Justice Act (Northern Ireland) 2016

2016 CHAPTER 21

An Act to make provision about enforcement of the payment of fines and other penalties; to provide for the appointment and functions of a Prison Ombudsman for Northern Ireland; to amend the law relating to the penalties for certain animal welfare offences, lay visitors for police stations, extreme pornographic and other sexual images, assaults on persons providing ambulance services, the early removal from prison of prisoners liable to removal from the United Kingdom, direct committal for trial, and firearms; and to make provision relating to the costs of the Accountant General of the Court of Judicature. [12th May 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

FINES AND OTHER PENALTIES: ENFORCEMENT

CHAPTER 1

Collection of Fines etc.

Introductory

Application of Chapter

1.—(1) This Chapter applies where—

(a) a person is liable to pay a fine or other sum adjudged to be paid by or imposed on a conviction or a sum which is treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed, and

(b) a court in Northern Ireland imposed the liability to pay the sum or is responsible for enforcing its payment.

(2) In this Chapter—

"the sum due" means the sum mentioned in subsection (1)(a),

"the debtor" means the person liable to pay the sum due, and

"the outstanding amount" means the amount of the sum due which for the time being remains to be paid.

Collection officers and orders

Collection officers

2.—(1) The Department of Justice may designate civil servants in the Department to be collection officers for the purposes of this Chapter; and a reference in this Chapter to a "collection officer" is a reference to a person so designated.

(2) The general functions of a collection officer are—

(a) to provide debtors with information and advice about payment of the sums due;

(b) to secure compliance with collection orders (see section 3).

(3) Regulations may make further provision about collection officers; and the regulations may, in particular, confer or impose functions on collection officers.

Collection order

3.—(1) The court referred to in section 1(1)(b) must make an order (a "collection order") relating to the payment of the sum due, unless it appears to the court that it is impracticable or inappropriate to do so.

(2) The court may not make a collection order in so far as the sum due consists of an amount payable under a confiscation order under Part 4 of the Proceeds of Crime Act 2002.

(3) Where a collection order is made, the powers of a court to deal with the liability of the debtor to pay the sum due are subject to the provisions of this Chapter and to regulations made under it.

(4) A collection order must—

(a) state the amount of the sum due,

(b) if the sum due consists of separate amounts, state each separate amount,

(c) if part of the sum due has already been paid, state the amount already paid and the outstanding amount,

(d) contain information about how payments may be made under the terms of the order,

(e) contain information about how to contact the collection officer responsible for securing compliance with the order,

(f) contain information about the effect of the order and the consequences of failing to comply with it, and

(g) contain the additional provision required by section 4(3) or (4).

(5) Where a court makes a collection order, it must—

(a) serve the order on the debtor, and

(b) send a copy to the collection officer.

(6) Where the debtor appeals against the conviction or sentence in a case in which a collection order has been made, the collection order is suspended until the appeal is determined or abandoned.

(7) In a case where, before the commencement of this section, a person has defaulted on payment of a sum of the kind mentioned in section 1—

(a) if a court has yet to deal with the person for the default, the proper officer may refer the case to the court which is responsible for enforcing payment of the sum for it to consider whether to make a collection order;

(b) if a court has already dealt with the person for the default, a collection order may not be made.

(8) In subsection (7), "proper officer" means—

(a) in relation to a magistrates' court, the clerk of petty sessions;

(b) in relation to the Crown Court, the chief clerk.

Additional powers where collection order made

4.—(1) Where a court makes a collection order in the case of a debtor who is an individual, it may also—

(a) order the collection officer who is responsible for securing compliance with the order to make an application for deduction from benefits in relation to the debtor (see sections 14 to 16);

(b) make an attachment of earnings order in relation to the debtor (see sections 18 and 19).

(2) But a court may make an order under subsection (1)(a) or (b) only if—

(a) the court, having considered whether it would be appropriate to require the debtor to pay the sum due in either of the ways mentioned in subsection (4), is satisfied that it would be more appropriate to make the order under subsection (1)(a) or (b), and

(b) the debtor consents to the making of the order.

(3) If the court makes an order under subsection (1)(a) or (b), the collection order must also state that the order has been made.

(4) If the court does not make an order under subsection (1)(a) or (b), the collection order must also include—

(a) a term requiring the payment of the outstanding amount within a specified period, or

(b) terms requiring the payment of the outstanding amount by instalments of specified amounts on or before specified dates.

(5) If the court makes an order under subsection (1)(a), the collection officer must make an application for deduction from benefits in relation to the debtor.

Default on payment

Collection officer to contact debtor in default

5.—(1) This section and section 6 apply where a debtor who is subject to a collection order fails to comply with the order.

(2) Where the debtor is an individual, the collection officer must take reasonable steps to contact the individual for the purpose of obtaining or verifying the following information—

(a) the individual's full name, address, date of birth and National Insurance number,

(b) particulars of any earnings or other income the individual receives or expects to receive and the name and address of any employer the individual has,

(c) particulars of any welfare benefits the individual receives,

(d) particulars of any bank account or similar account held in the individual's sole name, and

(e) particulars of any vehicles registered in the individual's name.

(3) Where the debtor is a company, the collection officer must take reasonable steps to contact an officer of the company for the purpose of obtaining or verifying the following information—

(a) the company's name and registered address,

(b) particulars of any bank account or similar account held in the company's name, and

(c) particulars of any vehicles registered in the company's name.

(4) If the collection officer, having taken steps as mentioned in subsection (2) or (3), is unable to contact the debtor or if the debtor fails, without reasonable excuse, to provide the information referred to in that subsection, the collection officer may apply to a magistrates' court for the issue of a summons to require the debtor to attend on the collection officer at the time and place specified in the summons.

(5) A person commits an offence if the person fails, without reasonable excuse, to provide information required under subsection (2) or (3).

(6) A person commits an offence if, in providing information in response to a requirement under subsection (2) or (3), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

(7) In subsection (2)(c), "welfare benefit" means a benefit to which section 5 of the Social Security Administration (Northern Ireland) Act 1992 applies or which is treated by a provision of that section as if it were a benefit to which that section applies.

Powers of collection officer in relation to debtor in default

6.—(1) The collection officer may at any time the officer considers appropriate refer the debtor's case to the court which is responsible for enforcing payment of the sum due; and a reference in this Chapter to "the responsible court" is a reference to that court.

(2) The collection officer may, on an application by the debtor (which may be made orally or in writing), vary the terms of the collection order—

(a) by extending the period within which payment of the outstanding amount is required,

(b) by permitting payment of the outstanding amount by instalments of specified amounts on or before specified dates, or

(c) where the order already permits payment by instalments, by amending the amounts of the instalments, the dates on or before which they must be paid, or both.

(3) The collection officer may, whether or not on an application by the debtor (which may be made orally or in writing) and whether or not the debtor consents—

(a) if it appears to the officer that the debtor is receiving a relevant benefit (see section 14(3)), make an application for deduction from benefits in relation to the debtor;

(b) if it appears to the officer that the debtor is receiving or expecting to receive earnings, make an attachment of earnings order in relation to the debtor;

(c) if it appears to the officer that the debtor is both receiving or expecting to receive earnings and receiving a relevant benefit, either make an application for deduction from benefits or make an attachment of earnings order in relation to the debtor.

(4) But the collection officer may take action under subsection (3) only if the officer, having considered whether it would be appropriate to take action under subsection (2) (on the assumption that the debtor had made the necessary application), is satisfied that it would be more appropriate to take the action under subsection (3).

(5) Where the collection officer is unable to secure compliance with the collection order by taking action under subsection (2) or (3) but is satisfied that there are funds in an account held with a deposit-taker in the debtor's sole name, the collection officer—

(a) may make an interim bank account order in relation to the debtor (see section 20), and

(b) where the collection officer does so, must refer the debtor's case to the responsible court.

(6) Where the collection officer is unable to secure compliance with the collection order by taking action under subsection (5), the collection officer may refer the debtor's case to the responsible court with a request that the court make a vehicle seizure order (see section 23).

(7) But the collection officer may not make a referral and request under subsection (6) unless the officer is satisfied that—

(a) the vehicle to which the request relates is registered in the debtor's name,

(b) the debtor has sufficient means to pay the outstanding amount, and

(c) an amount equivalent to the value of the vehicle (if sold) would be sufficient to discharge the outstanding amount and the amount of any

charges likely to be imposed and costs likely to be incurred in connection with executing a vehicle seizure order in relation to the vehicle.

(8) Before taking action under this section, the collection officer must notify the debtor of the action the officer has decided to take; but, where the collection officer decides to make an interim bank account order, the officer need not notify the debtor of that decision until the order is made and any arrangements required for its implementation are in place.

(9) The collection officer, having referred the debtor's case to the responsible court under this section, may not exercise a power under subsections (2) to (6) in relation to the debtor (but may in reliance on subsection (1) refer the case to the responsible court again).

(10) A magistrates' court may, on a complaint made by a collection officer, issue a summons requiring the debtor to appear at the time and place specified in the summons for the hearing on a referral under this section of the debtor's case; and the summons must direct the debtor to appear—

(a) if the responsible court is the Crown Court, before that Court;

(b) if the responsible court is a magistrates' court, before a court of summary jurisdiction.

(11) A person commits an offence if, having been notified under subsection (8) that the collection officer has decided to make a referral and request under subsection (6), the person conceals or disposes of the vehicle in question or attempts to do so.

(12) In subsection (3), "earnings" has such meaning as may be specified in regulations.

Referral to the court: collection officer's report etc.

7.—(1) Where a collection officer refers a debtor's case to court under section 6, the officer must provide the court with a report which sets out—

(a) the action the officer has taken for the purpose of securing compliance with the collection order,

(b) the contact the officer has had with the debtor or, if the officer has been unable to make contact with the debtor, the steps the officer has taken to make contact,

(c) the information which the officer has obtained or verified under section 5(2) or (3), and

(d) the steps the debtor has taken to pay the sum due.

(2) In the case of a referral under section 6(6), the report under subsection (1) must state that the collection officer—

(a) is satisfied as to the matters specified in section 6(7), and

(b) is satisfied that section 23(5) (exceptions for vehicles used by disabled persons, emergency services, etc.) does not prevent the making of a vehicle seizure order.

(3) The collection officer's report is admissible in proceedings before a court as evidence of the facts stated in it; and a court may, for example, take the report into account in deciding whether to issue a warrant under section 10.

Referral to the court in case where no collection order made

8.—(1) This section applies where—

(a) the court referred to in section 1(1)(b) does not make a collection order, and

(b) the debtor defaults on payment of the sum due.

(2) The proper officer of the responsible court may at any time the officer considers appropriate refer the debtor's case to the responsible court.

(3) A magistrates' court may, on a complaint made by the proper officer, issue a summons requiring the debtor to appear at the time and place specified in the summons.

(4) A summons under subsection (3) must direct the debtor to appear—

(a) if the responsible court is the Crown Court, before that Court;

(b) if the responsible court is a magistrates' court, before a court of summary jurisdiction.

(5) In this section, "proper officer" means—

(a) if the responsible court is the Crown Court, the chief clerk;

(b) if the responsible court is a magistrates' court, the clerk of petty sessions.

Powers of court on referral of debtor's case

9.—(1) At the hearing of a debtor's case on a referral under section 6, the responsible court may—

(a) extend the period within which payment of the outstanding amount is required;

(b) permit payment of the outstanding amount by instalments of specified amounts on or before specified dates;

(c) in a case where the debtor is an individual, order the collection officer to make an application for deduction from benefits or make an attachment of earnings order (even if either of those has previously been done in that case and regardless of whether the debtor consents);

(d) make a bank account order (whether or not the collection officer has made an interim bank account order in relation to the debtor) (see section 22);

(e) make a vehicle seizure order in relation to a vehicle registered in the debtor's name (see section 23);

(f) issue a warrant of distress for levying the outstanding amount;

(g) if the debtor is an individual aged 18 or over, make a supervised activity order under Article 45 of the Criminal Justice (Northern Ireland) Order 2008;

(h) if the debtor is an individual aged 16 or 17, make an attendance centre order under Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998;

(i) issue a warrant committing the debtor to prison in default of the outstanding amount;

(j) remit the whole or part of the outstanding amount, having regard to any change in the debtor's circumstances since the conviction concerned.

(2) At the hearing of a debtor's case on a referral under section 8, the responsible court must consider whether to make a collection order; and—

(a) where the court does so, subsection (1) applies as if a referral had been made under section 6;

(b) where the court does not do so, it may act as mentioned in subsection (1)(a), (b) or (d) to (j).

(3) The court may not act as mentioned in subsection (1)(g) or (h) without having considered and dismissed each of the options under subsection (1)(a) to (f).

(4) The court may not act as mentioned in subsection (1)(i) or (j) without having considered and dismissed the option under subsection (1)(g) or (h) (and, accordingly, each of the options under subsection (1)(a) to (f)).

(5) Where the court decides to act as mentioned in subsection (1)(g) or (i), or decides what action to take in the case of a debtor who is aged under 18, the court must give reasons for its decision.

(6) In a case where an interim bank account order is in force—

(a) the collection officer must attend the hearing in order to give such oral evidence as the court may require, and

(b) the deposit-taker (as well as the debtor) may make representations as to why a bank account order should not be made.

(7) Where the court considers that it would be appropriate to make a bank account order, but the amount specified in the order would be less than the outstanding amount, the court may, in addition to making a bank account order, take such other action under subsection (1) as it considers appropriate.

(8) Where the court takes action under subsection (1) otherwise than by making a bank account order, any interim bank account order in force in relation to the debtor is discharged.

(9) Where the court issues a warrant of committal under subsection (1)(i), the length of the period of committal as pronounced by the court is to be reduced by the length of any period during which the debtor has, in the case to which the hearing under this section relates, been remanded or committed in custody under section 12 (but not under subsection (7) of that section).

(10) In a case where the sum due is a sum treated as if it were adjudged to be paid by or imposed on a conviction, the reference in subsection (1)(j) to the time of the debtor's conviction is to be read as a reference to the time when the liability to the sum due arose.

Power to issue arrest warrant where debtor fails to attend hearing

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

(a) a summons is issued under section 6(10) or 8(3), but

(b) the debtor does not appear before court as required by the summons.

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

(a) it is not satisfied that the summons was served on the debtor or that the debtor is evading service but is satisfied that a reasonable attempt has been made to serve the summons on the debtor,

(b) it is satisfied that the debtor is aware of the liability to pay the sum due and of the possible consequences of defaulting on the payment,

(c) it is considering the possibility of issuing a warrant to commit the debtor to prison under section 9(1)(i), and

(d) it is satisfied that issuing a warrant for the debtor's arrest instead of reissuing the summons is proportionate to the objective of securing the debtor's appearance before the court.

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

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

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

Arrest under warrant under section 10

11.—(1) This section applies where a debtor is arrested in reliance on a warrant issued under section 10.

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

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

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

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

(a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or

(b) if it is not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 12.

(6) If the debtor is brought before a magistrates' court but the Crown Court is the responsible court in the debtor's case, it must commit the debtor to the Crown Court in accordance with section 12.

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

(a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or

(b) if it not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 12.

(8) If the debtor is brought before the Crown Court but it is not the responsible court in the debtor's case, it must remit the debtor's case to the magistrates' court which is the responsible court and must remand the debtor in accordance with section 12.

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

(10) Where the debtor has not entered into the recognizance, the outstanding amount may, before the debtor is brought before the court under this section,

be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.

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

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

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

> "(5A) If the debtor is brought before a magistrates' court but another magistrates' court is the responsible court in the debtor's case, it must adjourn the hearing on the referral to that other court at such time and place as it specifies and must remand the debtor in accordance with section 12.".

Remand or committal under section 11

12.—(1) For the purposes of the remand or committal of a debtor under section 11(5) to (8), the court must either—

(a) remand or commit the debtor in custody, by committing the debtor to custody to be brought before the responsible court at the end of the period specified by the court (but see also subsection (7)), or

(b) remand or commit the debtor on bail, by remanding the debtor on bail subject to such conditions as the court may specify for the debtor's subsequent appearance before the responsible court.

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

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

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

(a) in a case where the debtor consents, 28 days;

(b) in any other case, 8 days.

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

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

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

(a) committing the debtor to detention at a police station, or

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

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

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

(a) the debtor must, as soon as that need ceases, be brought back before the court;

(b) the debtor is to be treated as a person in police detention to whom the duties under Article 40 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (responsibilities in relation to persons detained) relate, and

(c) the detention of the debtor is to be subject to periodic review at the times set out in Article 41 of that Order.

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

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

Costs relating to referral of debtor's case

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

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

(3) The court hearing the debtor's case under section 9 may, in addition to any other order which it may make at the hearing, order the debtor to pay the whole or any part of the costs referred to in subsection (1); but, if the debtor is an

individual aged under 18, the amount of any costs ordered under this subsection may not exceed the outstanding amount.

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

(5) The costs of any proceedings under section 11 involving the debtor are to be regarded for the purposes of this section as costs of the hearing of the debtor's case under section 9.

Deductions from benefits

Application for deduction from benefits

14.—(1) An application for deduction from benefits, in relation to a debtor, is an application to the Department for Social Development for it to deduct sums from amounts payable to the debtor by way of a relevant benefit for the purpose of securing payment of the outstanding amount.

(2) The application may be made only in the case of a debtor who, at the time of the application, is an individual aged 18 or over.

(3) Each of the following is a relevant benefit—

(a) income support;

(b) jobseekers' allowance;

(c) state pension credit;

(d) employment and support allowance.

(4) If the Department for Social Development grants the application, it must—

(a) deduct sums from amounts payable to the debtor by way of a relevant benefit, and

(b) pay the sums deducted to the responsible court for them to be applied towards satisfaction of the outstanding amount.

(5) The application fails, and sections 5 and 6 apply as they would if the debtor had failed to comply with the collection order, if—

(a) the application is withdrawn,

(b) the Department for Social Development rejects the application,

(c) an appeal against the grant of the application succeeds, or

(d) the Department for Social Development ceases to make deductions at a time when the debtor remains liable to pay any part of the sum due.

(6) A decision by the Department for Social Development for the purposes of this section is to be treated for the purposes of the Social Security (Northern Ireland) Order 1998 as if it were a decision to which Article 13 of that Order (appeals) applies.

(7) The Department of Justice may by order amend this section so as to add a benefit to the list of relevant benefits or remove a benefit from the list.

Deduction from benefits: further provision in regulations

15.—(1) Regulations may make further provision about applications for deductions from benefits; and the regulations may in particular make provision—

(a) as to the circumstances and manner in which, and the times at which, the Department for Social Development may make deductions and payments for the purposes of section 14;

(b) as to the calculation of the amounts to be deducted and paid and, in particular, to ensure that sums payable to the debtor by way of relevant benefits do not fall below such limit as is specified;

(c) as to the priority between the payment of sums under the collection order and the payment of other sums from the amounts deducted;

(d) as to the circumstances in which the Department for Social Development is to cease to make deductions;

(e) requiring the Department for Social Development to notify the debtor in such manner and at such time as is specified of the total amount of the deductions made up to the time of the notification.

(2) Regulations may—

(a) make provision as to the contents of an application for deduction from benefits;

(b) make provision that, where the amount to which the application relates has been paid, the court must notify the Department for Social Development and the debtor accordingly.

Enquiries into debtor's means

16.—(1) Before exercising the power under section 4(1)(a) or 9(1)(c) to order a collection officer to make an application for deduction from benefits, the court must inquire into the debtor's means; and for that purpose the court may require the debtor to provide—

(a) his or her full name, address, date of birth and National Insurance number, and

(b) details of any relevant benefit which the debtor receives.

(2) A person commits an offence if the person fails, without reasonable excuse, to provide information required under subsection (1).

(3) A person commits an offence if, in providing information in response to a requirement under subsection (1), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

Disclosure of information

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

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

(b) facilitating the making of the application by the court or officer.

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

(a) information which is held by the Department for the purposes of functions relating to social security,

(b) information which is held by a person providing services to the Department in connection with the provision of those services, or

(c) information which is held with information of the description given in paragraph (a) or (b).

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

(a) discloses the information to another person, or

(b) uses the information for a purpose other than a purpose referred to in subsection (1).

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

(a) to disclose any information in accordance with a statutory provision or with an order of a court or of a tribunal established by or under a statutory provision or for the purposes of any proceedings before a court,

(b) to disclose or use any information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it, or

(c) to disclose or use any information which has previously been lawfully disclosed to the public.

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

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

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

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

(8) In this section, "information" means information held in any form.

Attachment of earnings

Attachment of earnings order

18.—(1) An attachment of earnings order is an order requiring the person to whom the order is directed to make such payments as are specified in the order out of the earnings which are payable to the debtor for the purpose of securing payment of the outstanding amount.

(2) An attachment of earnings order may be made only in the case of a debtor who, at the time the order is made, is an individual aged 18 or over.

(3) The person to whom an attachment of earnings order is directed must be a person who appears to the court or collection officer (according to which of them is making the order) to employ the debtor; and references in this section, section 19 and Schedule 1 to the employer, in relation to an attachment of earnings order, are to be read accordingly.

(4) An attachment of earnings order must—

(a) contain particulars specified in regulations enabling the debtor to be identified by the employer,

(b) contain particulars specified in regulations of the amount to be recovered by the order,

(c) specify the rate calculated in accordance with regulations as the rate at which amounts are to be deducted from the debtor's earnings,

(d) specify to whom payments are to be made,

(e) contain information about how to contact the collection officer, and

(f) contain such other information as may be specified in regulations.

(5) A person is to be treated as employing another person if that person, as principal and not as a servant or agent, pays to the other person sums defined as "earnings" for the purposes of this section.

(6) In this section, "earnings" has such meaning as is specified in regulations.

(7) Schedule 1, which makes further provision in relation to attachment of earnings orders, has effect.

Statement of earnings

19.—(1) Where the court or a collection officer is proposing to make an attachment of earnings order, the court or collection officer may give a direction under subsection (2) or (3).

(2) A direction under this subsection is a direction to the debtor to provide within the period specified in regulations a statement signed by the debtor of—

(a) the name and address of any employer the debtor has;

(b) particulars specified in regulations of the debtor's earnings and expected earnings, and of the debtor's resources and needs (including the needs of any person for whom the debtor must, or reasonably may, provide);

(c) particulars specified in regulations of any matters which are, or may be, relevant to the determination of the rate of deduction for the purposes of section 18(4)(c);

(d) particulars specified in regulations for enabling the debtor to be identified by the debtor's employer.

(3) A direction under this subsection is a direction to the debtor's employer to provide within a period specified in regulations a statement signed by or on behalf of that person of particulars specified in the regulations of the debtor's earnings or expected earnings.

(4) Where an attachment of earnings order has been made, the responsible court or the collection officer (regardless of which of them made the order) may at any time while the order is in force give a direction under subsection (2) or (3).

(5) A document purporting to be a statement such as is mentioned in subsection (2) or (3) is, in proceedings for or arising out of an attachment of earnings order, to be received in evidence and deemed to be such a statement without further proof, unless the contrary is shown.

(6) A person commits an offence if the person fails, without reasonable excuse, to comply with a direction under subsection (2) or (3).

(7) A person commits an offence if, in providing information in response to a direction under subsection (2) or (3), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

Freezing bank accounts etc.

Interim bank account order

20.—(1) An interim bank account order is an order requiring the deposit-taker to whom it is directed not to do anything which—

(a) would reduce below such amount as is specified in the order the credit balance of the account so specified, or

(b) if the credit balance is already below the specified amount, would reduce it further.

(2) Where an interim bank account order is in force and the deposit-taker receives a request from the debtor for it to release the whole of the amount specified in the order to the responsible court, the deposit-taker must (unless there are exceptional circumstances) comply with the request.

(3) Where the court receives payment of the specified amount in accordance with subsection (2), or by some other means, the collection officer must discharge the interim bank account order and notify the court and the deposit-taker accordingly.

(4) Having received a notification under subsection (3), the court must—

(a) if the sum due has been paid, dismiss the referral under section 6(5), or

(b) if the sum due has (in spite of the payment of the specified amount) yet to be paid, decide at the hearing under section 9 what action to take in relation to the outstanding amount.

(5) A request of the kind mentioned in subsection (2) must be in the form specified in regulations.

(6) Regulations may make further provision in relation to interim bank account orders; and the regulations may in particular—

(a) make provision enabling a collection officer to require a deposit-taker to provide the officer with information of a specified description;

(b) make provision as to the contents of an interim bank account order;

(c) make provision as to the service of an interim bank account order and the arrangements for the hearing on the referral under section 6(5);

(d) make provision enabling a deposit-taker to impose administrative charges of a specified amount or description in relation to costs incurred by it in complying with an interim bank account order.

(7) A person commits an offence if the person fails, without reasonable excuse, to provide information required by virtue of subsection (6)(a).

(8) A person commits an offence if, in response to a requirement imposed by virtue of subsection (6)(a), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

(9) This section and sections 21 and 22 apply in the case of a person who was convicted of an offence, but not sentenced, before the commencement of this section (as well as in the case of a person convicted after that commencement).

Hardship payments

21.—(1) Where an interim bank account order is in force, the collection officer may, on a written application by the debtor, make a hardship payment order if the officer is satisfied that, as a result of the interim bank account order, the debtor or his or her family is suffering hardship in meeting ordinary living expenses.

(2) A hardship payment order is an order requiring the deposit-taker to make to the person specified in the order such payments as are specified in the order out of the amount specified in the interim bank account order.

(3) Regulations may make further provision in relation to hardship payment orders; and the regulations may in particular make provision as to—

(a) the matters to be included in an application for a hardship payment order;

(b) the procedure to be followed when making the application;

(c) the matters which the collection officer must take into account when determining an application for a hardship payment order;

(d) the procedure to be followed when determining the application;

(e) the contents of a hardship payment order;

(f) service of a hardship payment order.

Bank account order

22.—(1) A bank account order is an order requiring the deposit-taker to whom it is directed to pay the amount specified in the order for the purpose of securing payment of the outstanding amount.

(2) The amount to be specified in a bank account order is—

(a) in a case where an interim bank account order has been made, the amount specified in that order, or

(b) in a case where no interim bank account order has been made, such amount as the responsible court may determine.

(3) The making of a payment in accordance with a bank account order discharges the deposit-taker from liability to the debtor in respect of the amount of the payment.

(4) A bank account order may not require the making of a payment which would reduce the credit balance below such amount as is specified in regulations.

(5) If the outstanding amount has been paid, the collection officer or (in a case where there is not a collection order) the proper officer of the responsible court must—

(a) discharge the bank account order and any interim bank account order in force in relation to the debtor, and

(b) notify the responsible court and the deposit-taker accordingly.

(6) In subsection (5), "proper officer" has the same meaning as in section 8.

(7) Regulations may make further provision in relation to bank account orders; and the regulations may in particular—

(a) make provision enabling the responsible court to require a deposit-taker to provide the court with information of a specified description;

(b) make provision as to the contents of a bank account order;

(c) make provision as to the service of a bank account order;

(d) make provision enabling a deposit-taker to impose administrative charges of a specified amount or description in relation to costs incurred by it in complying with a bank account order.

(8) A person commits an offence if the person fails, without reasonable excuse, to provide information required by virtue of subsection (7)(a).

(9) A person commits an offence if, in response to a requirement imposed by virtue of subsection (7)(a), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

Seizure of vehicles

Vehicle seizure order

23.—(1) A vehicle seizure order is an order—

(a) that the vehicle specified in the order is to be sold, or otherwise disposed of, in accordance with regulations, and

(b) that any proceeds of the sale are to be applied in accordance with regulations for the purpose of securing payment of the outstanding amount.

(2) A vehicle seizure order entitles a police officer, or a person authorised by the Department of Justice for the purposes of this Chapter, to seize, remove, secure and store the vehicle specified in the order.

(3) On a referral under section 6(6), the collection officer must attend the hearing in order to give such evidence as the responsible court may require (even though the collection officer's report is, by virtue of section 7(3), admissible at the hearing).

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

(5) A vehicle seizure order may not be made in relation to—

(a) a vehicle which displays a current disabled person's badge or recognised badge,

(b) a vehicle which it is reasonable to believe is used for the carriage of a disabled person,

(c) a vehicle which is used for police, fire and rescue or ambulance purposes,

(d) a vehicle which is used by a medical practitioner on call from the practitioner's usual place of work and which displays a badge showing the practitioner's status as such and his or her address, or

(e) a vehicle of such other description as may be specified in regulations.

(6) In subsection (5)—

"disabled person's badge" means a badge issued, or having effect as if issued, under regulations made under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978,

"recognised badge" has the meaning given in section 14A of that Act, and

"medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act.

(7) Regulations may make further provision in relation to vehicle seizure orders; and the regulations may in particular—

(a) specify the matters which a collection officer must take into account before making a request on a referral under section 6(6);

(b) specify the matters to be included in a vehicle seizure order;

(c) provide that a vehicle specified in a vehicle seizure order may not be sold in reliance on the order before the end of a specified period following the making of the order;

(d) make provision in relation to the removal, securing and storage of a vehicle seized in reliance on a vehicle seizure order;

(e) make provision enabling the release of a vehicle stored in reliance on a vehicle seizure order;

(f) make provision to protect any interest which a person other than the debtor has in a vehicle subject to a vehicle seizure order.

(8) Provision by virtue of subsection (7)(e) may provide for specified conditions to be met before the vehicle concerned is released; and the conditions may, in particular, include a condition requiring the payment of charges of a specified amount or description.

(9) This section applies in the case of a person who was convicted of an offence, but not sentenced, before the commencement of this section (as well as in the case of a person convicted after that commencement).

Supplementary

Offences

24.—(1) A person guilty of an offence under this Chapter is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) For the purposes of this Chapter, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (corporate liability for offences)—

(a) applies with the omission of the words "the liability of whose members is limited", and

(b) where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with the functions of management as if that member were a director of the body corporate.

(3) If an offence under this Chapter is committed by a partnership or proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) In subsection (3), "partner" includes a person purporting to act as such.

Appeals

25.—(1) An appeal against a decision of a collection officer may—

(a) where the responsible court is a magistrates' court, be made to a court of summary jurisdiction;

(b) where the responsible court is the Crown Court, be made to that Court.

(2) On an appeal under subsection (1), the court may quash or confirm the decision to which the appeal relates.

(3) An appeal against a decision of a magistrates' court at a hearing under section 9 may be made to a county court.

(4) An appeal against a decision of the Crown Court at a hearing under section 9 may be made to the Court of Appeal, but only with the leave of the Court of Appeal.

(5) An appeal under subsection (1) must be brought before the end of 14 days beginning with the day on which the decision being appealed against was made.

(6) Where an appeal is brought under this section, the collection order is suspended until the appeal is determined or abandoned.

Guidance

26.—(1) The Department of Justice must issue guidance about the operation of this Chapter.

(2) The Department of Justice may from time to time revise guidance under subsection (1); and, where it does so, it must issue the revised guidance.

(3) A collection officer must, in exercising the officer's functions as such, have regard to guidance under this section.

Interpretation etc.

27.—(1) In this Chapter—

"attachment of earnings order" has the meaning given in section 18(1);

"bank account order" has the meaning given in section 22(1);

"collection officer" has the meaning given in section 2(1);

"collection order" has the meaning given in section 3(1);

"the debtor" has the meaning given in section 1(2);

"deposit-taker" has the meaning given in subsection (2) below;

"interim bank account order" has the meaning given in section 20(1);

"the outstanding amount" has the meaning given in section 1(2);

"registered" has the meaning given in subsection (4) below;

"relevant benefit" has the meaning given in section 14(3);

"the responsible court" has the meaning given in section 6(1);

"statutory provision" has the same meaning as in the Interpretation Act (Northern Ireland) 1954;

"the sum due" has the meaning given in section 1(2);

"vehicle" has the meaning given in subsection (3) below;

(2) "Deposit-taker" means a person who, in the course of a business, may lawfully accept deposits in the United Kingdom; and this definition is to be read with—

(a) section 22 of the Financial Services and Markets Act 2000,

(b) any relevant order under that section, and

(c) Schedule 2 to that Act.

(3) "Vehicle" means a mechanically propelled vehicle intended or adapted for use on roads, except that Article 6 of the Road Traffic (Northern Ireland) Order 1995 (exceptions for certain vehicles) applies as it applies for the purpose of the Road Traffic Orders (as defined by that Order).

(4) "Registered", in relation to a vehicle, means registered under the Vehicle Excise and Registration Act 1994.

(5) In its application to this Chapter, section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) has effect as if the word "registering" were omitted from subsection (1).

(6) The power to make an oral application under this Chapter is, in the case of a company, exercisable by an officer of the company authorised by the company for the purpose.

Minor and consequential amendments

28.—(1) Schedule 2, which contains minor amendments and amendments consequential on the provisions of this Chapter, has effect.

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

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

CHAPTER 2

Other enforcement procedures

Supervised activity orders

29.—(1) For Article 45 of the Criminal Justice (Northern Ireland) Order 2008 substitute—

"**45 Supervised activity order for default in payment of certain sums**

(1) This Article applies where an individual aged 18 or over is liable to pay one or more sums adjudged to be paid by or imposed on conviction of an offence the total of which does not exceed £1,000 and the individual either—

(a) is in default of payment of the amount outstanding; or

(b) at the time of sentencing for the offence or at any subsequent time without such default having yet occurred, applies to the court for a supervised activity order.

(2) If the court would, but for this Article, make an order or issue a warrant for the committal of the individual but considers a supervised activity order more appropriate (and does not consider any other non-custodial penalty appropriate), it may instead make a supervised activity order in respect of the individual.

(3) A supervised activity order is an order requiring a person to—

(a) attend for a period specified in the order at such place as may be determined by the supervising officer, and

(b) engage, during that period, in activities in accordance with instructions given by the supervising officer.

(4) The period specified under paragraph (3)(a) must not be less than 10 hours; and it must not be more than—

(a) 50 hours, if the amount specified in the order as outstanding does not exceed £200;

(b) 100 hours, if that amount exceeds £200 but does not exceed £500;

(c) 150 hours, in any other case.

(5) The Department of Justice may by order—

(a) amend paragraph (1) or (4)(a) or (b) by substituting for a sum of money specified there such other sum of money as is specified in the order;

(b) amend paragraph (4)(a), (b) or (c) by substituting for a number of hours specified there such other number of hours as is specified in the order.

(6) A supervised activity order in respect of a person comes into force as soon as it is made.

(7) Where the person has been engaged for part of the period specified in a supervised activity order, the amount specified in the order as outstanding is reduced by the proportion which the part of the period for which the offender has so far been engaged bears to the whole of the period specified.

(8) The person's liability for the sums adjudged to be paid by or imposed on the conviction and any supervised activity order made in respect of the outstanding amount of those sums are discharged only by—

(a) payment of the outstanding amount;

(b) the carrying out of the instructions given under the order for the number of hours specified in it; or

(c) service of a period of imprisonment imposed under paragraph 5 or 6 of Schedule 3.

(9) Schedule 3, which makes further provision in relation to supervised activity orders, has effect.

(10) The references in this Article to a sum adjudged to be paid by or imposed on a conviction include a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed; and the reference in paragraph (1) to the time of sentencing is accordingly to be read as a reference to the time when the liability arose.

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

(12) In this Article and Schedule 3, "supervising officer", in relation to a supervised activity order, means a probation officer with responsibility for supervising the carrying out of the requirements of the order.".

(2) In Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (supervised activity orders: further provisions), in paragraph 1(a), omit ", or will be residing when the order comes into force,".

(3) In each of paragraphs 2(3), 5(4)(b) and 6(1)(b) of that Schedule, for "45(3)" substitute "45(4)".

(4) In paragraph 3 of that Schedule (the cross-heading before which is omitted), in sub-paragraph (1), for "comes into force" substitute "is made".

(5) In paragraph 4(2) of that Schedule, for the words from "the offender has carried out" to the end substitute "it is discharged in accordance with Article 45(8)".

(6) In paragraph 5(1) of that Schedule, before "the lay magistrate may" insert "or that the offender, having chosen to pay the outstanding amount, is in default on the payment,".

(7) In paragraph 5(4) of that Schedule—

(a) before "the court may" insert "or that the offender is in default as mentioned in sub-paragraph (1),", and

(b) for paragraph (a) substitute—

"(a) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;".

(8) In paragraph 6(1) of that Schedule, for paragraph (d) substitute—

"(d) revoke the order and impose such period of imprisonment not exceeding 35 days as the court considers appropriate;".

(9) In Article 2 of that Order (general interpretation), at the end insert "; and in this Order, "statutory provision" has the same meaning as in that Act".

(10) In Article 100 of that Order (regulations, orders and rules)—

(a) in paragraph (2), for "or 22(4)" substitute ", 22(4) or 45(5)", and

(b) after paragraph (3) insert—

"(3A) An order under section 45(5) may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly""

(11) Section 58 of the Justice Act (Northern Ireland) 2011 (which provides for Article 45 of the 2008 Order to apply to certain financial penalties) is repealed.

(12) This section applies in relation to convictions occurring before the commencement of this section (as well as those occurring afterwards).

Restriction on detention of children for default in paying fines, etc.

30.—(1) Before Article 47 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (but after the preceding cross-heading) insert—

"**46C Restriction on detention for default of payment of fine, etc.**

(1) A child shall not be ordered to be detained in custody in default of the payment of any sum adjudged to be paid by or imposed on conviction of an offence unless, at the time when the sum becomes due or at any subsequent time at which it remains due, the child—

(a) is already being detained in custody, or

(b) has been ordered to be detained in custody but the period of detention has yet to begin.

(2) The child may be ordered to be detained in custody for a period concurrent with that other period of detention; and the service of a period of detention ordered in reliance on this Article discharges the child's liability for the sum concerned.

(3) A period of detention ordered in reliance on this Article must end on or before the date on which the child is to be discharged from the other period of detention; and where the applicable maximum period would otherwise extend beyond that date, it is to be reduced accordingly.

(4) In this Article—

(a) the reference to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed, and

(b) the reference to the applicable maximum period is a reference to the applicable maximum period under section 35 of the Criminal Justice

Act (Northern Ireland) 1945 or Schedule 3 to the Magistrates' Courts (Northern Ireland) Order 1981.".

(2) In Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (attendance centre orders), after paragraph (1) insert—

"(1A) An attendance centre order may (in spite of paragraph (1) and Article 46C) be made in default of the payment of a sum adjudged to be paid by or imposed on the conviction of an offence in a case where, at the time of the default, the child in question—

(a) is not detained in custody or imprisoned, and

(b) has not been ordered to be detained in custody or imprisoned with the period of detention or imprisonment yet to begin.

(1B) The reference in paragraph (1A) to a sum adjudged to be paid by or imposed on a conviction includes a reference to a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed.".

(3) In Article 47 of that Order (the title to which becomes "Limitation on punishment for contempt of court"), in paragraph (1), omit sub-paragraph (b) and the preceding "or".

(4) Article 48 of that Order (which provides for committal to custody in a young offenders centre where a child is in default) is repealed.

(5) In section 35 of the Criminal Justice Act (Northern Ireland) 1945 (powers of court in relation to fines etc.), after subsection (7) insert—

"(8) Subsection (1)(c) does not apply where the person concerned is a child except where detention would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998; and subsection (3) does not apply to a child.".

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

(7) In Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981 (consecutive terms of imprisonment), after paragraph (3) (which allows a term of imprisonment for default to run consecutively to another term) insert—

"(4) Paragraph (3) does not apply to a child (see Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998).".

(8) In Article 91 of that Order (payment of sums adjudged to be paid by a conviction), after paragraph (8) (which provides for immediate committal where the person concerned indicates a preference for that) insert—

"(9) Paragraph (8) does not apply in the case of a child except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.".

(9) In Article 92 of that Order (enforcement), after paragraph (5) insert—

"(6) This Article does not apply to a child, except where committal would be permitted in reliance on Article 46C of the Criminal Justice (Children) (Northern Ireland) Order 1998.".

(10) In Article 93 of that Order (restrictions on power to order immediate committal), the text of which becomes paragraph (1), at the end insert—

"(2) This Article does not apply where the person is a child.".

(11) Article 94 of that Order (supervision of person under 21 until payment of sum) is repealed.

(12) This section applies in relation to convictions occurring before the commencement of this section (as well as those occurring afterwards).

Distress in default

31.—(1) In section 3 of the Fines Act (Ireland) 1851 (warrants for the execution of orders to be issued at certain periods), at the end add "; and no warrant of distress may be issued in reliance on this section at the time of sentencing of the person concerned".

(2) In Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of payment of a sum adjudged to be paid by a conviction), after paragraph (1) insert—

"(1A) A warrant of distress shall not be issued under paragraph (1)(a) at the time of sentencing of the person concerned.".

Limitations on remission

32.—(1) In section 13 of the Prison Act (Northern Ireland) 1953 (prison rules), after subsection (7) insert—

"(7A) Prison rules may not provide for—

(a) the grant of remission to a person imprisoned or detained in default of a payment of a sum adjudged to be paid by or imposed on his conviction of an offence or a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed;

(b) the grant of remission to an offender in respect of a period of imprisonment under paragraph 5 or 6 of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (supervised activity order).".

(2) In paragraph 5 of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (failure to comply with supervised activity order), after sub-paragraph (4) insert—

"(5) Section 13(7A) of the Prison Act (Northern Ireland) 1953 prevents prison rules from providing for the grant of remission to an offender in respect of a period of imprisonment imposed under sub-paragraph (4).".

(3) In paragraph 6 of that Schedule, after sub-paragraph (1) insert—

"(1A) Section 13(7A) of the Prison Act (Northern Ireland) 1953 prevents prison rules from providing for the grant of remission to an offender in respect of a period of imprisonment imposed under sub-paragraph (1)""

(4) This section does not apply in relation to offences committed before the commencement of this section.

PART 2

The Prison Ombudsman For Northern Ireland

The Ombudsman

The Prison Ombudsman for Northern Ireland

33.—(1) There shall be an office known as the Prison Ombudsman for Northern Ireland.

(2) The person for the time being holding the office of Prison Ombudsman for Northern Ireland is by that name a corporation sole.

(3) Schedule 3 has effect in relation to the Prison Ombudsman for Northern Ireland (in this Part referred to as "the Ombudsman").

(4) The Ombudsman shall exercise the powers under this Part in such manner and to such extent as appears to the Ombudsman to be best calculated to secure—

(a) the efficiency, effectiveness and independence of the office of Ombudsman; and

(b) the confidence in the operation of that office of the public, prisoners and prison officers and other persons affected by the exercise of those powers.

Main functions of Ombudsman

34. The main functions of the Ombudsman are—

(a) dealing with complaints (see sections 35 and 36);

(b) investigating deaths in custody (see sections 37 and 38);

(c) carrying out other investigations at the request of the Department (see sections 39 and 40) or on the Ombudsman's own initiative (see sections 41 and 42).

Complaints

Complaints

35.—(1) Subject to subsection (6), the Ombudsman shall carry out an investigation into a complaint to which this section applies.

(2) This section applies to a complaint if—

(a) the complaint is about a matter which relates—

(i) to the way in which a prisoner has been treated by a prison officer;

(ii) to the way in which a person visiting a prison has been treated by a prison officer;

(iii) to the facilities available to a person at a prison (including, in the case of a prisoner, facilities for the welfare of the prisoner);

(iv) to the cleanliness and adequacy of a prison;

(b) the complaint is made to the Ombudsman by a person entitled to make it; and

(c) the relevant internal complaints procedures have been exhausted in relation to the complaint.

(3) A person is entitled to make a complaint about a matter if that person—

(a) is a prisoner or visitor to a prison who is directly affected by that matter; or

(b) where the person mentioned in paragraph (a) is dead or unable to act, appears to the Ombudsman to be an appropriate person to make the complaint.

(4) The relevant internal complaints procedures are exhausted in relation to a complaint where in the opinion of the Ombudsman any procedures for dealing with the complaint set out in prison rules have been exhausted.

(5) Regulations may—

(a) amend the list of matters set out in subsection (2)(a) or provide that subsection (2)(a) does not apply to a prescribed matter;

(b) amend subsection (3) so as to provide for a prescribed person or a person of a prescribed description also to be entitled to make a complaint;

(c) make any amendments to this Part which are consequential on or incidental to provision made under paragraph (a) or (b).

(6) Where a complaint to which this section applies is made to the Ombudsman, the Ombudsman may decide not to investigate the complaint if the Ombudsman considers that the complaint—

(a) is frivolous, vexatious or raises no substantial issue; or

(b) has not been made within a reasonable time from the exhaustion of the internal complaints procedures.

(7) The Ombudsman may defer an investigation under this section at any time if it appears to the Ombudsman that—

(a) a criminal investigation might be adversely affected by the Ombudsman's investigation;

(b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman's investigation;

(c) it is appropriate to do so because of any proceedings for judicial review; or

(d) it is appropriate to do so for any other reason.

(8) The Ombudsman may at any time re-open a deferred investigation.

(9) The Ombudsman shall decide the extent of an investigation under this section.

(10) If the Ombudsman decides—

(a) not to investigate a complaint, or to investigate it only to a limited extent,

(b) to defer the investigation of a complaint, or

(c) to re-open an investigation which has been deferred,

the Ombudsman shall notify the complainant (with a brief statement of the reasons for the decision) and may notify such other persons as the Ombudsman thinks fit.

(11) Notification under subsection (10) may be given orally.

(12) If the complainant has died or is unable to act, the reference in subsection (10) to the complainant is to be read as a reference to the person who appears to the Ombudsman to be the most appropriate person to receive the notification.

(13) Regulations may make provision for the procedures to be followed in connection with the making and investigation of a complaint to which this section applies.

(14) Subject to the provisions of any such regulations and to any other provision of this Part, it is for the Ombudsman to determine the procedures applicable to anything which is to be done in relation to a complaint or the investigation of the complaint.

(15) At any time in the course of an investigation under this section the Ombudsman shall—

(a) draw to the attention of the police any matter which in the Ombudsman's opinion is relevant to any criminal investigation;

(b) draw to the attention of any body or person any matter which in the Ombudsman's opinion calls for action to be taken by that body or person.

Report of investigation of complaint

36.—(1) Where the Ombudsman has carried out an investigation into a complaint to which section 35 applies, the Ombudsman shall report in writing on the outcome of the investigation to—

(a) the Department, and

(b) the complainant.

(2) The Ombudsman may also report in writing on that outcome to any other person the Ombudsman considers should receive the report.

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

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

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

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

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

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

(b) restricting or prohibiting the identification of prescribed persons or persons of a prescribed description in a report or the inclusion of information of a prescribed description;

(c) providing for cases where the complainant has died or is unable to act.

Deaths in custody

Investigations into deaths in custody

37.—(1) The Ombudsman shall carry out an investigation into the death of a person—

(a) at any prison while the person is being held there;

(b) while that person is in the custody of a prison officer at a place outside a prison; or

(c) which the Ombudsman is satisfied should be investigated because it is or may be linked to events which have occurred—

(i) at any prison while that person was being held there; or

(ii) while that person was in the custody of a prison officer at a place outside a prison.

(2) In carrying out the investigation, the Ombudsman must aim—

(a) to establish the circumstances surrounding the death;

(b) to address any concerns of the family of the deceased;

(c) to determine whether any changes in operational arrangements at a prison would prevent or reduce the risk of deaths occurring under the same or similar circumstances; and

(d) to discover any facts likely to assist a coroner's inquest into the death.

(3) Subject to subsection (2), it is for the Ombudsman to determine the scope of, and the procedure to be applied to, an investigation under this section.

(4) The Ombudsman may defer an investigation under this section at any time if it appears to the Ombudsman that—

(a) a criminal investigation might be adversely affected by the Ombudsman's investigation;

(b) the exercise of functions under the Health and Safety at Work (Northern Ireland) Order 1978 might be adversely affected by the Ombudsman's investigation;

(c) it is appropriate to do so because of any proceedings for judicial review; or

(d) it is appropriate to do so for any other reason.

(5) The Ombudsman may at any time re-open a deferred investigation.

(6) At any time in the course of an investigation under this section the Ombudsman shall—

(a) draw to the attention of the police any matter which in the Ombudsman's opinion is relevant to any criminal investigation into the death;

(b) draw to the attention of any body or person any matter which in the Ombudsman's opinion calls for action to be taken by that body or person.

Report on investigation into death

38.—(1) Where the Ombudsman has carried out an investigation into a death under section 37, the Ombudsman shall report in writing on the outcome of the investigation to—

(a) the Department;

(b) the coroner who is holding or who is to hold an inquest into the death;

(c) the health and social care trust responsible for providing healthcare to the deceased while held in prison; and

(d) at least one person who is a personal representative of the deceased or a relative of the deceased at the time of death.

(2) The Ombudsman may also report on that outcome to any other person the Ombudsman considers should receive the report.

(3) In a report to the Department or a health and social care trust the Ombudsman may make recommendations about any matter arising from the investigation.

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

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

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

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

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

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

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

Investigations requested by Department

Investigations requested by the Department

39.—(1) The Department—

(a) shall request the Ombudsman to investigate any custody-related matter if any of the events to which it relates is of such a nature or description, or occurs in such circumstances, as may be prescribed;

(b) may request the Ombudsman to investigate any other custody-related matter which is specified in the request.

(2) Before making any request under subsection (1) the Department shall consult the Ombudsman.

(3) A custody-related matter is a matter relating to events which have (or may have) occurred—

(a) at a prison or juvenile justice centre, or

(b) while a person is in the custody of a prison officer or a member of the staff of a juvenile justice centre,

and any matter the Department considers is (or may be) linked to such events.

(4) Before making any regulations under subsection (1)(a) the Department shall consult—

(a) the Ombudsman; and

(b) such other persons as the Department thinks appropriate.

(5) The Ombudsman must—

(a) decide whether to conduct an investigation in pursuance of a request under this section; and

(b) notify the Department of that decision.

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

(7) At any time in the course of an investigation under this section the Ombudsman may make recommendations to the Department about any matter arising from the investigation.

(8) At any time in the course of an investigation under this section the Ombudsman shall—

(a) draw to the attention of the police any matter which in the Ombudsman's opinion is relevant to any criminal investigation;

(b) draw to the attention of any body or person any matter which in the Ombudsman's opinion calls for action to be taken by that body or person.

Report on investigation under section 39

40.—(1) Where the Ombudsman has carried out an investigation under section 39 the Ombudsman must report in writing on the outcome of the investigation to—

(a) the Department; and

(b) such other persons (if any) as the Department may request.

(2) The report may make recommendations about any matter arising from the investigation.

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

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

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

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

Own-initiative investigations

Own-initiative investigations

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

(a) the matter relates—

(i) to the way in which a prisoner has been treated by a prison officer;

(ii) to the way in which a person visiting a prison has been treated by a prison officer;

(iii) to the facilities available to a person at a prison (including, in the case of a prisoner, facilities for the welfare of the prisoner);

(iv) to the cleanliness and adequacy of a prison; and

(b) the Ombudsman has reasonable grounds for believing that, in relation to the matter—

(i) a number of events of the same or a similar nature have occurred; and

(ii) the number or frequency of the events requires the matter to be investigated under this section.

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

(a) consult the Department; and

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

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

(4) This section applies to a matter whether or not a complaint has been, or could be, made about the matter under section 35.

Report on investigation under section 41

42.—(1) Where the Ombudsman has carried out an investigation under section 41, the Ombudsman must report in writing on the outcome of the investigation to—

(a) the Department; and

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

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

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

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

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

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

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

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

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

Powers of Ombudsman

Powers of Ombudsman

43.—(1) For the purposes of an investigation under this Part the Ombudsman may at any time enter—

(a) any prison;

(b) any other premises occupied by the Department for the purposes of its functions under the Prison Act (Northern Ireland) 1953.

(2) The Ombudsman may at any time enter any juvenile justice centre for the purposes of an investigation under section 39.

(3) The Ombudsman may, for the purposes of an investigation under this Part, require—

(a) that documents be produced in a form in which they can be taken away or be made available for inspection and copying,

(b) that an explanation be given of any document produced or made available, or

(c) that other information be provided.

(4) A person who intentionally obstructs the Ombudsman in the carrying out of an investigation under this Part commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) In this section—

(a) "document" includes anything in which information is stored in electronic or any other form; and,

(b) in relation to anything containing information in electronic form, references to production or making available are to production or making available in a form in which the information is readily intelligible.

Supplementary

Disclosure of information

44.—(1) For the purposes of this section information is protected information if it is obtained by the Ombudsman or an officer of the Ombudsman—

(a) in carrying out or otherwise in connection with an investigation under this Part; or

(b) from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000.

(2) Protected information shall not be disclosed except—

(a) for the purposes of—

(i) an investigation under this Part; or

(ii) any of the Ombudsman's functions in relation to such an investigation or to matters arising in connection with it;

(b) for the purposes of a criminal investigation or proceedings for a criminal offence;

(c) to a coroner (or a person acting on behalf of a coroner) for the purposes of an inquest;

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

(e) to the Northern Ireland Public Services Ombudsman for the purposes of the exercise of any functions of that office;

(f) to the Chief Inspector of Criminal Justice in Northern Ireland for the purposes of the exercise of any of the functions of that office;

(g) to Her Majesty's Chief Inspector of Prisons for the purposes of the exercise of any of the functions of that office;

(h) to the Regional Health and Social Care Board for the purposes of the exercise of any of the functions of that body;

(i) to the Health and Social Care Regulation and Quality Improvement Authority for the purposes of the exercise of any of the functions of that body;

(j) in the case of information to which subsection (3) applies, to the Information Commissioner;

(k) in the case of information to which subsection (4) applies, to any person to whom the Ombudsman thinks it should be disclosed in the public interest;

(l) to such other persons or for such other purposes as may be prescribed.

(3) This subsection applies to information if it appears to the Ombudsman to relate to—

(a) a matter in respect of which the Information Commissioner could exercise a power conferred by Part 5 of the Data Protection Act 1998 or section 48 or Part 4 of the Freedom of Information Act 2000; or

(b) the commission of an offence under—

(i) any provision of the Data Protection Act 1998 other than paragraph 12 of Schedule 9; or

(ii) section 77 of the Freedom of Information Act 2000.

(4) This subsection applies to information if in the opinion of the Ombudsman it reveals or otherwise relates to a serious threat to the health or safety of a person.

(5) A person to whom this subsection applies shall not be called upon in any proceedings to give evidence of protected information within subsection (1)(a).

(6) Subsection (5) does not apply in relation to proceedings mentioned in subsection (2)(b) or (c).

(7) For the purposes of the law of defamation the publication of any matter by the Ombudsman for purposes connected with the functions of the Ombudsman (including functions under this section) is absolutely privileged.

(8) It is an offence for a person to whom this subsection applies to disclose information in contravention of this section.

(9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Subsections (5) and (8) apply to—

(a) the Ombudsman;

(b) an officer of the Ombudsman;

(c) a person from whom advice is obtained under paragraph 9 of Schedule 3.

Guidance to Ombudsman in relation to matters connected with national security

45.—(1) The Secretary of State may issue guidance to the Ombudsman in relation to any matter connected with national security (including, in particular, any matter mentioned in section 1A(2)(c)(i) to (iii) of the Prison Act (Northern Ireland) 1953).

(2) In carrying out any functions, the Ombudsman and officers of the Ombudsman must have regard to any guidance issued under this section.

Interpretation

46.—(1) In this Part—

"the Department" means the Department of Justice;

"events" includes any conduct or omission;

"the Ombudsman" means the Prison Ombudsman for Northern Ireland;

"prescribed" means prescribed by regulations;

"prison" includes a young offenders centre;

"prisoner" means any person held at a prison;

"prison officer" means an individual appointed to a post under section 2(2) of the Prison Act (Northern Ireland) 1953;

"prison rules" means rules under section 13 of the Prison Act (Northern Ireland) 1953.

(2) In this Part references to a prison include a reference to all land and buildings used for the purposes of, or in connection with, that prison.

Transitional provision: the Prisoner Ombudsman for Northern Ireland

47.—(1) The person holding office as Prisoner Ombudsman immediately before the appointed day—

(a) becomes the Prison Ombudsman on that day as if appointed to that office under paragraph 1 of Schedule 3; and

(b) holds that office for the remainder of the term for which that person was then appointed as Prisoner Ombudsman.

(2) Paragraph 3(2) of Schedule 3 does not apply to that person; but a person shall not hold the offices of Prison Ombudsman and Prisoner Ombudsman for a period which in total exceeds 7 years.

(3) Subsection (4) applies where immediately before the appointed day the Prisoner Ombudsman is under the terms of reference of that office or other arrangements with the Department—

(a) investigating a complaint ("an existing complaint investigation");

(b) investigating a death ("an existing death investigation"); or

(c) investigating a matter of the kind mentioned in section 39(2) ("an existing custody-related investigation").

(4) For the purposes of this Part—

(a) an existing complaint investigation is to be treated as an investigation under section 35;

(b) an existing death investigation is to be treated as an investigation under section 37; and

(c) an existing custody-related investigation is to be treated as an investigation under section 39.

(5) For the purposes of any investigation which is to any extent dealt with under this Part by virtue of subsection (4), things done by or in relation to the Prisoner Ombudsman shall be treated as having been done by or in relation to the Ombudsman.

(6) Except as provided by subsection (4)(b), section 37 does not apply to a death which occurred before the coming into operation of that section.

(7) In applying section 41(1)(b) the Ombudsman may take into account events occurring in the period of 12 months immediately preceding the appointed day (as well as events occurring on or after that day).

(8) In this section "the appointed day" means the day appointed under section 61 for the coming into operation of this section.

PART 3

Miscellaneous

Animal welfare

Penalties for animal welfare offences

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

(2) After that subsection insert—

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

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding £20,000, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or both.".

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

(a) omit "4,", and

(b) for "and 8(1) and (2)" substitute ", 8(3), 33(9) and 40(7)".

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

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

(a) section 32(1) (deprivation);

(b) section 33(10) (disqualification);

(c) section 36(1) (destruction in interests of animal).

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

(a) section 36(6) (destruction in interests of animal);

(b) section 37(1) (destruction of animals involved in fighting offences);

(c) section 38(1) (reimbursement of expenses relating to animals involved in fighting offences).

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

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

Lay visitors

Lay visitors for all police stations

49. In section 73 of the Police (Northern Ireland) Act 2000 (arrangements for lay visitors to visit designated places of detention)—

(a) in subsections (1), (3)(a) and (4)(a) omit "designated";

(b) for subsections (9) and (10) substitute—

"(9) In this section "place of detention" means a police station at which persons are detained""

Pornographic or other sexual images

Possession of pornographic images of rape and assault by penetration

50.—(1) The Criminal Justice and Immigration Act 2008 is amended as follows.

(2) In section 63(6) (possession of extreme pornographic images) after "subsection (7)" insert "or (7A)".

(3) In section 66 (defence: participation in consensual acts)—

(a) in subsection (1)(b) for the words from "within" to the end substitute "within subsection (7)(a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section).";

(b) in subsection (2) after paragraph (c) insert "; and

(d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.".

(4) In section 67 (penalties for possession of extreme pornographic images) in subsection (5)(b) at the end add "or (7A)(a) or (b).".

Disclosing private sexual photographs and films with intent to cause distress

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

(a) without the consent of an individual who appears in the photograph or film, and

(b) with the intention of causing that individual distress.

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

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

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

(a) the disclosure was made in the course of, or with a view to, the publication of journalistic material, and

(b) he or she reasonably believed that, in the particular circumstances, the publication of the journalistic material was, or would be, in the public interest.

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

(a) he or she reasonably believed that the photograph or film had previously been disclosed for reward, whether by the individual mentioned in subsection (1)(a) and (b) or another person, and

(b) he or she had no reason to believe that the previous disclosure for reward was made without the consent of the individual mentioned in subsection (1)(a) and (b).

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

(a) sufficient evidence of the matters is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.

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

(a) "consent" to a disclosure includes general consent covering the disclosure, as well as consent to the particular disclosure, and

(b) "publication" of journalistic material means disclosure to the public at large or to a section of the public.

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

(9) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

(10) Schedule 4 makes special provision in connection with the operation of this section in relation to persons providing information society services.

Meaning of "disclose" and "photograph or film"

52.—(1) The following apply for the purposes of section 51, this section and section 53.

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

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

(a) whether or not it is given, shown or made available for reward, and

(b) whether or not it has previously been given, shown or made available to the person.

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

(a) appears to consist of or include one or more photographed or filmed images, and

(b) in fact consists of or includes one or more photographed or filmed images.

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

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

(a) was originally captured by photography or filming, or

(b) is part of an image originally captured by photography or filming.

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

(8) References to a photograph or film include—

(a) a negative version of an image described in subsection (4), and

(b) data stored by any means which is capable of conversion into an image described in subsection (4).

Meaning of "private" and "sexual"

53.—(1) The following apply for the purposes of section 51.

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

(3) A photograph or film is "sexual" if—

(a) it shows all or part of an individual's exposed genitals or pubic area,

(b) it shows something that a reasonable person would consider to be sexual because of its nature, or

(c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.

(4) Subsection (5) applies in the case of—

(a) a photograph or film that consists of or includes a photographed or filmed image that has been altered in any way,

(b) a photograph or film that combines two or more photographed or filmed images, and

(c) a photograph or film that combines a photographed or filmed image with something else.

(5) The photograph or film is not private and sexual if—

(a) it does not consist of or include a photographed or filmed image that is itself private and sexual,

(b) it is only private or sexual by virtue of the alteration or combination mentioned in subsection (4), or

(c) it is only by virtue of the alteration or combination mentioned in subsection (4) that the person mentioned in section 51(1)(a) and (b) is shown as part of, or with, whatever makes the photograph or film private and sexual.

Assaulting ambulance workers etc

Offence of assaulting ambulance workers etc

54.—(1) A person commits an offence if he or she assaults—

(a) an ambulance worker in the execution of that ambulance worker's duty;

(b) a person who is assisting an ambulance worker in the execution of that ambulance worker's duty.

(2) "Ambulance worker" means a person who provides ambulance services (including air ambulance services) under arrangements made by or at the request of—

(a) the Northern Ireland Ambulance Service Health and Social Care Trust,

(b) St. John Ambulance (NI),

(c) the British Red Cross Society, or

(d) the charity registered in the Republic of Ireland known as the Order of Malta Ireland.

(3) A person guilty of an offence under subsection (1) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.

Early removal of prisoners

Early removal from prison of prisoners liable to removal from United Kingdom

55.—(1) Where a prisoner to whom this section applies ("P")—

(a) is liable to removal from the United Kingdom, and

(b) has served at least one-half of the requisite custodial period,

the Department may, with P's agreement, remove P from prison under this section at any time during the period of 135 days ending with the day on which P will have served the requisite custodial period.

(2) This section applies to a prisoner who is serving a sentence of imprisonment for a determinate term of at least 6 months, other than a prisoner serving an extended custodial sentence under Article 14 of the 2008 Order.

(3) So long as P after being removed from prison under this section remains in Northern Ireland P remains liable to be detained in pursuance of P's sentence until P has served the requisite custodial period.

(4) The Department may by order amend the number of days for the time being specified in subsection (1).

(5) For the purposes of this section P is liable to removal from the United Kingdom if—

(a) P is liable to deportation under section 3(5) of the Immigration Act 1971 and has been notified of a decision to make a deportation order against him,

(b) P is liable to deportation under section 3(6) of that Act,

(c) P has been notified of a decision to refuse P leave to enter the United Kingdom,

(d) P is an illegal entrant within the meaning of section 33(1) of that Act, or

(e) P is liable to removal under section 10 of the Immigration and Asylum Act 1999.

(6) In this section and section 56—

"the 2008 Order" means the Criminal Justice (Northern Ireland) Order 2008;

"the requisite custodial period"—

(a) in a case where P is a prisoner to whom Article 17 of the 2008 Order applies, has the meaning given by paragraph (2) of that Article;

(b) in any other case, means one-half of P's sentence.

Re-entry into Northern Ireland of offender removed under section 55

56.—(1) This section applies to a person who, having been removed from prison under section 55, has been removed from the United Kingdom before serving the requisite custodial period.

(2) If a person to whom this section applies enters Northern Ireland at any time before the person's sentence expiry date, the person is liable to be detained in pursuance of the person's sentence from the time of the person's entry into Northern Ireland until whichever is the earlier of the following—

(a) the end of a period ("the further custodial period") beginning with that time and equal in length to the outstanding custodial period, and

(b) the person's sentence expiry date.

(3) A constable may arrest without warrant any person whom he reasonably suspects is liable to be detained by virtue of subsection (2) and take that person to the place in which that person is liable to be detained.

(4) A person returned to prison by virtue of subsection (2) may not be again removed from prison under section 55.

(5) Where—

(a) a person to whom Article 17(1) of the 2008 Order applies is returned to prison by virtue of subsection (2), and

(b) the further custodial period ends before the sentence expiry date,

Article 17(1) has effect in relation to the person as if the reference to the requisite custodial period were a reference to the further custodial period.

(6) In this section—

"further custodial period" has the meaning given by subsection (2)(a);

"outstanding custodial period", in relation to a person, means the period beginning with the date of the person's removal from the United Kingdom and ending with the date on which the person would, but for that removal, have served the requisite custodial period;

"sentence expiry date", in relation to a person to whom this section applies, means the date on which, but for that person's release from prison and removal

from the United Kingdom, that person would have served the whole of the sentence.

Direct committal for trial

Direct committal for trial: indictable offence triable summarily

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

(2) In subsection (1) for "either" substitute "one".

(3) In subsection (2) after paragraph (a) insert—

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

Firearms

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

58.—(1) The Firearms (Northern Ireland) Order 2004 has effect subject to the amendments contained in Schedule 5.

(2) The following provisions of the Justice Act (Northern Ireland) 2011 are repealed—

section 103 (variation of firearm certificate);

section 104 (restrictions on use of shotguns by young persons), and

section 105 (restrictions on possession of air guns by young persons).

Costs

Costs of Accountant General in administering funds in court

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

(2) At the end of that section insert—

"(5) Nothing in this section affects section 39 of the Administration of Justice Act 1982 (which includes provision relating to the costs of administering funds in court).".

PART 4

General

Regulations and orders

60.—(1) A power to make regulations under this Act is, subject to subsection (2), exercisable by the Department of Justice.

(2) The power to make regulations under section 15(1) is exercisable by the Department for Social Development.

(3) Regulations under section 2(3), 35(5) or 39(1)(a) may not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(4) Any other regulations under this Act are subject to negative resolution.

(5) An order to which this subsection applies may not be made unless a draft of the order has been laid before, and approved by resolution of, the Assembly; and this subsection applies to—

(a) an order under section 14(7);

(b) an order under section 28(2) containing provision which amends or repeals a provision of an Act of Parliament or Northern Ireland legislation;

(c) an order under section 55(4).

(6) Any other order under this Act made by the Department of Justice (other than an order under section 61) is subject to negative resolution.

(7) Regulations or orders under this Act made by the Department of Justice or the Department for Social Development may contain incidental, supplementary, transitional, transitory or saving provision.

Commencement and short title

61.—(1) Section 28(2) and (3), Part 3 (other than section 48) and this Part come into operation on the day after this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day or days as the Department of Justice may by order appoint.

(3) An order under this section may contain such transitional provision and such transitory modifications of this Act as appear to the Department of Justice to be necessary or expedient in connection with any provision brought into operation by the order.

(4) This Act may be cited as the Justice Act (Northern Ireland) 2016.

SCHEDULES

SCHEDULE 1

Section 18.

ATTACHMENT OF EARNINGS ORDERS

Service of order

1.—(1) An attachment of earnings order must be served on the debtor's employer.

(2) Where a person is served with an attachment of earnings order that is directed to that person but the person does not employ the debtor, or subsequently ceases to employ the debtor, the person must, within 7 days of the date of service or of the person ceasing to employ the debtor (as the case may be), notify the collection officer in writing.

(3) A person commits an offence if the person fails, without reasonable excuse, to provide a notification required under sub-paragraph (2) (including as that sub-paragraph is applied by paragraph 6(4) or 7(7)).

(4) A person commits an offence if, in providing information in response to a requirement under sub-paragraph (2) (including as that sub-paragraph is applied by paragraph 6(4) or 7(7)), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

Compliance with order

2.—(1) Where an attachment of earnings order is served on the debtor's employer, the employer must comply with the order.

(2) A person commits an offence if the person fails, without reasonable excuse, to comply with an attachment of earnings order served on that person.

(3) But the person is not liable, whether under sub-paragraph (2) or otherwise, for a failure to comply with the order before the end of seven days beginning with the date of service.

Power to determine whether payments are earnings

3.—(1) Where an attachment of earnings order is made, the debtor or employer may apply to the responsible court for a determination as to whether payments to the debtor of the description specified in the application are earnings for the purposes of the order (as to which, see section 18(6)).

(2) The employer must give effect to any determination for the time being in force under sub-paragraph (1).

(3) Where the employer makes an application under this paragraph, the employer does not incur liability for failure to comply with the order in relation to payments of the description specified in the application before the application is determined or withdrawn.

Administrative costs of employer

4. Regulations may provide that, on any occasion when the debtor's employer makes a deduction from the debtor's earnings in compliance with an attachment of earnings order, the employer—

(a) may also deduct such sum as is specified towards clerical and administrative costs, and

(b) where the employer does so, must give the debtor a statement in writing of the total amount of the deduction.

Change of circumstances

5.—(1) If a debtor in relation to whom an attachment of earnings order is in force leaves an employment, or becomes employed or re-employed, the debtor must notify the collection officer in writing within seven days of doing so.

(2) If the debtor becomes employed or re-employed, the notification under sub-paragraph (1) must specify the earnings or expected earnings from the employment in question.

(3) A person who becomes an employer of the debtor and knows that an attachment of earnings order is in force in relation to the debtor must, within seven days of becoming the debtor's employer or of acquiring the knowledge (whichever is later), notify the collection officer that the person is employing the debtor.

(4) A notification under sub-paragraph (3) must state the debtor's earnings and expected earnings from the employment.

(5) A person commits an offence if the person fails, without reasonable excuse, to provide a notification required under sub-paragraph (1) or (3).

(6) A person commits an offence if, in providing a notification required under sub-paragraph (1) or (3), the person—

(a) provides information which the person knows to be false in a material particular,

(b) recklessly provides information which is false in a material particular, or

(c) knowingly fails to disclose a material fact.

Variation of order

6.—(1) Where the collection officer makes an attachment of earnings order, the collection officer may, whether on an application by the debtor or on the officer's own motion, vary the order.

(2) Where a court has made an attachment of earnings order, the court may, whether on an application by the debtor or the collection officer or on its own motion, vary the order.

(3) An attachment of earnings order may be varied under this paragraph only if—

(a) there has been a change in the debtor's circumstances—

(i) which the collection officer or court (as the case may be) considers relevant, or

(ii) which is of a description such as may be specified in regulations, and

(b) the collection officer or court considers the variation appropriate.

(4) Where an attachment of earnings order is varied under this paragraph, the order as varied must be served on the employer; and paragraph 1(2) applies to the order as varied.

(5) Where an attachment of earnings order as varied under this paragraph is served on the debtor's employer, the employer must comply with the order as varied.

(6) A person commits an offence if the person fails, without reasonable excuse, to comply with an attachment of earnings order as varied under this paragraph that is served on that person.

(7) But a person does not incur liability, whether under sub-paragraph (6) or otherwise, for a failure to comply with the order before the end of seven days beginning with the date of service.

Discharge of order

7.—(1) Where the collection officer makes an attachment of earnings order, the collection officer may, whether on an application by the debtor or on the officer's own motion, discharge the order.

(2) Where a court makes an attachment of earnings order, the court may, whether on an application by the debtor or the collection officer or on its own motion, discharge the order.

(3) An attachment of earnings order is discharged if the outstanding amount is paid.

(4) An attachment of earnings order may be discharged under sub-paragraph (1) or (2) only if—

(a) the order fails (see sub-paragraph (5)), or

(b) the discharge is in accordance with sub-paragraph (6).

(5) An attachment of earnings order is to be regarded as failing in such circumstances as are specified in regulations.

(6) A discharge on the collection officer's or the court's own motion may be made only in such circumstances as are specified in regulations.

(7) Where an attachment of earnings order is discharged under this paragraph, notice of the discharge must be served on the employer; and paragraph 1(2) applies to the notice as it applies to an order.

(8) A person on whom a notice is served under sub-paragraph (7) commits an offence if, in spite of the discharge of the order, the person acts as the person would have been required to act if the order had still been in force.

(9) Where notice of the discharge of an attachment of earnings order is served on the employer, that person does not incur liability, whether under sub-paragraph (8) or otherwise, if, at any time before the end of seven days beginning with the date of service of the notice, the person treats the order as still in force.

Prioritisation of orders

8.—(1) Part 2 of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981 is amended as follows.

(2) In paragraph 9—

(a) in the definition of "attachment of earnings order"—

(i) for "100(4)" substitute "100(1)", and

(ii) at the end insert "and such an order under section 18 of the Justice Act (Northern Ireland) 2016",

(b) after that definition insert—

"collection order" means an order under section 3 of the Justice Act (Northern Ireland) 2016;", and

(c) in the definition of "maintenance order", for "that paragraph" substitute "Article 100(1) of the Magistrates' Courts (Northern Ireland) Order 1981".

(3) In paragraph 10—

(a) omit "by a court" in the first and third places it appears, and

(b) after "maintenance orders" insert "or collection orders".

(4) In paragraph 11—

(a) omit "by a court" in the first, third and fourth places it appears,

(b) after "maintenance orders" insert "or collection orders",

(c) in sub-paragraphs (a) and (b), after "a maintenance order" insert "or a collection order".

Crown employment

9.—(1) Where a debtor is employed by the Crown and an attachment of earnings order is made in relation to the debtor—

(a) the chief officer for the time being of the government department, office or other body in which the debtor is employed is to be treated as employing the debtor (any transfer of the debtor from one department, office or body to another being treated as a change of employment), and

(b) any earnings paid by the Crown, a Minister of the Crown or a government department, or out of the public revenue of the United Kingdom or Northern Ireland, are to be treated as paid by that chief officer.

(2) The reference in sub-paragraph (1)(a) to the department, office or other body in which the debtor is employed is, in the case of a debtor whose earnings are paid by the body as principal and who is accordingly treated by virtue of section 18(5) as being employed by the body, to be read as a reference to the body by which earnings are paid to the debtor in that capacity.

(3) If a question arises in proceedings for or arising out of an attachment of earnings order as to which department, office or other body is concerned for the purposes of this paragraph, or as to who for those purposes is the chief officer of the body concerned, the question is to be referred to and determined by the Department of Finance and Personnel or (as the case may require) the Minister for that Department.

(4) A reference under sub-paragraph (3) is to be made by the collection officer or court making, or proposing to make, the attachment of earnings order.

(5) A document purporting to set out a determination of the Department of Finance and Personnel under sub-paragraph (3) and to be signed by an officer of that Department, or a determination of the Minister of that Department under that sub-paragraph and to be signed on behalf of that Minister, is in any proceedings for or arising out of an attachment of earnings order to be admissible in evidence and deemed to contain an accurate statement of the determination unless the contrary is shown.

(6) In this paragraph, "government department" includes a department of the government of the United Kingdom.

Regulations

10. Regulations may make further provision relating to attachments of earnings orders.

SCHEDULE 2 Section 28.

COLLECTION ORDERS: MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Justice Act (Northern Ireland) 1945

1.—(1) In section 35 (powers of courts in relation to fines and forfeited recognizances), in subsection (1), in paragraph (e) at the end insert “, unless there is a collection order in relation to the amount concerned”.

(2) After section 35(4A) insert—

“(4B) In a case where there is a collection order, the power to make the application referred to in subsection (4A) is instead exercisable by the collection officer responsible for securing compliance with the order.”.

(3) In section 35(5) for “the last foregoing sub-section” substitute “subsection (4)”.

(4) After section 35(7) insert—

“(8) In this section, “collection order” means an order under section3 of the Justice Act (Northern Ireland) 2016.”.

Mines Act (Northern Ireland) 1969

2. In Schedule 3 (inquiries into fitness of holders of certificates of competency), after paragraph 9 insert—

“**9A.** The tribunal, having received an application under paragraph 9, must refer it to a district judge (magistrates’ courts) for the judge to consider whether to make a collection order under section 3 of the Justice Act (Northern Ireland) 2016; and the order may be made without a court hearing.”.

Magistrates’ Courts (Northern Ireland) Order 1981

3.—(1) In Article 2(3) (interpretation) at the appropriate place insert—

““collection order” means (except in Article 96(1B)) an order under section 3 of the Justice Act (Northern Ireland) 2016;”.

(2) In Article 91 (payment of sums adjudged to be paid by a conviction), in paragraph (4) at the end insert “, unless there is a collection order in relation to the sum”.

(3) In Article 92 (enforcing payment of a sum adjudged to be paid by a conviction), in paragraph (4) at the end insert “; but this does not apply where there is a collection order in relation to the sum”.

(4) In Article 92A (fines imposed on companies), after paragraph (1) insert—

“(1A) In a case where there is a collection order, the power to make the application referred to in paragraph (1) is instead exercisable by the collection officer responsible for securing compliance with the order.”

(5) In Article 96 (transfer of fines elsewhere in the United Kingdom), after paragraph (1) insert—

“(1A) The clerk of a court of summary jurisdiction acting for the district in question must refer the transfer of fine order to a district judge (magistrates’ courts) for the judge to consider whether to make a collection order; and the order may be made without a court hearing.

(1B) The duty under paragraph (1A) applies whether or not a collection order under Schedule 5 to the Courts Act 2003 or an enforcement order under section 226B of the Criminal Procedure (Scotland) Act 1995 has been made in relation to the sum to which the transfer of fine order relates.”

Police and Criminal Evidence (Northern Ireland) Order 1989

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

(iii) a warrant of commitment issued under section 9(1)(i) of the Justice Act (Northern Ireland) 2016 (default by debtor);”.

Road Traffic Offenders (Northern Ireland) Order 1996

5.—(1) In Article 2(2) (interpretation) at the appropriate place insert—

““collection order” means an order under section 3 of the Justice Act (Northern Ireland) 2016;”.

(2) In Article 76 (registration of sums payable in default), in paragraph (2)(a), for “21 days” substitute “28 days”.

(3) After Article 76(3) insert—

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

(3B) Where a collection order is made in that case, the date specified in the order as the date by which the sum due must be paid must, unless the

court directs otherwise, be the same as the date specified in the notice of registration under paragraph (2)(a).".

(4) In Article 79 (provisions supplementary to Articles 77 and 78 (which deal with cases where the registration of certain notices is invalidated)), in paragraph (5), after "enforcing payment of that sum" insert "(including the making of a collection order)".

(5) In Part 2 of Schedule 2 (statutory statement of facts), in paragraph 3(3)(c), after "the person on whom the notice to owner is served" insert "and a collection order may be made in that person's case without any court hearing".

Criminal Justice and Immigration Act 2008

6.—(1) In section 88 (international co-operation in relation to criminal justice matters: procedure in Northern Ireland on receipt of certificate by clerk of petty sessions), in subsection (3)—

(a) after "must decide" insert "—

(a)",

and

(b) at the end insert ", and

(b) if it is satisfied that none of the grounds for refusal apply, whether to make a collection order under section 3 of the Justice Act (Northern Ireland) 2016."

(2) In section 88(6) for the words from the beginning to "that Part," substitute "The enactments specified in subsection (6ZA)".

(3) After section 88(6) insert—

"(6ZA) The enactments specified in this subsection are—

(a) Part 9 of the Magistrates' Courts (Northern Ireland) Order 1981 and any instrument made under that Part;

(b) Chapter 1 of Part 1 of the Justice Act (Northern Ireland) 2016 and any instrument made under that Chapter."

Justice Act (Northern Ireland) 2011

7.—(1) In section 67 (registration of fixed penalty), in subsection (2)(a), for "21 days" substitute "28 days".

(2) After section 67(3) insert—

"(3A) Thefixed penalty clerk must refer the case to a district judge (magistrates' courts) for the judge to consider whether to make a collection order; and the order may be made without a court hearing.

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

(3) In section 68 (challenge to notice), in subsection (9), after “enforcing payment of that sum” insert “(including the making of a collection order)”.

(4) In section 69 (setting aside of sum enforceable under section 67), in subsection (5), after “enforcing payment of that sum” insert “(including the making of a collection order)”.

(5) In section 70 (interpretation) at the appropriate place insert—

““collection order” means an order under section 3 of the Justice Act (Northern Ireland) 2016;”.

Justice Act (Northern Ireland) 2015

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

(2) After section 24(3) insert—

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

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

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

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

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

““collection order” means an order under section 3 of the Justice Act (Northern Ireland) 2016;”.

SCHEDULE 3

Section 33.

THE PRISON OMBUDSMAN

Appointment, status and term of office

1. The Department shall appoint a person to be the Ombudsman.

2. The Ombudsman is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

3.—(1) A person appointed as Ombudsman holds office for such term, not exceeding 7 years, as may be specified in the terms of appointment.

(2) At the end of that term the person concerned is not eligible for re-appointment.

4.—(1) A person holding office as Ombudsman may resign that office by notice in writing to the Department.

(2) A person holding office as Ombudsman may be removed from office by the Department if the Department is satisfied that the person—

(a) is incapable for medical or other reasons of performing the functions of the office;

(b) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months;

(c) is the subject of a bankruptcy restrictions order or a debt relief restrictions order;

(d) has been convicted of a criminal offence; or

(e) is otherwise unable, unfit or unwilling to perform the functions of the office.

Remuneration and allowances

5. The Department shall pay the Ombudsman such remuneration and such travelling and other allowances as the Department may determine.

6. The Department shall pay to or in respect of a person who holds or has held office as Ombudsman such pension, allowances or gratuities as the Department may determine.

Appointment of acting Ombudsman

7.—(1) Where the office of Ombudsman becomes vacant, the Department may appoint a person as acting Ombudsman.

(2) Any person holding office as acting Ombudsman ceases to hold that office—

(a) on the appointment of a new Ombudsman; or

(b) at the end of the period of one year beginning with the day on which the vacancy arose,

whichever first occurs.

(3) Otherwise, a person appointed as acting Ombudsman holds office in accordance with the terms of appointment.

(4) A person holding office as acting Ombudsman is to be treated for all purposes (apart from those of paragraphs 1 to 6) as the Ombudsman.

The Ombudsman's officers

8.—(1) The Ombudsman may, with the approval of the Department as to numbers and conditions of employment, appoint such officers as the Ombudsman may determine.

(2) Any function of the Ombudsman may be performed on behalf of the Ombudsman by any officer of the Ombudsman authorised for the purpose by the Ombudsman.

Advisers

9. The Ombudsman may obtain advice from any person who, in the opinion of the Ombudsman, is qualified to give it, to assist the Ombudsman in the discharge of any function of the Ombudsman.

Documents

10. A document purporting to be duly signed by, or on behalf of, the Ombudsman shall be received in evidence and, unless the contrary is proved, be taken to be so signed.

Finance

11.—(1) The Department may make payments to the Ombudsman out of moneys appropriated by Act of the Assembly.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

(3) The Ombudsman may not borrow money.

Annual report

12.—(1) As soon as practicable after the end of each financial year, the Ombudsman shall send to the Department a report on the carrying out of the functions of the Ombudsman during that year.

(2) The Department shall lay a copy of the report before the Assembly and arrange for it to be published.

Data protection

13. In section 31(4) of the Data Protection Act 1998 (regulatory activities) in paragraph (a) after sub-paragraph (v) insert—

"(va) the Prison Ombudsman for Northern Ireland;"

Freedom of information

14.—(1) In section 76(1) of the Freedom of Information Act 2000 (disclosure of information) in the Table after the entry relating to the Assembly Ombudsman for Northern Ireland insert—

"The Prison Ombudsman for Northern Ireland	Part 2 of the Justice Act (Northern Ireland) 2016".

(2) In Part 7 of Schedule 1 to that Act (bodies, etc. which are public authorities for the purposes of the Act) for the entry relating to the Prisoner Ombudsman for Northern Ireland substitute—

"The Prison Ombudsman for Northern Ireland"

Public Services Ombudsman

15. In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities) after the entry relating to the Northern Ireland Police Fund insert—

"The Prison Ombudsman for Northern Ireland".

Interpretation

16. In this Schedule "financial year" means—

(a) the period beginning with the day on which section 47(1) comes into operation and ending on 31st March 2017; and

(b) any subsequent period of 12 months ending on 31st March.

SCHEDULE 4

Section 51.

PRIVATE SEXUAL PHOTOGRAPHS ETC: PROVIDERS OF INFORMATION SOCIETY SERVICES

Exceptions for mere conduits

1.—(1) A service provider is not capable of committing an offence under section 51 in respect of anything done in the course of providing so much of an information society service as consists in—

(a) the provision of access to a communication network, or

(b) the transmission in a communication network of information provided by a recipient of the service,

if the condition in sub-paragraph (2) is satisfied.

(2) The condition is that the service provider does not—

(a) initiate the transmission,

(b) select the recipient of the transmission, or

(c) select or modify the information contained in the transmission.

(3) For the purposes of sub-paragraph (1)—

(a) the provision of access to a communication network, and

(b) the transmission of information in a communication network,

includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

2.—(1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

(2) The service provider is not capable of committing an offence under section 51 in respect of the automatic, intermediate and temporary storage of information so provided, if—

(a) the storage of information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and

(b) the condition in sub-paragraph (3) is satisfied.

(3) The condition is that the service provider—

(a) does not modify the information,

(b) complies with any conditions attached to having access to the information, and

(c) where sub-paragraph (4) applies, expeditiously removes the information or disables access to it.

(4) This sub-paragraph applies if the service provider obtains actual knowledge that—

(a) the information at the initial source of the transmission has been removed from the network,

(b) access to it has been disabled, or

(c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

Exception for hosting

3.—(1) A service provider is not capable of committing an offence under section 51 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.

(2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided—

(a) that it consisted of or included a private sexual photograph or film,

(b) that it was provided without the consent of an individual who appears in the photograph or film, or

(c) that the photograph or film was provided with the intention of causing distress to that individual.

(3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access it to it.

(4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

4.—(1) This paragraph applies for the purposes of this Schedule.

(2) "Photograph or film" has the meaning given in section 51.

(3) "Information society service"—

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European

Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

(b) is summarised in recital 17 of the E-Commerce Directive covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service",

and "the E-Commerce Directive" means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

(4) "Recipient", in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.

(5) "Service provider" means a person providing an information society service.

SCHEDULE 5

Section 58.

AMENDMENTS OF THE FIREARMS (NORTHERN IRELAND) ORDER 2004

Part 1

Firearms - Persons under 18

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

1.—(1) In Article 2(2) (interpretation), after the definition of "shotgun certificate" insert—

""shotgun club" means a club established for the purpose of promoting and practising skill in the use of shotguns;".

(2) In the heading to Part 6, add at the end "AND SHOTGUN CLUBS".

(3) After the heading to Part 6 add—

"Firearms clubs".

(4) After Article 50 insert—

"Shotgun clubs

50A Authorisation of shotgun clubs to allow use of shotguns by minors for limited purposes

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

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

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

(a) attach conditions to an authorisation;

(b) vary or revoke conditions attached under this Article.

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

(5) Any person who—

(a) operates a shotgun club which allows a person under the age of 16 to use a shotgun except in accordance with an authorisation, or

(b) contravenes any condition of an authorisation,

shall be guilty of an offence.

(6) In this Article—

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

"authorisation" means an authorisation granted under this Article;

"prescribed" means prescribed by regulations made by the Department of Justice.

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

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

(5) Before the heading to Article 51 insert—

"Power of entry".

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

(a) in sub-paragraph (a), after "club" insert "or a shotgun club";

(b) after "Article 49" insert "or 50A".

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

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

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

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

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

Other amendments relating to persons under 18

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

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

(a) in paragraph 9 (air guns and ammunition), in sub-paragraph (3)(b), (person under 18 may not purchase an air gun without a certificate unless the person has attained the age of 17), the words "unless he has attained the age of 17" are repealed;

(b) in paragraph 11 (shotguns), in sub-paragraph (3), at the end add "unless the person has attained the age of 16 and is under the supervision of a

person who has attained the age of 21 and has held a firearm certificate for a shotgun for at least three years".

Part 2

Firearm certificates and other certificates

Variation of firearm certificate

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

"(3) If a person—

(a) sells a firearm ("the first firearm") to the holder of a firearms dealer's certificate ("the dealer"); and

(b) as part of the same transaction purchases from the dealer another firearm ("the second firearm"); and

(c) paragraph (4) applies,

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

(4) This paragraph applies—

(a) if both the first firearm and the second firearm are shotguns; or

(b) if—

(i) the second firearm is of the same type and calibre as the first firearm; and

(ii) neither firearm is a prohibited weapon or a shotgun; or

(c) if—

(i) the first firearm is a rifle of a description mentioned in the first column of Schedule 1A; and

(ii) the second firearm is a rifle of a calibre specified in relation to the same Band of Schedule 1A as the calibre of the first firearm; and

(iii) neither firearm is a prohibited weapon, a muzzle-loading firearm as defined in Article 45(9) or a shotgun; and

(iv) the second firearm will not be of the same calibre as any other firearm to which the firearm certificate relates; and

(v) the firearm certificate is not held subject to a condition that the first firearm may be used only for the purposes of target shooting.

(5) If a person—

(a) sells or transfers a firearm to the holder of a firearms dealer's certificate ("the dealer"); and

(b) does not as part of the same transaction purchase or acquire from the dealer another firearm,

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

(6) Where the holder of a firearms dealer's certificate ("the dealer") varies a firearm certificate under this Article, the dealer shall—

(a) notify the Chief Constable of the variation within 72 hours of the variation being made; and

(b) where the dealer receives the fee for varying the certificate, pay it to the Chief Constable.

(7) A person who fails to comply with paragraph (6)(a) shall be guilty of an offence.

(8) Schedule 1A (relevant firearms for Article 11(4)(c)) shall have effect.

(9) The Department of Justice may make regulations amending Schedule 1A if a draft of the regulations has been laid before, and approved by resolution of, the Assembly.".

(2) After Schedule 1 insert—

"SCHEDULE 1A Article 11(8

Relevant firearms for Article 11(4)(c)

BAND	CALIBRE
1. Small quarry air rifles	.177
	.20
	.22
	.25
2. Small quarry	.17 Mach 2
	.17 HMR (Hornady Magnum Rimfire)
	.22 LR (Long Rifle)
	.22 WMR (Winchester Magnum Rimfire)
3. Medium quarry	.17 Hornet
	.17 Remington
	.17 Remington Fireball
	.22 Hornet/5.6x36Rmm

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

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

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

Variation of firearms dealer’s certificate

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

Updated certificates

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

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

(b) after paragraph (5) add—

“(6) In paragraph (5)—

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

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

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

(a) in paragraph (7)—

(i) after "duplicate certificate" insert "or an updated certificate";

(ii) the words "(if any)" are repealed;

(b) after paragraph (7) add—

"(8) In paragraph (7)—

"duplicate certificate" means a copy of the firearms dealer's certificate as granted;

"updated certificate" means the firearms dealer's certificate revised up to such date as may be specified on the certificate.".

Certificates granted in Great Britain

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

(a) in paragraph (1), the words from "if" to the end;

(b) paragraphs (2) and (3);

(c) in paragraph (4)—

(i) in the definition of "applicable conditions" the words from ", subject" to the end;

(ii) the definitions of "certificate of approval" and "modifications".

(2) In Article 18 (air guns held without a firearm certificate in Great Britain)—

(a) in paragraph (1)—

(i) after "an air gun" insert "to which paragraph (3) applies";

(ii) in sub-paragraph (c) after "issued to him by the Chief Constable" add "on payment of the appropriate fee";

(b) after paragraph (2) add—

"(3) This paragraph applies to an air gun which is capable of discharging a missile so that the missile has, on being discharged, a kinetic energy in excess of one joule.".

Part 3

Supplementary

Fees

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

"SCHEDULE 6 Article 75.

Fees

Firearm certificate	
1. Grant of firearm certificate	£98
2. Variation by Chief Constable	£30
3. Variation by firearms dealer under Article 11(3) to substitute firearm	£15
4. Variation by firearms dealer under Article 11(5) to delete firearm	No fee
5. Duplicate certificate	£14
6. Updated certificate	£14
Museum firearms licence	
7. Grant of museum firearms licence by Department of Justice	£110
8. Extension to additional premises	£75
Visitor's firearm permit	
9. Grant of visitor's firearm permit (except where paragraph 10 applies)	£16
10. Grant of six or more permits (taken together) on a group application	£80
Certificate of approval for air gun for resident in Great Britain	
11. Certificate of approval for air gun for resident in Great Britain	£11
Firearms dealer's certificate	
12. Grant of firearms dealer's certificate	£300
13. Duplicate certificate	£14
14. Updated certificate	£14

Firearms clubs and shotgun clubs

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

Consequential amendment

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