

**Status:** Point in time view as at 05/07/2011.

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## SCHEDULES

VALID FROM 01/04/2012	
SCHEDULE 1	Section 20.
POLICING AND COMMUNITY SAFETY PARTNERSHIPS	
.....	

VALID FROM 01/04/2012	
SCHEDULE 2	Section 20.
DISTRICT POLICING AND COMMUNITY SAFETY PARTNERSHIPS	
.....	

VALID FROM 01/08/2011	
SCHEDULE 3	Section 35.
REGULATED MATCHES	
.....	

VALID FROM 06/06/2012	
SCHEDULE 4	Section 59.
PENALTY OFFENCES AND PENALTIES	
<b>Offence</b>	<b>Penalty</b>

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An offence under section 9 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28) (indecent behaviour)	£40
An offence under section 1 of the Theft Act (Northern Ireland) 1969 (c. 16) (theft)	£80
An offence under Article 3(1) of the Criminal Damage (Northern Ireland) Order 1977 (NI 4) (criminal damage)	£80
An offence under Article 10(1) of the Criminal Justice (Northern Ireland) Order 1980 (NI 6) (drunk in a public place)	£40
An offence under Article 18(1) (a) of the Public Order (Northern Ireland) Order 1987 (NI 7) (disorderly behaviour)	£80
An offence under Article 18(1)(b) of the Public Order (Northern Ireland) Order 1987 (NI 7) (behaviour likely to cause a breach of the peace)	£80
An offence under section 66(1) of the Police (Northern Ireland) Act 1998 (c. 32) where it is alleged that the accused resisted, obstructed or impeded a constable	£80

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PROSPECTIVE

## SCHEDULE 5

Section 87.

## ENHANCED LEGAL AID FEES FOR CERTAIN SOLICITORS

*Power to provide for enhanced fee*

- 1.—(1) Regulations under Article 22 or 36 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8) or an order under Schedule 2 to that Order may provide for the payment of an enhanced fee to a solicitor who—
- (a) exercises a right of audience in a court or tribunal to which this Schedule applies;
  - (b) has been accredited by the Law Society under paragraph 2 in relation to that court or tribunal; and
  - (c) complied with the duties in paragraph 3.
- (2) This Schedule applies to—
- (a) the Crown Court;
  - (b) a county court;
  - (c) a magistrates' court; and
  - (d) a tribunal to which sub-paragraph (3) applies.
- (3) This sub-paragraph applies to a tribunal if—
- (a) it is a tribunal mentioned in Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8); or
  - (b) assistance by way of representation may be approved under Article 5 of that Order in respect of proceedings before the tribunal.

*Accreditation of solicitors*

- 2.—(1) The Law Society shall make regulations with respect to the education, training and experience to be undergone by solicitors seeking accreditation for the purposes of this paragraph in relation to a court or tribunal to which this Schedule applies.
- (2) A person who is qualified to act as a solicitor may apply to the Law Society for accreditation under this paragraph in relation to a court or tribunal to which this Schedule applies.
- (3) An application under sub-paragraph (2)—

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- (a) shall be made in such manner as may be prescribed;
- (b) shall be accompanied by such information as the Law Society may reasonably require for the purpose of determining the application; and
- (c) shall be accompanied by such fee (if any) as may be prescribed.

(4) At any time after receiving the application and before determining it the Law Society may require the applicant to provide it with further information.

(5) The Law Society shall grant accreditation under this paragraph in relation to a court or tribunal if it appears to the Law Society, from the information furnished by the applicant and any other information it may have, that the applicant has complied with the requirements applicable to the applicant in relation to that court or tribunal by virtue of regulations under sub-paragraph (1).

(6) Accreditation granted to a person under this paragraph ceases to have effect if, and for so long as, that person is not qualified to act as a solicitor.

(7) The Law Society may by regulations provide that any person who has completed such education, training or experience as may be prescribed, before such date as may be prescribed shall be taken to be accredited under this paragraph in relation to a prescribed court or tribunal.

(8) Every entry in the register kept under Article 10 of the Solicitors (Northern Ireland) Order 1976 (NI 12) shall include details of any accreditation granted under this paragraph to the solicitor to whom the entry relates.

#### *Duties of solicitor*

3.—(1) Sub-paragraph (2) applies where—

- (a) either—
  - (i) a criminal aid certificate or civil aid certificate is granted under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 to a person in any proceedings in a court or tribunal to which this Schedule applies; or
  - (ii) assistance by way of representation is approved in respect of a person under Article 5 of that Order in relation to proceedings in such a court or tribunal;
- (b) that certificate or approval entitles that person (“the client”) to be represented by counsel or by a solicitor accredited under paragraph 2 in relation to that court or tribunal; and
- (c) either—
  - (i) the client's solicitor is minded to arrange for another solicitor who is accredited in relation to that court or tribunal to provide that representation; or

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(ii) the client's solicitor is accredited in relation to that court or tribunal and is minded to provide that representation.

(2) The client's solicitor must advise the client in writing—

- (a) of the advantages and disadvantages of representation by an accredited solicitor and by counsel, respectively; and
- (b) that the decision as to whether an accredited solicitor or counsel is to represent the client is entirely that of the client.

(3) The Law Society shall make regulations with respect to the giving of advice under sub-paragraph (2).

(4) A solicitor shall—

- (a) in advising a client under sub-paragraph (2), act in the best interest of the client; and
- (b) give effect to any decision of the client referred to in sub-paragraph (2) (b).

(5) Where—

- (a) a solicitor has complied with sub-paragraph (2) in relation to the representation of a client in any proceedings in a court or tribunal, and
- (b) that client is to be represented in those proceedings by an accredited solicitor,

the solicitor shall inform the court or tribunal of the fact mentioned in paragraph (a) in such manner and before such time as the relevant rules may require.

(6) For the purposes of this paragraph compliance with sub-paragraph (2) or (5) in relation to any proceedings in a court or tribunal in any cause or matter is to be taken to be compliance with that sub-paragraph in relation to any other proceedings in that court in the same cause or matter.

(7) If a solicitor contravenes this paragraph, any person may make a complaint in respect of the contravention to the Solicitors Disciplinary Tribunal.

### *Regulations*

4.—(1) Regulations under this Schedule require the concurrence of—

- (a) the Lord Chief Justice; and
- (b) the Department, given after consultation with the Attorney General.

(2) The Department shall not grant its concurrence to any regulations under paragraph 2(1) or 2(7) unless regulations have been made under paragraph 3(3) and are in operation.

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### *Consequential amendments*

**5** The Department may by order make such amendments to—

- (a) the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8); or
- (b) Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 (NI 10),

as appear to the Department to be necessary or expedient in consequence of, or for giving full effect to, the provisions of this Schedule.

### *Interpretation*

**6** In this Schedule—

“accredited solicitor”, in relation to any court or tribunal, means a solicitor who is accredited under paragraph 2 in relation to that court or tribunal;

“the client” has the meaning given in paragraph 3(1)(b);

“the Law Society” means the Incorporated Law Society of Northern Ireland;

“prescribed” means prescribed by regulations made by the Law Society;

“relevant rules” means—

- (a) in relation to the Crown Court, Crown Court rules,
- (b) in relation to a county court, county court rules or family proceedings rules,
- (c) in relation to a magistrates' court, magistrates' courts rules,
- (d) in relation to a tribunal, the rules regulating the practice and procedure of the tribunal.

## SCHEDULE 6

Section 109.

### TRANSITIONAL AND SAVING PROVISIONS

#### *Offender levy*

**1** A provision in Chapter 1 of Part 1 does not apply in relation to an offence committed before the commencement of that provision.

#### *Vulnerable and intimidated witnesses*

**2.—(1)** The amendments made by sections 7 to 11 apply to proceedings instituted before the commencement of the amendment in question.

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(2) But the amendments made by sections 7 to 11 do not affect the continued operation of a special measures direction given before the commencement of the amendment in question.

(3) Sub-paragraph (2) does not prevent an amendment made by sections 7 to 11 from applying after its commencement to—

- (a) the variation under Article 8 of the Criminal Evidence (Northern Ireland) Order 1999 (NI 8) of a special measures direction that was given in relation to a witness before the commencement of the amendment, and
- (b) the giving of a new special measures direction in relation to a witness (including the giving of a new direction in a case where a special measures direction given in relation to the witness in question has been discharged under Article 8 of that Order after the commencement of the amendment).

(4) In this paragraph “special measures direction” means a direction under Article 7 of the Criminal Evidence (Northern Ireland) Order 1999.

#### *Banning orders*

**3** A banning order may not be made under section 41 where the offence mentioned in subsection (1) of that section was committed before the commencement of that section.

#### *Increase in penalties*

**4.**—(1) Section 51(2) does not apply in relation to an offence committed before the commencement of that subsection.

(2) Section 52 does not apply in relation to an offence committed before the commencement of that section.

#### *Conditions of sex offender licence*

**5** Section 54 applies in relation to offenders released on licence under Article 26 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) before the commencement of that section, but does not apply in relation to a failure to comply with a condition of a licence which occurs before that commencement.

#### **Commencement Information**

**I10** Sch. 6 para. 5 wholly in operation at 5.5.2011; Sch. 6 para. 5 in operation at 5.5.2011 see s. 111(1)(e); Sch. 6 para. 5 in operation at 5.7.2011 by S.R. 2011/224, art. 2(i)

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### *Serious and specified offences*

**6** Section 57 does not apply in relation to an offence committed before the commencement of that section.

### *Alternatives to prosecution*

**7** A provision in Chapter 1 or 2 of Part 6 does not apply in relation to an offence committed before the commencement of that provision.

### *Witness summonses*

**8** Section 100 applies in relation to any criminal proceedings before a magistrates' court for the purposes of which no summons requiring the attendance of a witness has been issued before the commencement of that section.

### *Accounts of the Law Commission*

**9** Section 102 applies in relation to accounts for the financial year in which that section comes into operation and subsequent financial years.

## SCHEDULE 7

Section 110.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Vagrancy Act 1824 (c. 83)*

**1** In section 4(i) of the Vagrancy Act 1824 for “arrestable offence” substitute “indictable offence”.

#### *The Judicature (Northern Ireland) Act 1978 (c. 23)*

- 2** In section 82(1) (rules as to funds in court)—
- (a) in paragraphs (c) and (d) for “81(b)(ii)” substitute “ 81(1)(b)(ii) ”; and
  - (b) in paragraph (k) for “81(a)(iv)” substitute “ 81(1)(a)(iv) ”.

#### *The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)*

**3.**—(1) In Article 29(1)(l) (right to claim trial by jury for certain offences) after “139A(1)” insert “ or (2) ”.

- (2) In Article 29(1) after sub-paragraph (n) insert—
- “(o) section 93 of the Justice (Northern Ireland) Act 2010.”



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VALID FROM 01/04/2012

*The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)*

**4** In Schedule 2 at the appropriate place in alphabetical order insert— “ A policing and community safety partnership or a district policing and community safety partnership. ”.

*The Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10)*

**5** In Article 28(1)(a) (interim disqualification) for “Article 11 of the Treatment of Offenders (Northern Ireland) Order 1989” substitute “ Article 3 of the Criminal Justice (Northern Ireland) Order 1996 ”.

VALID FROM 01/04/2012

*The Employment Rights (Northern Ireland) Order 1996 (NI 16)*

**6** In Article 78(2) for sub-paragraph (f) substitute—  
“(f) a policing and community safety partnership or a district policing and community partnership.”.

VALID FROM 01/01/2012

*The Criminal Evidence (Northern Ireland) Order 1999 (NI 8)*

**7** In Article 15(5) (consequences of admitting video recording) in sub-paragraph (a)(i) for “otherwise than by testimony in court” substitute “ in any recording admissible under Article 16 ”.

VALID FROM 01/04/2012

*The Police (Northern Ireland) Act 2000 (c. 32)*

**8.—(1)** In section 22(3) for “district policing partnership” substitute “ policing and community safety partnership ”.

**(2)** In section 22(3A) for “sub-group established for the district under section 21” substitute “ district policing and community safety partnership ”.

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(3) In section 25(3)(a) for “district policing partnerships” substitute “policing committees of policing and community safety partnerships”.

(4) In section 25(3) for paragraph (b) substitute—

“(b) consider—

(i) any reports received by the Board under Part 3 of the Justice Act (Northern Ireland) 2011; and

(ii) any views of the public obtained under arrangements made under that Part.”.

(5) In section 57(2)(i) for “district policing partnerships” substitute “policing and community safety partnerships and district policing and community safety partnerships”.

(6) In section 57(2) for paragraph (j) substitute—

“(j) the effectiveness of policing and community safety partnerships and district policing and community safety partnerships in performing their functions and in particular the effectiveness of arrangements made under Part 3 of the Justice Act (Northern Ireland) 2011 in obtaining—

(i) the views of the public about matters concerning policing; and

(ii) the co-operation of the public with the police in preventing crime.”.

(7) In Schedule 1, in paragraphs 3(7)(b) and 10(1)(b) for sub-paragraphs (iii) and (iv) substitute—

“(iii) a member of a policing and community safety partnership or a district policing and community safety partnership.”.

VALID FROM 01/04/2012

*The Freedom of Information Act 2000 (c. 36)*

**9** In Part 7 of Schedule 1 at the appropriate place in alphabetical order insert — “ A policing and community safety partnership or a district policing and community safety partnership established under Part 3 of the Justice (Northern Ireland) Act 2011. ”.

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VALID FROM 01/04/2012

*The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 (NI 3)*

- 10.**—(1) In Article 9(1)—
- (a) omit sub-paragraph (a);
  - (b) in sub-paragraph (b) for “such a partnership” substitute “ a policing and community safety partnership or district policing and community safety partnership established by it ”.
- (2) In paragraph (4) omit the definitions of “community safety partnership” and “relevant community safety partnership”.

*The Proceeds of Crime Act 2002 (c. 29)*

**11** In section 195N(1) (as inserted by section 57(2) of the Policing and Crime Act 2009) for “195N” substitute “ 195M ”.

*The Sexual Offences Act 2003 (c. 42)*

- 12.**—(1) In section 116(2)(b) (qualifying offenders for foreign travel orders) after “31” insert “ or 92S ”.
- (2) In section 124 (interpretation) omit subsection (8).

VALID FROM 01/01/2012

*The Anti-social Behaviour (Northern Ireland) Order 2004 (NI 12)*

- 13** In Article 6C(3) (special measures for witnesses: modifications of Part 2 of the Criminal Evidence (Northern Ireland) Order 1999)—
- (a) in sub-paragraph (b) for “Article 9(1)(b) and (5) to (7)” substitute “ Article 9(4C)(e) ”, and
  - (b) for sub-paragraph (c) substitute—
    - “(c) Article 10A.”.

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VALID FROM 01/01/2012

*The Criminal Justice (Northern Ireland) Order 2008 (NI 1)*

**14** In Schedule 3 (supervised activity orders) in paragraph 1(a) after “order” (in the second place where it occurs) insert “ and the notice has not been withdrawn ”.

*The Sexual Offences (Northern Ireland) Order 2008 (NI 2)*

**15.—(1)** In Article 74(1)(a) (sexual penetration of a corpse) for “his penis” substitute “ a part of his body or anything else ”.

(2) In Article 76 (offences outside the UK)—

- (a) in paragraph (2) for “national” in each place where it occurs substitute “ resident ”;
- (b) in paragraph (3)(a) after “national” insert “ or a United Kingdom resident ”.

SCHEDULE 8

Section 110.

REPEALS

VALID FROM 01/01/2012

**PART 1**

VULNERABLE AND INTIMIDATED WITNESSES

<b>Short Title</b>	<b>Extent of repeal</b>
The Criminal Evidence (Northern Ireland) Order 1999 (NI 8)	Article 9(1)(b). In Article 9(4) the “and” at the end of sub-paragraph (b). Article 9(5) to (7). Article 10(1)(b). In Article 15(7)(a) the words from “if there” to “relevant time,”. Article 15(8).

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In Article 15(9) the words from “and if” to the end.

VALID FROM 01/04/2012

## PART 2

### POLICING AND COMMUNITY SAFETY PARTNERSHIPS

Short Title	Extent of repeal
The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)	In Schedule 2, the entries relating to a district policing partnership and a sub-group established under section 21 of the Police (Northern Ireland) Act 2000.
The Employment Rights (Northern Ireland) Order 1996 (NI 16)	Article 78(7A).
The Police (Northern Ireland) Act 2000 (c. 32)	Section 3(3)(d)(ii) and (iii). Sections 14(1) to (4). Sections 15 to 19. Section 21. Section 23. Schedule 3. In Schedule 6, paragraphs 14 and 25(3).
The Freedom of Information Act 2000 (c. 36)	In Part 7 of Schedule 1, the entries relating to a district policing partnership and a sub-group established under section 21 of the Police (Northern Ireland) Act 2000.
The Justice (Northern Ireland) Act 2002 (c. 26)	In section 71(2) the words “and section 72”. Section 72.
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 (NI 3)	Article 9(1)(a). In Article 9(4) the definitions of “community safety partnership” and “relevant community safety partnership”.

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The Police (Northern Ireland) Act 2003 (c. 6)	Sections 14 to 19. In section 44(3) the words “15(6), 16(2), 19(2) or”. Section 44(4). In section 44(5) the words “15(6), 16(2), 19(2),”. Schedule 1.
The District Policing Partnerships (Northern Ireland) Order 2005 (NI 4)	The whole Order.
The Northern Ireland (St. Andrews Agreement) Act 2006 (c. 53)	Section 20. Section 27(6). Schedules 8 and 9.

PROSPECTIVE

### PART 3

#### LEGAL AID, ETC.

Short Title	Extent of repeal
The Legal Aid (Northern Ireland) Order 2005 (NI 19)	In Schedule 1, paragraph 5.
The Access to Justice (Northern Ireland) Order 2003 (NI 10)	In Article 7(1) the words “and Article 41”. In Article 12(2) the words “but this paragraph is subject to Article 41”. Article 41. In Schedule 2, in paragraph 2(i), the words “, the Asylum and Immigration Tribunal or”.

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PROSPECTIVE

## PART 4

### SOLICITORS' RIGHTS OF AUDIENCE

Short Title	Extent of repeal
The County Courts (Northern Ireland) Order 1980 (NI 3).	In Article 50(1)(c), the words “, but not a solicitor retained as an advocate by a solicitor so acting”.

## PART 5

### MISCELLANEOUS

#### Commencement Information

- II1** [Sch. 8 Pt. 5](#) wholly in operation at 5.7.2011; [Sch. 8 Pt. 5](#) in operation at 5.5.2011 for specified purposes see [s. 111\(1\)\(i\)](#); [Sch. 8 Pt. 5](#) in operation at 5.7.2011 for further specified purposes see [s. 111\(2\)\(d\)](#); [Sch. 8 Pt. 5](#) in operation for specified purposes at 5.7.2011 by [S.R. 2011/224](#), [art. 2\(k\)](#)

Short Title	Extent of repeal
The Vagrancy Act 1824 (c. 83)	In section 4(i) the words “being armed with any dangerous or offensive weapon, or”.
The Offences against the Person Act 1861 (c. 100)	Section 43.
The Judicature (Northern Ireland) Act 1978 (c. 23)	In section 54(1) the word “and” at the end of paragraph (e).
The Criminal Justice Act 1988 (c. 33)	Section 139A(7)(b).
The Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 9— (a) paragraph 6(3)(b) and the word “and” immediately preceding it; (b) paragraph 6(4) and (4A).
The Sexual Offences Act 2003 (c. 42)	Section 124(8).

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The Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 (NI 14) Article 2(2)(c).

The Criminal Justice (Northern Ireland) Order 2008 (NI 1) Article 90(4).

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