

**EXPLANATORY MEMORANDUM TO  
THE DRAFT CRIMINAL JUSTICE (NORTHERN IRELAND CONSEQUENTIAL  
AMENDMENTS) ORDER 2008**

**2008 No.**

**1.** This Explanatory Memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This draft Order makes amendments to the law of the United Kingdom which are consequential on Part 2 of the draft Criminal Justice (Northern Ireland) 2008. Part 2 of that Order provides for extended and indeterminate custodial sentences for certain offences, for the release on licence of persons serving custodial sentences, and for the renaming of the Life Sentence Review Commissioners as the Parole Commissioners with additional functions in relation to the release and recall of prisoners.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 The consequential amendments in this Order stem from new sentencing provisions to be introduced by the draft Criminal Justice (Northern Ireland) Order 2008. The powers to make that Order are contained in Section 85 of the Northern Ireland Act 1998 which enables legislation to be made by Order in Council in respect of certain reserved matters, including criminal justice. Section 85 also enables consequential amendments to be made, but only in so far as those amendments extend to Northern Ireland. Where amendments to legislation which extends outside Northern Ireland are needed, a separate order under Section 84(2) of the Northern Ireland Act is required. This is such an order.

4.2 The Order amends four Acts which extend to the whole of the United Kingdom. Further detail of the amendments is at paragraph 7.3 below.

**5. Territorial Extent and Application**

5.1 This instrument applies to the whole of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 The Minister, Paul Goggins has made the following statement regarding human rights

“In my view the provisions of the Criminal Justice (Northern Ireland Consequential Amendments) Order are compatible with the Convention rights”

## **7. Policy background**

7.1 Part 2 of The Criminal Justice (Northern Ireland) Order 2008 contains provisions covering new sentencing powers that will create public protection sentences for serious sexual and violent offenders, establish post-release supervision on release from prison and end 50% remission for sentenced prisoners in Northern Ireland.

7.2 Following consultation, including consideration by the Northern Ireland Assembly, the draft Criminal Justice (NI) Order 2008 has been laid in accordance with Section 85 of the Northern Ireland Act 1998. As part of the consultation exercise on that draft Order, representations were received that sought to ensure that provisions were included in the draft legislation for transfer of prisoners subject to the proposed new licence arrangements outside the Northern Ireland jurisdiction. Article 3 of this draft Order seeks to achieve that goal. A small number of other minor consequential amendments to UK legislation were also identified.

7.3 Articles 2 and 4 substitute references to the Parole Commissioners for Northern Ireland in two Acts. The amendment in Article 3 has the effect of enabling the licence provisions in Part 2 of the Criminal Justice Order to be applied to prisoners transferred from Northern Ireland to other parts of the United Kingdom. The amendment in Article 5 disapplies those licence provisions in the case of a prisoner serving a sentence of imprisonment imposed by the International Criminal Court.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities, voluntary bodies or the public sector.

## **9. Contact**

9.1 Andrew Lavery at the Northern Ireland Office Tel: 02890 527442 or email: Andrew.Lavery@nio.x.gsi.gov.uk can answer any queries regarding the instrument.