

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

# Justice Act (Northern Ireland) 2015

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## EXPLANATORY NOTES

### OVERVIEW

#### *Miscellaneous*

34. Part 9 provides for improvements to a range of miscellaneous powers available to courts along with several other business improvement matters. For *Jury Service*, provisions provide for the abolition of the upper age limit for jury service (currently age 70), to be replaced with an automatic right of excusal for those over 70; an increase of the current age for automatic excusal from 65 to 70; and various tidy-up provisions.
35. For *Unpaid community service after release*, a power allows the Department to make regulations that may require a person released under the terms of the Conditional Early Release Scheme (under Article 19 of the Criminal Justice (NI) Order 2008) to engage in unpaid community service during the period of their early release.
36. For *Personal samples, DNA profiles and fingerprints*, a number of changes are made to the new DNA and fingerprints retention framework as set out in Schedule 2 of the Criminal Justice Act (Northern Ireland) 2013 to close a number of gaps in the provisions and ensure that the new regime operates as originally intended.
37. For *Early guilty pleas*, a statutory provision is introduced to encourage the use of earlier guilty pleas in Northern Ireland. The provisions will provide legislative support to a (non-legislative) scheme being developed to provide a structured early guilty plea scheme in the magistrates' courts and the Crown Court. The provisions will: (i) require a sentencing court to state the sentence that would have been imposed if a guilty plea had been entered at the earliest reasonable opportunity and; (ii) place a duty on a defence solicitor to advise a client about the benefits of an early guilty plea.
38. For *Sexual offences against children*, an amendment is made to the existing child grooming offence in the Sexual Offences (Northern Ireland) Order 2008 to reduce the number of times an adult has to have met, or communicated with, a child before meeting them, or travelling to meet them, from two to one. A new offence of 'sexual communication with a child' is also created, which will criminalise an adult who intentionally communicates with a child, where the

content of the communication is sexual, or is intended to cause or incite a child to communicate sexually.

39. For *Avoiding delay in criminal proceedings*, the Act introduces a statutory framework for the management of cases. Through regulation, the Department of Justice will be able to impose duties on the prosecution, defence, and the court, which set out what must be completed prior to the commencement of court stages. There is also to be a general duty on the court, prosecution and the defence to reach a just outcome as swiftly as possible in relation to criminal proceedings.
40. Under *Public Prosecutor's summons*, provisions will allow a Public Prosecution Service prosecutor to issue a summons to a defendant without first having to get a Lay Magistrate to sign the summons, thereby streamlining procedures and helping to speed up the process in summons cases by reducing the time taken between the decision to prosecute and first appearance in court.
41. Under *Defence access to premises*, a power is introduced to fill a gap which currently exists, so that, in cases where access to premises is not agreed, the defendant will have recourse to the court in order to properly prepare his defence (or appeal).
42. For *Court security officers*, a lacuna is closed to enhance the security of court venues and court users by specifying that a Court Security Officer's powers to search, exclude, remove or restrain an individual is extended to include the grounds on which the court buildings sit.
43. For *Causing or allowing a child or vulnerable adult to suffer serious physical harm*, changes to Section 5 of the Domestic Violence, Crime and Victims Act 2004 are offered to extend the offence of causing or allowing the death of a child or vulnerable adult to include "suffering serious physical harm" to close a current gap in the legislation in cases where prosecutions for child cruelty or serious injury fail because there is insufficient evidence as to which member of the household was responsible.
44. Under *Domestic Violence Protection Notices and Orders*, provisions are included that provide for the police and the courts to have the power to issue protection notices and orders aimed at ensuring the immediate protection of victims or potential victims of domestic violence.
45. Changes to *Youth Justice* arrangements are provided in the form of amendments to the Aims of the Youth Justice System in Northern Ireland, articulated in Section 53 of the Justice (NI) Act 2002, to reflect the best interests principle as set out in Article 3 of the UN Convention on the Rights of the Child (UNCRC); and a technical adjustment to delete transitional arrangements relating to detention orders in sub-section 10.5 of the Criminal Justice Act (NI) 2013 that are no longer needed and which it was feared may not be ECHR-compliant.
46. A minor change is effected to the arrangements for determining the salary of the member of the *Lands Tribunal* and, finally, in this Part of the Act,

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an amendment is made to the *Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015* so that in addition to charities already registered under the Charities Act (Northern Ireland) 2008, charities waiting to be called forward to register under that Act and charities registered in either England and Wales or Scotland are eligible to be considered by the Health and Social Care Board to provide an independent guardian service in Northern Ireland.