

*These notes refer to the Justice Act (Northern Ireland)
2015 (c.9) which received Royal Assent on 24 July 2015*

Justice Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Violent Offences Prevention Orders

Supplementary

Section 71: Offences

This section sets out the penalties for failing to comply with the conditions of a VOPO or notification requirements. It stipulates that failure, without reasonable excuse, to comply with any prohibition or requirement of a full or interim VOPO, or any failure to comply with a notification requirement, without reasonable excuse, is an offence. It provides that those who knowingly provide false information on notification would also be committing an offence.

Where the person fails to comply with a notification requirement, the offence of failing to give a notification continues throughout the period during which the required notification is not given. An offender cannot be prosecuted more than once for the same failure.

The penalty for non-compliance is, on summary conviction, imprisonment for a period of up to six months, or a fine not exceeding the statutory maximum, or both. On conviction on indictment, the penalty is imprisonment for a period of up to five years, or a fine, or both.

Section 72: Supply of information to relevant Northern Ireland departments or Secretary of State

This section allows the Chief Constable to verify information provided by the individual in compliance with their notification requirements, to ensure that the information notified is correct and that no detail has been omitted. This will be done by comparing the details provided at notification against information provided by the person to certain bodies performing Government functions: a relevant Northern Ireland department, the Secretary of State, or a person providing services to a relevant Northern Ireland Government department or the Secretary of State.

It allows the Chief Constable to share the information for the purposes of the prevention, detection, investigation or prosecution of offences under this

Part. The information may only be shared for the purpose of checking that the information supplied to the police is accurate and for the purpose of compiling a report of the comparison. This must be carried out in compliance with the Data Protection Act 1998.

Section 73: Supply of information by relevant Northern Ireland departments or Secretary of State

This section stipulates that a compiled information report may be provided to the police and that the police may retain and use the information solely for the purpose of prevention, detection, investigation or prosecution of offences.

It provides that the information provided to police by other Government Departments must be destroyed once the offender ceases to be subject to notification requirements, but allows the Chief Constable to apply for an order to extend the period of retention for a further two years from when the notification period ends.

The application to extend must be made within three months preceding the end of the notification requirement period. The Chief Constable and the offender can appeal against a court order to extend the period of retention, or a refusal by the court to make an order.

Section 74: Information about release or transfer

This section allows the Department to make regulations (subject to the negative resolution procedure), requiring those who are responsible for the individual while he is serving a custodial sentence or detained in a hospital, to notify other specified persons of the fact that they have become responsible for that individual, and of the time they are released from custody, or transferred to another institution. The regulations would specify the person responsible and the person who must be notified.

Section 75: Power of entry and search of offender's home address

This section provides the police with a power of entry and search of a person's home address. The application must be made to the court by a police officer of the rank of superintendent or above. The court may issue a warrant authorising police to enter the premises for the purpose of risk assessment and to search the premises, if it is satisfied that the specified requirements are met.

The requirements are: that the address specified in the application is an address which was last notified to the police as their home address, or there are reasonable grounds to believe that the person lives there or may regularly be found there; that it is necessary for police to enter and search the premises for the purpose of risk assessing the individual; and that the police have, on at least two occasions, sought to enter the premises and had been unable to do so.

It also provides that police may use reasonable force, to enter and search the premises, if necessary. The warrant may authorise the police to enter and

search the premises on more than one occasion, if the court is satisfied that it is necessary to do so. It also provides that the court, when considering the need for a search warrant, must be satisfied that it is proportionate in all circumstances for police to enter and search the premises in the case where the premises is resided in by a third party.

Section 76: Interpretation of this Part

This section sets out definitions for the purposes of Part 8.