph 6 of Schedule 18 applies, or
 - (b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in England and Wales for the purposes of section 84(1).
- (3) Subsection (4) applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or

(b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Lord Chancellor.

(4) The Lord Chancellor must give the documents to the Department of Justice if—

(a) it is a case to which paragraph 7 of Schedule 18 applies, or

(b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in Northern Ireland for the purposes of section 87(1).”

92.—(1) Amend section 91 (recognition of financial penalties: general) as follows.

(2) After subsection (4) insert—

“(5) In the application of this section to Northern Ireland, in subsection (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

93. In section 92(1) (interpretation), at the appropriate place, insert—

““Department of Justice” means the Department of Justice in Northern Ireland;”.

94. In section 147 (orders, rules and regulations)—

(a) after subsection (1) insert—

“(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**565**).”;

(b) in subsection (2) for “such orders or regulations” substitute “orders or regulations falling within subsection (1) or (1A)”;

(c) in subsection (5)(d) omit “, 83(4)”;

(d) after subsection (5) insert—

“(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**566**)).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**567**) applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

95.—(1) Amend Schedule 18 (penalties suitable for enforcement in England and Wales or Northern Ireland) as follows.

(2) In paragraph 5—

(a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by

(565) S.I. 1979/1573 (N.I. 12).

(566) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(567) Section 41(3) was substituted by S.I. 1999/663.

Status: This is the original version (as it was originally made).

the central authority for Scotland (and not by the Department of Justice under section 90A), the”;

(b) after sub-paragraph (3) insert—

“(4) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless it is suitable for enforcement in England and Wales by virtue of sub-paragraph (5).

(5) The financial penalty is suitable for enforcement in England and Wales if the Department of Justice thinks that it is more appropriate for the penalty to be enforced in England and Wales than in Northern Ireland.”

(3) In paragraph 6—

(a) in sub-paragraph (2) after “(3)” insert “or (4)”;

(b) in sub-paragraph (3)(a) after “Scotland” insert “or by the Department of Justice under section 90A”;

(c) after sub-paragraph (3) insert—

“(4) This sub-paragraph applies if—

(a) the Lord Chancellor was given the certificate by the Department of Justice under section 90A,

(b) the Department of Justice was not given the certificate by the central authority for Scotland, and

(c) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales.”

(4) In paragraph 7—

(a) in sub-paragraph (2) after “(3)” insert “or (4)”;

(b) in sub-paragraph (3)(a) and (b) for “Lord Chancellor” substitute “Department of Justice”;

(c) in sub-paragraph (3)(a) after “Scotland” insert “or by the Lord Chancellor under section 90A”;

(d) after sub-paragraph (3) insert—

“(4) This sub-paragraph applies if—

(a) the Department of Justice was given the certificate by the Lord Chancellor under section 90A,

(b) the Lord Chancellor was not given the certificate by the central authority for Scotland, and

(c) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland.”

(5) In paragraph 8—

(a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the”;

(b) after sub-paragraph (5) insert—

“(6) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland

(and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless—

- (a) it is suitable for enforcement in England and Wales by virtue of sub-paragraph (7) or (8), or
 - (b) sub-paragraph (9) applies.
- (7) The financial penalty is suitable for enforcement in England and Wales if—
- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
 - (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland or Scotland.
- (8) The financial penalty is suitable for enforcement in England and Wales if—
- (a) the Department of Justice was given the certificate by the central authority for Scotland, and
 - (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland.
- (9) This sub-paragraph applies if—
- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
 - (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland or England and Wales.”

96. In paragraph 7 of Schedule 19 after sub-paragraph (3) insert—

“(4) In the application of this Schedule to Northern Ireland, in sub-paragraph (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

Northern Ireland Act 2009

97.—(1) Amend the Northern Ireland Act 2009(**568**) as follows.

(2) Omit paragraph 18 of Schedule 4 (amendment of section 119 of the Judicature (Northern Ireland) Act 1978).

PART 2

Acts of the Parliament of Northern Ireland

Administration of Justice Act (Northern Ireland) 1954

98.—(1) Amend the Administration of Justice Act (Northern Ireland) 1954(**569**) as follows.

(2) In section 14 (power to grant licence for use of courthouse accommodation) omit subsection (2).

(568)2009 c. 3.

(569)1954 c. 9 (N.I.), as amended by S.I. 1973/2163. There are other amendments to the Act, but none are relevant.

Status: This is the original version (as it was originally made).

(3) In sections 19(4) and 20(1), (3) and (5)(ii) (payments) for “Consolidated Fund of the United Kingdom” (wherever occurring) substitute “Consolidated Fund of Northern Ireland”.

Coroners Act (Northern Ireland) 1959

99. Amend the Coroners Act (Northern Ireland) 1959(**570**) as follows.

100. At the end of section 2(1) (as substituted by paragraph 2(2) of Schedule 4 to the Northern Ireland Act 2009(**571**)) (appointment of coroners etc) insert—

“Salaries and other amounts payable under this subsection shall be paid by the Department of Justice.”

101. In section 5 (administrative expenses) for “Parliament of the United Kingdom” substitute “Assembly”.

102. In section 36 (rules and fees)—

(a) in subsections (1), (1A), (1C) to (1E) and (1G) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;

(b) in subsection (1)(a) for “him” substitute “it”;

(c) after subsection (1) insert—

“(1ZA) For the purposes of this section, “relevant authority” means—

(a) in relation to rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and

(b) otherwise, the Department of Justice.”;

(d) at the end of subsection (1A) insert “or, in relation to rules falling to be made by the Department of Justice, the Department of Finance and Personnel”;

(e) in subsections (1D) and (1E) for “he” substitute “it”;

(f) omit subsection (2);

(g) after subsection (2) insert—

“(3) The Department of Justice may with the consent of the Department of Finance and Personnel determine the allowances payable to witnesses under this Act.

(4) For the purposes of this section “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998(**572**).”.

County Courts Act (Northern Ireland) 1959

103. Amend the County Courts Act (Northern Ireland) 1959(**573**) as follows.

104. In section 106 (salaries and allowances of judges) after subsection (3) insert—

“(4) Sums payable under subsection (3) are to be paid by the Department of Justice.”

(**570**) 1959 c. 15 (N.I.). Relevant amendments were made by the Judicature (Northern Ireland) Act 1978, section 122 and Schedule 5; the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 2 to 6; the Access to Justice Act 1999 (c. 22), section 104(2); the Northern Ireland Act 2009 (c.3), section 2 and Schedule 4, paragraph 2. Functions under the Act were transferred by S.I. 1973/2163.

(**571**) 2009 c. 3.

(**572**) 1998 c. 47.

(**573**) 1959 c.25 (N.I.). Section 106 was substituted by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122 and Schedule 5, and amended by S.I. 1991/2631 (N.I. 24) and the Justice (Northern Ireland) Act 2002 (c. 26), Schedule 12, paragraph 5. Section 107 was substituted by section 99 of the Judicature (Northern Ireland) Act 1978 (c. 23) and amended by S.I. 1991/2631 (N.I. 24) and the Justice (Northern Ireland) Act 2002 (c. 26), Schedule 12, paragraph 4.

105. In section 107(7) (deputy judges) for “There shall be paid” substitute “The Department of Justice shall pay”.

106. After section 136 insert—

“136A Charges on Northern Ireland Consolidated Fund

There shall be charged on and paid out of the Consolidated Fund of Northern Ireland the salaries payable to judges under section one hundred and six.”

107. Omit section 137 (payments out of voted moneys).

Magistrates’ Courts Act (Northern Ireland) 1964

108.—(1) Amend the Magistrates’ Courts Act (Northern Ireland) 1964(**574**) as follows.

(2) In section 12 (remuneration of resident magistrates) after subsection (1) insert—

“(1A) Subject to section 168(2), sums payable under subsection (1) are to be paid by the Department of Justice.”

(3) In section 168(2) (expenses) for “Consolidated Fund of the United Kingdom” substitute “Consolidated Fund of Northern Ireland”.

Children and Young Persons Act (Northern Ireland) 1968

109.—(1) Amend the Children and Young Persons Act (Northern Ireland) 1968(**575**) as follows.

(2) In paragraph 8(d) of Schedule 2 (constitution of juvenile courts) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Registration of Deeds Act (Northern Ireland) 1970

110.—(1) Amend the Registration of Deeds Act (Northern Ireland) 1970(**576**) as follows.

(2) In section 19 (regulations)—

(a) in subsection (3) omit “of the Lord Chancellor, with the concurrence of the Department of Economic Development,”;

(b) omit subsection (4).

(574) 1964 c.21 (N.I.). Functions under the Act were transferred by S.I. 1973/2163. Section 12 was amended by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122 and Schedule 5.

(575) 1968 c. 34 (N.I.). Functions under the Act were transferred by S.I. 1973/2163; and relevant amendments were made to Schedule 2 by the Judicature (Northern Ireland) Act 1978 (c. 23), Schedule 5; and the Constitutional Reform Act 2005 (c. 4), Schedule 5.

(576) 1970 c. 25 (N.I.). Section 19(3) was inserted by S.I. 1989/2405 (N.I. 19). The Department of Enterprise, Trade and Investment was formerly the Department of Economic Development, see S.I. 1999/283 (N.I. 1).

PART 3

Orders in Council

Family Law Reform (Northern Ireland) Order 1977

111.—(1) Amend the Family Law Reform (Northern Ireland) Order 1977(**577**) as follows.

(2) In Article 10(2) (power to provide for manner of giving effect to direction for use of blood tests) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Fatal Accidents (Northern Ireland) Order 1977

112.—(1) Amend the Fatal Accidents (Northern Ireland) Order 1977(**578**) as follows.

(2) In Article 3A(5) (power to vary sum to be awarded as damages for bereavement) for “The Lord Chancellor may by order made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament,” substitute “The Department of Justice may by order subject to negative resolution”.

Rates (Northern Ireland) Order 1977

113.—(1) Amend the Rates (Northern Ireland) Order 1977(**579**) as follows.

(2) In paragraph 7(3) of Schedule 9B (Valuation Tribunal: rules) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Matrimonial Causes (Northern Ireland) Order 1978

114.—(1) Amend the Matrimonial Causes (Northern Ireland) Order 1978(**580**) as follows.

(2) In Article 26B(2) (pension sharing orders: duty to stay) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(3) In Article 27D(2B) (pensions: supplementary) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(4) In Article 27E(10) (Pension Protection Fund) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(5) In Article 33(4D) (variation etc of certain orders for financial relief) for the words from “annulment” to “accordingly” substitute “negative resolution”.

County Courts (Northern Ireland) Order 1980

115. Amend the County Courts (Northern Ireland) Order 1980(**581**) as follows.

(577) S.I. 1977/1250 (N.I. 17). Functions under the Order were transferred to the Lord Chancellor by S.I. 1993/1576 (N.I. 6). Relevant amendments are made by section 65 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.); section 3 of the Family Law Act (Northern Ireland) 2001 (c. 12) (N.I.).

(578) S.I. 1977/1251 (N.I. 18). Article 3A was inserted by the Administration of Justice Act 1982 (c. 53), section 69 and Schedule 6, paragraph 4.

(579) S.I. 1977/2157 (N.I. 28). Schedule 9B was inserted by S.I. 2006/2954 (N.I. 18). Schedule 9B is amended by the Northern Ireland Act 2009 (c. 3), section 2 and Schedule 4, paragraph 9.

(580) S.I. 1978/1045 (N.I. 15). Article 27D was inserted by S.I. 1995/3213 (N.I. 22) and amended by S.I. 1999/3147 (N.I. 11). Articles 26B and 33(4D) were inserted by S.I. 1999/3147 (N.I. 11). Article 27E was inserted by S.I. 2005/255 (N.I. 1).

(581) S.I. 1980/397 (N.I. 3). Articles 22 and 47 were amended by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 55 and 57.

116. In Article 2(2) (interpretation), in the definition of “chief clerk”, for “the Lord Chancellor” substitute “that Department”.

117. In Article 22(2) (power to increase civil jurisdiction of county courts) for the words from “annulment” to “accordingly” substitute “negative resolution”.

118. In Article 47 (making of county court rules)—

(a) after paragraph (1) insert—

“(1A) For the purposes of this Article, “relevant authority” means—

(a) in relation to county court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and

(b) otherwise, the Department of Justice;

and for the purposes of this paragraph “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998(582).”;

(b) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;

(c) in paragraph (4) for “him” substitute “it”;

(d) in paragraphs (6) and (8) for “he” substitute “it”.

119. In Article 67 (financial provisions) for “the Parliament of the United Kingdom” substitute “the Assembly”.

Domestic Proceedings (Northern Ireland) Order 1980

120.—(1) Amend the Domestic Proceedings (Northern Ireland) Order 1980(583) as follows.

(2) In Article 4(4) (powers of court to make orders for financial provision) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Judgments Enforcement (Northern Ireland) Order 1981

121. Amend the Judgments Enforcement (Northern Ireland) Order 1981(584) as follows.

122. In Article 2(2) (interpretation)—

(a) in the definition of “the Chief Enforcement Officer” for “the Lord Chancellor” substitute “that Department”;

(b) in the definition of “enforcement officer” for “the Lord Chancellor” substitute “that Department”.

123. In Article 5(2) (power to apply Order to other judgments) for the words from “annulment” to “accordingly” substitute “negative resolution”.

124. For Article 7(1) (Enforcement of Judgments Office) substitute—

“(1) The Department of Justice shall continue to maintain the Office within that department.”

125. In Article 72(5) (attachment of moneys in a bank or other deposit-taking institution) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(582) 1998 c. 47.

(583) S.I. 1980/563 (N.I. 5). Functions under Article 4 were transferred to the Lord Chancellor by S.I. 1993/1576 (N.I. 6). Article 4 was amended by S.R. (N.I.) 1989 No. 323; the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraph 60.

(584) S.I. 1981/226 (N.I. 6). Article 72 was substituted, and Article 72A was inserted, by S.I. 1983/1904 (N.I. 22). Article 72A was amended by S.I. 1986/1166 (N.I. 11).

Status: This is the original version (as it was originally made).

126. In Article 72A(4) (clerical and administrative costs of garnishees) for the words from “annulment” to “accordingly” substitute “negative resolution”.

127. In Article 124 (conduct of prosecutions) for “the Lord Chancellor” substitute “that Department”.

128. In Article 141(3) (Judgment Enforcement Rules) for the words from “annulment” to “accordingly” substitute “negative resolution”.

129. In Article 142 (financial provision) for “the Parliament of the United Kingdom” substitute “the Assembly”.

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981

130.—(1) Amend the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(**585**) as follows.

(2) In Article 22(6) (regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(3) In Article 36 (expenses of free legal aid and making of rules)—

(a) in paragraph (1) for “Parliament” substitute “the Assembly”;

(b) in paragraph (4) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(4) In paragraph 7 of Schedule 2 (remuneration of persons giving legal aid under Part 2 of Order) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Magistrates’ Courts (Northern Ireland) Order 1981

131. Amend the Magistrates’ Courts (Northern Ireland) Order 1981(**586**) as follows.

132. In Article 6A(5) (costs in legal proceedings) for the words from “annulment” to “accordingly” substitute “negative resolution”.

133. In Article 13 (magistrates’ courts rules)—

(a) after paragraph (3) insert—

“(3ZA) For the purposes of paragraphs (3A) to (3D), “relevant authority” means—

(a) in relation to magistrates’ courts rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and

(b) otherwise, the Department of Justice;

and for the purposes of this paragraph “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998(**587**).”;

(b) in paragraphs (3A) and (3D) for “Lord Chancellor” substitute “relevant authority”;

(c) in paragraph (3B)—

(i) for “Lord Chancellor” substitute “relevant authority”;

(ii) for “he” substitute “it”.

(**585**) S.I. 1981/228 (N.I. 8). Relevant amendments were made by section 4 of the Civil Jurisdiction and Judgments Act 1982 (c. 27); S.I. 1982/159; S.R. (N.I.) No. 417.

(**586**) S.I. 1981/1675 (N.I. 26). Relevant amendments were made by section 98(2) of the Access to Justice Act 1999 (c. 22); the Justice (Northern Ireland) Act 2002 (c. 26); the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 62 and 65; S.I. 1993/1576 (N.I. 6), Article 9(1); the Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010.

(**587**) 1998 c. 47.

134. In Article 24(7) (non-appearance of accused: plea of guilty) for the words from “annulment” to “accordingly” substitute “negative resolution”.

135. In Article 85(12) (orders for periodical payment: means of payment) for the words from “annulment” to “accordingly” substitute “negative resolution”.

136. In Article 86A(6) (interest on arrears) for the words from “annulment” to “accordingly” substitute “negative resolution”.

137. In Articles 139(1) and (3) and 151(2) (payments) (wherever occurring) for “Consolidated Fund of the United Kingdom” substitute “Consolidated Fund of Northern Ireland”.

138. In Article 150(1) and (2) (abandonment of appeal to county court or by way of case stated) for “the Lord Chancellor” substitute “that Department”.

139. In Article 167(2) (expenses) for “Lord Chancellor in performing his functions” substitute “Department of Justice in performing its functions”.

Matrimonial and Family Proceedings (Northern Ireland) Order 1989

140.—(1) Amend the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(**588**) as follows.

(2) In Article 25(5) (application to certain orders of certain provisions of Part 3 of the principal Order) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Insolvency (Northern Ireland) Order 1989

141. Amend the Insolvency (Northern Ireland) Order 1989(**589**) as follows.

142.—(1) Amend Article 359 (insolvency rules) as follows.

(2) In paragraphs (1) and (2)(d) for “Lord Chancellor” substitute “Department of Justice”.

(3) In paragraph (4) for the words from “annulment” to “accordingly” substitute “negative resolution”.

143. In Article 360(1) (committee to review rules under Article 359) for “Lord Chancellor” substitute “Department of Justice”.

144. In Article 364 (insolvent partnerships)—

(a) in paragraph (1) for “Lord Chancellor” substitute “Department of Justice”;

(b) in paragraph (2) for the words from “annulment” to “accordingly” substitute “negative resolution”.

145. In Article 365 (insolvent estates of deceased persons)—

(a) in paragraph (1) for “Lord Chancellor” substitute “Department of Justice”;

(b) in paragraph (2) for the words from “annulment” to “accordingly” substitute “negative resolution”.

146.—(1) In this paragraph “relevant function” means a function under Article 359 conferred by virtue of—

(588) S.I. 1989/677 (N.I. 4). Article 25(5) was inserted by S.I. 1999/3147 (N.I. 11).

(589) S.I. 1989/2405 (N.I. 19); Relevant amendments were made by S.R. (N.I.) 2002 No. 223. In Article 359, paragraphs (1A) and (1B) were inserted by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 80 and 81. Articles 360(1), 364(1) and 365(1) were amended by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 5, paragraphs 82 to 84.

Status: This is the original version (as it was originally made).

- (a) section 134 or 167 of the Banking Act 2009(**590**), or
- (b) article 17 of the Building Societies (Insolvency and Special Administration) Order 2009(**591**).
- (2) Any relevant function of the Lord Chancellor is transferred to the Department of Justice.
- (3) Any relevant function of the Treasury is transferred to the Department of Finance and Personnel in Northern Ireland.

Child Support (Northern Ireland) Order 1991

- 147.** Amend the Child Support (Northern Ireland) Order 1991(**592**) as follows.
- 148.** In Article 48(1) (regulations and orders) for the words from “annulment” to “accordingly” substitute “negative resolution”.
- 149.** In paragraph 4 of Schedule 4 (pensions of Child Support Commissioners)—
 - (a) for “Lord Chancellor may” substitute “Department of Justice shall”;
 - (b) for “as he may” substitute “as the Lord Chancellor may”.

Family Law (Northern Ireland) Order 1993

- 150.**—(1) Amend the Family Law (Northern Ireland) Order 1993(**593**) as follows.
- (2) For Article 12(4) (family proceedings rules) substitute—
 - “(4) Family proceedings rules shall be subject to negative resolution.”

Children (Northern Ireland) Order 1995

- 151.**—(1) Amend the Children (Northern Ireland) Order 1995(**594**) as follows.
- (2) In Article 183 (regulations and orders) for paragraph (3) substitute—
 - “(3) Orders under this Order made by the Department of Justice shall be subject to negative resolution.”

Juries (Northern Ireland) Order 1996

- 152.**—(1) Amend the Juries (Northern Ireland) Order 1996(**595**) as follows.
- (2) In Article 2(2) (interpretation), in the definition of “Juries Officer”, for “the Lord Chancellor” substitute “that Department”.
- (3) In Article 27(2) (juror’s oath) for the words from “annulment” to “accordingly” substitute “negative resolution”.
- (4) In Article 30(2) (regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.
- (5) In Schedule 2 (persons ineligible for jury service) after the entry for “Officers of the Northern Ireland Office or of the Lord Chancellor’s Department” insert the following entry—

(**590**) 2009 c. 1.

(**591**) S.I. 2009/805.

(**592**) S.I. 1991/2628 (N.I. 23).

(**593**) S.I. 1993/1576 (N.I. 6).

(**594**) S.I. 1995/755 (N.I. 2); Article 183 was amended by the Tax Credits Act 2002 (c. 21), Schedule 3, paragraph 56.

(**595**) S.I. 1996/1141 (N.I. 6).

“Officers of the Department of Justice”.

Road Traffic Offenders (Northern Ireland) Order 1996

- 153.**—(1) Amend the Road Traffic Offenders (Northern Ireland) Order 1996(**596**) as follows.
- (2) In Article 91 (procedure for making regulations and orders)—
- (a) in paragraph (2) omit “Subject to paragraph (3),”;
 - (b) omit paragraph (3).

Family Homes and Domestic Violence (Northern Ireland) Order 1998

- 154.**—(1) Amend the Family Homes and Domestic Violence (Northern Ireland) Order 1998(**597**) as follows.
- (2) In Article 40(1) (orders and regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Social Security (Northern Ireland) Order 1998

- 155.**—(1) Amend the Social Security (Northern Ireland) Order 1998(**598**) as follows.
- (2) In Article 75(4) (Assembly etc control of regulations) for the words from “Lord Chancellor” to “accordingly” substitute “Department of Justice shall be subject to negative resolution”.

Access to Justice (Northern Ireland) Order 2003

- 156.** Amend the Access to Justice (Northern Ireland) Order 2003(**599**) as follows.
- 157.** In Articles 11(4) (funding of services), 16(2), (4), (5), (6) and (8)(a) (procedure relating to funding code), 22(6) and (8) (criminal defence services: code of conduct) and 46(5) (orders, regulations and directions) and in paragraphs 15(3) and 16(4) and (6) of Schedule 1 (Northern Ireland Legal Services Commission) for “each House of Parliament” substitute “the Assembly”.
- 158.** In Article 16 (procedure relating to funding code)—
- (a) for paragraph (7) substitute—

“(7) Where the Department of Justice considers that it is desirable for a revised version of the code containing such changes to come into force without delay, it may (when laying the revised version before the Assembly) also lay before the Assembly a statement of its reasons for so considering.”;
 - (b) in paragraph (8)(b) for “each House” substitute “the Assembly”.
- 159.** In Article 46 (orders, regulations and directions) in paragraph (6) for the words from “annulment” to “accordingly” substitute “negative resolution”.
- 160.**—(1) In paragraph 17 of Schedule 1 (Northern Ireland Legal Services Commission: account and audit)—
- (a) for “Lord Chancellor” (wherever occurring) substitute “Department of Justice”;

(**596**) S.I. 1996/1320 (N.I. 10);
(**597**) S.I. 1998/1071 (N.I. 6).
(**598**) S.I. 1998/1506 (N.I. 10).
(**599**) S.I. 2003/435 (N.I. 10).

Status: This is the original version (as it was originally made).

- (b) in sub-paragraph (2) for “Treasury” substitute “Department of Finance and Personnel”;
 - (c) for “Comptroller and Auditor General” (wherever occurring) substitute “Comptroller and Auditor General for Northern Ireland”;
 - (d) in sub-paragraph (5) for “each House of Parliament” substitute “the Assembly”.
- (2) Sub-paragraph (1) above does not apply in relation to a financial year ending before the coming into force of this Order.

161. In Schedule 3 (transitional provision and savings)—

- (a) in paragraph 4(7) for “Parliament” substitute “the Assembly”;
- (b) in paragraph 5(6) for “Parliament” substitute “the Assembly”.

Insolvency (Northern Ireland) Order 2005

162. Amend the Insolvency (Northern Ireland) Order 2005(**600**) as follows.

163. In Article 24 (disqualification for office: general) for paragraph (7) substitute—

“(7) An order by virtue of paragraph (5)(d) made by—

- (a) the Department of Justice; or
- (b) any other Northern Ireland department with the concurrence of the Department of Justice,

may provide for a discretion to be subject to appeal to a specified court or tribunal.”

Traffic Management (Northern Ireland) Order 2005

164.—(1) Amend the Traffic Management (Northern Ireland) Order 2005(**601**) as follows.

(2) In Article 46 (regulations)—

- (a) in paragraph (1) omit “Subject to paragraph (2),”;
- (b) omit paragraph (2).

Legal Aid (Northern Ireland) Order 2005

165. Amend Schedule 1 to the Legal Aid (Northern Ireland) Order 2005(**602**) (minor and consequential amendments) as follows.

166. In paragraph 8, in the inserted Article 12A of the Access to Justice (Northern Ireland) Order 2003(**603**)—

- (a) in paragraph (1)—
 - (i) for “Lord Chancellor” substitute “Department of Justice”;
 - (ii) for “him” substitute “the Department of Justice”;
- (b) in paragraph (4)—
 - (i) for “Lord Chancellor” substitute “Department of Justice”;
 - (ii) for “he” substitute “the Department of Justice”.

(600) S.I. 2005/1455 (N.I. 10).

(601) S.I. 2005/1964 (N.I. 14).

(602) S.I. 2005/3423 (N.I. 19).

(603) S.I. 2003/435 (N.I. 10).

Criminal Justice (Northern Ireland) Order 2008

- 167.**—(1) Amend the Criminal Justice (Northern Ireland) Order 2008(**604**) as follows.
(2) Omit Article 61(10) (experimental period for alcohol ignition interlock programme orders).

PART 4

Acts of the Northern Ireland Assembly

Child Support, Pensions and Social Security Act (Northern Ireland) 2000

- 168.**—(1) Amend the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(**605**) as follows.
(2) In paragraph 20(6) of Schedule 7 (housing benefit: revisions and appeals) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Charities Act (Northern Ireland) 2008

- 169.** Amend the Charities Act (Northern Ireland) 2008(**606**) as follows.
170. In section 13 (Charity Tribunal: practice and procedure)—
(a) for “Lord Chancellor” (wherever occurring) substitute “Department of Justice”;
(b) in subsection (8) for the words from “annulment” to “accordingly” substitute “negative resolution”.
171. In paragraph 6 of Schedule 2 (Charity Tribunal: staff and facilities) for “Lord Chancellor” substitute “Department of Justice”.

Pensions (No. 2) Act (Northern Ireland) 2008

- 172.** Amend Schedule 5 to the Pensions (No. 2) Act (Northern Ireland) 2008(**607**) (pension compensation on divorce etc) as follows.
173. In paragraph 3, in the inserted Article 26E of the Matrimonial Causes (Northern Ireland) Order 1978 (**608**)—
(a) in paragraph (1) for “Lord Chancellor” substitute “Department of Justice”;
(b) in paragraph (2) for the words from “annulment” to “accordingly” substitute “negative resolution”.
174. In paragraph 7, in the inserted Article 27G of the Matrimonial Causes (Northern Ireland) Order 1978—
(a) in paragraph (1) for “Lord Chancellor” substitute “Department of Justice”;
(b) in paragraph (3) for the words from “annulment” to “accordingly” substitute “negative resolution”.

(604) S.I. 2008/1216 (N.I. 1).

(605) 2000 c. 4 (N.I.).

(606) 2008 c. 12 (N.I.); as amended by the Northern Ireland Act 2009 (c. 3), section 2 and Schedule 4, paragraph 47.

(607) 2008 c. 13 (N.I.).

(608) S.I. 1978/1045 (N.I. 15).

175. In paragraph 15, in the inserted paragraph 14E of Schedule 15 to the Civil Partnership Act 2004**(609)**—

- (a) in sub-paragraph (2) for “Lord Chancellor” substitute “Department of Justice”;
- (b) in sub-paragraph (4) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954**(610)**)”.

SCHEDULE 19

Article 16

Amendments relating to Public Bodies etc

Land Law (Ireland) Act 1881

1.—(1) The functions of the Treasury by virtue of section 56 of the Land Law (Ireland) Act 1881**(611)** are transferred to the Department of Finance and Personnel in Northern Ireland.

(2) Regulations made under that section by the Department are to be laid before the Northern Ireland Assembly (and not the House of Commons) and are not to come into effect until after the end of the statutory period next after the regulations have been laid.

(3) For the purposes of sub-paragraph (2)—

- (a) “the statutory period” has the meaning given by section 41(2) of the Interpretation Act (Northern Ireland) 1954**(612)**;
- (b) section 41(3) of the 1954 Act**(613)** applies in relation to the laying of regulations as it applies in relation to the laying of a statutory document under an enactment.

2.—(1) The functions of the Comptroller and Auditor General by virtue of section 56 of the Land Law (Ireland) Act 1881 are transferred to the Comptroller and Auditor General for Northern Ireland.

(2) Any accounts transmitted for audit to the Comptroller and Auditor General for Northern Ireland, together with the Comptroller’s report thereon, are to be laid before the Northern Ireland Assembly (and not the House of Commons) not later than three months after the date on which the accounts were transmitted for audit.

(3) For the purposes of sub-paragraph (2) section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies in relation to the laying of any accounts or report as it applies in relation to the laying of a statutory document under an enactment.

(4) Sub-paragraphs (1) to (3) above do not apply in relation to any accounts for a period ending before the coming into force of this Order.

(609) 2004 c. 33.

(610) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(611) 1881 c. 49. Section 56 was modified by the Northern Ireland Land Purchase (Winding Up) Act 1935 (c. 21) and the Northern Ireland Land Purchase Winding Up (Adaptation) Order 1936 (S.R. & O (N.I.) 1937 No. 306); and repealed by the Property (Northern Ireland) Order 1997 (S.I. 1997/1179 (N.I. 8), subject to a saving.

(612) 1954 c. 33 (N.I.). Section 41(2) was substituted by the Legislative Procedure Act (Northern Ireland) 1968 (c. 24) (N.I.) and amended by S.I. 1973/2163.

(613) Section 41(3) was substituted by S.I. 1999/663.

Parliamentary Commissioner Act 1967

- 3.—(1) Amend the Parliamentary Commissioner Act 1967(**614**) as follows.
- (2) In Schedule 2 (departments etc. subject to investigation) omit the following entries—
- “The Chief Inspector of Criminal Justice for Northern Ireland.”
 - “Northern Ireland Law Commission.”
 - “Northern Ireland Legal Services Commission.”
 - “Northern Ireland Police Fund.”
 - “Northern Ireland Policing Board.”
 - “Probation Board for Northern Ireland.”
 - “Royal Ulster Constabulary George Cross Foundation.”
- (3) In Schedule 4 (relevant tribunals for the purposes of section 5(7)) omit—
- “Adjudicators appointed under article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002(**615**)
- (4) Sub-paragraph (2) above does not apply in relation to a complaint made under the 1967 Act before the coming into force of this Order.

Northern Ireland Assembly Disqualification Act 1975

- 4.—(1) Amend the Northern Ireland Assembly Disqualification Act 1975(**616**) as follows.
- (2) In Part III of Schedule 1 (other disqualifying offices), at the appropriate places, insert—
- “Northern Ireland Judicial Appointments Ombudsman.”
 - “Any member of the staff of the State Pathologist’s Department.”

Commissioner for Complaints (Northern Ireland) Order 1996

- 5.—(1) Amend the Commissioner for Complaints (Northern Ireland) Order 1996(**617**) as follows.
- (2) In Schedule 2 (bodies subject to investigation), at the appropriate places insert—
- “The Chief Inspector of Criminal Justice for Northern Ireland.”
 - “The Northern Ireland Law Commission.”
 - “The Northern Ireland Legal Services Commission.”
 - “The Northern Ireland Police Fund.”
 - “The Northern Ireland Policing Board.”
 - “The Probation Board for Northern Ireland.”
 - “The Royal Ulster Constabulary George Cross Foundation.”
- (3) A complaint may not be made under the 1996 Order by virtue of sub-paragraph (2) above in relation to a matter if the matter was the subject of a complaint under the Parliamentary Commissioner Act 1967 made before the coming into force of this Order.

(614) 1967 c. 13. Schedule 2 was substituted by the Parliamentary Commissioner Order 2008 (S.I. 2008/3115). Schedule 4 was substituted by the Parliamentary Commissioner Order 2007 (S.I. 2007/3470).

(615) S.I. 2002/796 (N.I. 1).

(616) 1975 c. 25, to which there are amendments not relevant to this Order.

(617) S.I. 1996/1297 (N.I.7).

Status: This is the original version (as it was originally made).

Ombudsman (Northern Ireland) Order 1996

6.—(1) Amend the Ombudsman (Northern Ireland) Order 1996(**618**) as follows.

(2) In Article 9 (matters subject to investigation) after paragraph (3) insert—

“(3A) For the purposes of this Article, administrative functions exercisable by any person appointed or assigned by the Department of Justice to serve as a member of the administrative staff of any court or tribunal shall be taken to be administrative functions of that Department.”

(3) In Schedule 3 (tribunals referred to in Article 9(4)) at the appropriate places insert—

“The Northern Ireland Valuation Tribunal established under Article 36A of the Rates (Northern Ireland) Order 1977(**619**).”

“Adjudicators appointed under Article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002(**620**).”

“Adjudicators appointed under Article 29(1) of the Traffic Management (Northern Ireland) Order 2005(**621**).”

“The Charity Tribunal for Northern Ireland established under section 12 of the Charities Act (Northern Ireland) 2008(**622**).”

(4) In Schedule 4 (matters not to be investigated) after paragraph 2 insert—

“**2A.** Action taken by a member of the administrative staff of any court or tribunal who was appointed or assigned to serve as a member of that staff by the Department of Justice, so far as the action is taken at the direction, or on the authority (whether express or implied), of any person acting in a judicial capacity or in his capacity as a member of the tribunal.”

Audit and Accountability (Northern Ireland) Order 2003

7.—(1) In Article 5(1) of the Audit and Accountability (Northern Ireland) Order 2003(**623**) (additional bodies to be audited by the Comptroller and Auditor General for Northern Ireland) after paragraph (m) insert—

“(n) the Northern Ireland Police Fund”.

(2) Sub-paragraph (1) does not apply in relation to a statement of accounts for a period ending before the coming into force of this Order.

Public Contracts Regulations 2006

8.—(1) Amend Schedule 1 to the Public Contracts Regulations 2006(**624**) as follows.

(2) At the appropriate place insert—

“Department of the Director of Public Prosecutions for Northern Ireland”.

(3) At the appropriate place insert—

“Northern Ireland, Department of Justice

(618) S.I. 1996/1298 (N.I.8), to which there are amendments not relevant to this Order.

(619) S.I. 1977/2157 (N.I. 28).

(620) S.I. 2002/796 (N.I. 1).

(621) S.I. 2005/1964 (N.I. 14).

(622) 2008 c. 12 (N.I.).

(623) S.I. 2003/418 (N.I. 5).

(624) S.I. 2006/5, to which there are amendments not relevant to this Order.

Coroners Courts
County Courts
Court of Appeal and High Court of Justice in Northern Ireland
Crown Court
Enforcement of Judgments Office
Forensic Science Laboratory of Northern Ireland
Legal Aid Fund
Magistrates' Courts
Police Service of Northern Ireland
Probation Board for Northern Ireland
State Pathologist Service".

(4) Under "Northern Ireland Office" omit—

"Department of the Director of Public Prosecutions for Northern Ireland"
"Forensic Science Laboratory of Northern Ireland"
"Police Service of Northern Ireland"
"Probation Board for Northern Ireland"
"State Pathologist Service".

*Government Resources and Accounts Act 2000
(Audit of Non-profit-making Companies) Order 2009*

9.—(1) In the Schedule to the Government Resources and Accounts Act 2000 (Audit of Non-profit-making Companies) Order 2009(**625**) (list of companies to be audited by the Comptroller and Auditor General) omit the entry for the Northern Ireland Police Fund.

(2) Sub-paragraph (1) does not apply in relation to any accounts for a period ending before the coming into force of this Order.

SCHEDULE 20

Article 18(4)

Property being transferred to the Director of Public Prosecutions for Northern Ireland
Belfast Chambers, 93 Chichester Street, Belfast, BT1 3JR
Linum Chambers, 2 Bedford Square, Belfast, BT2 7ES
Lisburn Chambers, 23 Linenhall Street, Lisburn, BT28 1FJ
Newry Chambers, Block A, Downshire Close, 41-43 Downshire Road, Newry, BT34 1EE
Ballymena Chambers, 4 Parkway, Ballymena, BT43 5ET
Foyle Chambers, 35 Limavady Road, Londonderry, BT47 6LP
Omagh Chambers, 2 Townhall Square, Omagh, BT78 1BL

Status: This is the original version (as it was originally made).

SCHEDULE 21

Article 18(5)

Property not being transferred

St. Annes House, 15 Church Street, Belfast, BT1 1ER
5th Floor, Windsor House, Bedford Street, Belfast, BT2 7SR
12th-14th and 20th Floor, Windsor House, Bedford Street, Belfast, BT2 7EL
Stormont House, Belfast, BT4 3SH
2nd Floor, Block 2, Forestview, Purdy's Lane, Belfast, BT8 7AR
2(B) Regent Street, Newtownards, BT23 4LH
Hillsborough Castle, the Square, Hillsborough BT26 6AG
52 Bridge Street, Banbridge, BT32 3SL
1-3 Portland Avenue, Glengormley, Newtownabbey, BT36 5EY
122 Broughshane Street, Ballymena, BT43 6EE
20 Queen Street, Londonderry, BT48 7EQ
29A Strand Road, Londonderry, BT48 7BZ
21 Kelvin Avenue, Omagh, BT78 1ER
Premises occupied by the International Monitoring Commission

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends certain statutory provisions and makes other provision in consequence of, or for giving full effect to, the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010. That Order amends Schedule 3 to the Northern Ireland Act 1998 ("the 1998 Act") so that certain policing and justice matters (as defined in section 4(6) of the 1998 Act) cease to be reserved matters and become transferred matters.

Part 1 to the Order contains introductory provisions, dealing in particular with commencement and extent and defining terms used in the Order.

Part 2 makes provision consequential on devolution to the Northern Ireland Assembly of legislative power in relation to policing and justice matters. It provides for the transfer of policing and justice functions from the Secretary of State to the Northern Ireland Department of Justice; it makes provision for some functions to be split between the Secretary of State and the Department of Justice; it also makes provision consequential on the transfers.

Article 4 and Schedule 1 transfer to the Department of Justice functions of the Secretary of State immediately before the coming into force of the Order under the enactments listed in Schedule 1. Schedule 2 makes amendments to those enactments consequential on the transfer of functions under Schedule 1, including in particular in relation to the procedure for laying instruments and other documents before the Northern Ireland Assembly.

Article 5 and Schedule 3 transfer functions in relation to policing; in particular Schedule 3 contains amendments to the Public Order (Northern Ireland) Order 1987, the Police Act 1996, the Police (Northern Ireland) Act 1998, the Police (Northern Ireland) Act 2000, the Police (Northern Ireland) Act 2003, various policing regulations and the Civil Contingencies Act 2004.

Article 6 and Schedules 4 to 8 transfer functions relating to the treatment of offenders. Schedule 4 deals with prisons and amends the Prison Act (Northern Ireland) 1953, the Prison and Young Offenders Centre Rules (Northern Ireland) 1995, the Regulation of Investigatory Powers Act 2000 and orders made under section 25 or 30 of that Act. Schedule 5 deals with provisions relating to the release of prisoners on licence and amends the Life Sentences (Northern Ireland) Order 2001, the Criminal Justice (Northern Ireland) Order 2008 and the Parole Commissioners' Rules (Northern Ireland) 2009. Schedule 6 is concerned with miscarriages of justice and the Royal prerogative of mercy and amends the Criminal Justice Act 1988 and the Criminal Appeal Act 1995. Schedule 7 amends the Criminal Justice and Public Order Act 1994. Schedule 8 deals with the transfer of prisoners and amends the Repatriation of Prisoners Act 1984 and the Crime (Sentences) Act 1997.

Article 7 and Schedule 9 transfer functions under the Corporate Manslaughter and Corporate Homicide Act 2007.

Article 8 and Schedule 10 transfer functions under the Serious Crime Act 2007.

Article 9 and Schedule 11 transfer functions in relation to firearms and amend the Firearms (Northern Ireland) Order 2004 and the Violent Crime Reduction Act 2006.

Article 10 and Schedule 12 make provision in relation to explosives. Paragraphs 1 and 2 respectively of Schedule 12 transfer functions of the Secretary of State under certain provisions of the Explosives Act 1875 and the Explosives Act (Northern Ireland) 1970 to the Department of Justice. Paragraph 3 amends the Health and Safety at Work (Northern Ireland) Order 1978. Paragraph 4 makes provision for the continuing exercise by the Secretary of State of certain functions that are transferred to the Department of Justice for purposes connected with the reserved matters of firearms and explosives and import and export controls.

Article 11 and Schedule 13 amend the Justice (Northern Ireland) Act 2002.

Article 12 and Schedule 14 amend a substantial number of Acts and Orders relating to criminal justice.

Article 13 and Schedule 15 transfer functions under the Serious Organised Crime and Police Act 2005.

Article 14 and Schedule 16 transfer functions under the Private Security Industry Act 2001.

Article 15 and Schedules 17 and 18 provide for the transfer of functions of the Lord Chancellor and other related functions. Article 15(1) and Schedule 17 transfer functions of the Lord Chancellor listed in Schedule 17 to the Department of Justice. Article 15(2) and (3) transfer certain functions of the Lord Chancellor under the Justice (Northern Ireland) Act 2002 to respectively the First Minister and deputy First Minister, acting jointly and the Office of the First Minister and deputy First Minister. Article 15(4) transfers listed functions of the Treasury or the Minister for the Civil Service to the Northern Ireland Department of Finance and Personnel. Schedule 18 transfers other functions.

Article 16 and Schedule 19 make amendments relating to public bodies. The enactments amended include the Parliamentary Commissioner Act 1967, Northern Ireland Assembly Disqualification Act 1975, Commissioner for Complaints (Northern Ireland) Order 1996, Ombudsman (Northern Ireland) Order 1996 and Public Contracts Regulations 2006.

Article 17 provides for the transfer of functions under subordinate legislation and other instruments made in exercise of a function that is transferred under the Order. Exceptions to this general provision are set out in paragraph (4).

Articles 18 to 22 and Schedules 20 and 21 make provision about the transfer of property, liabilities and staff consequential on the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010.

Status: *This is the original version (as it was originally made).*

Part 3 of the Order makes amendments to and relating to the 1998 Act. Article 23 amends section 20 of the 1998 Act in relation to quasi-judicial decisions. Article 24 provides for the Royal prerogative of mercy to be exercisable in Northern Ireland by the Northern Ireland Minister of Justice. The rest of Part 3 contains consequential and transitional provision.

Part 4 of the Order contains general transitional provisions.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.