

SCHEDULES

SCHEDULE 14

Article 12

Criminal Justice

Coroners Act (Northern Ireland) 1959

1.—(1) Amend section 14 of the Coroners Act (Northern Ireland) 1959⁽¹⁾ (inquest on order of Attorney General) as follows.

(2) Make the existing text subsection (1).

(3) After subsection (1) insert—

“(2) Subsection (3) applies in relation to the death of a person if the Secretary of State certifies that there is information relevant to the question of whether a direction should be given under this section in relation to the death which is or includes information the disclosure of which may be against the interests of national security.

(3) The functions of the Attorney General under this section are to be exercised by the Advocate General for Northern Ireland instead.”

(4) Sub-paragraphs (5) to (7) below apply if—

(a) before the coming into force of this Order, the Attorney General for Northern Ireland began to consider whether to give a direction under section 14 in relation to the death of a person, but

(b) immediately before the coming into force of this Order, the Attorney had neither given a direction nor decided not to give a direction.

(5) The Advocate General for Northern Ireland must take a view as to whether there is information relevant to the question of whether a direction should be given which is or includes information the disclosure of which may be against the interests of national security.

(6) If the Advocate General takes the view that there is such information, the Advocate General must deal with the case as if section 14(3) (as inserted by sub-paragraph (3) above) applied.

(7) Otherwise, the Advocate General must refer the case to the Attorney General for Northern Ireland to be dealt with by the Attorney accordingly.

Costs in Criminal Cases Act (Northern Ireland) 1968

2. Amend the Costs in Criminal Cases Act (Northern Ireland) 1968⁽²⁾ as follows.

3.—(1) Amend section 1⁽³⁾ (expenses of prosecution) as follows.

(2) For subsection (1) substitute—

(1) 1959 c. 15 (N.I.). Functions under the Act were transferred to the Secretary of State by S.I. 1973/2163. There are other amendments to the Act, but none are relevant.

(2) 1968 c. 10 (N.I.). Functions under the Act were transferred by S.I. 1973/2163.

(3) Section 1 was amended by S.I. 1973/2163 and S.I. 2003/1247 (N.I. 13).

Status: This is the original version (as it was originally made).

“(1) Where any criminal proceedings are instituted by or on behalf of, or taken over by, the Director of Public Prosecutions, the costs of the prosecution of such proceedings (including any costs incurred in connection with any matter preliminary or incidental to, and with any appeal from, those proceedings) shall, in accordance with arrangements approved by the Department of Finance and Personnel, be defrayed in the first instance by the Director.”

(3) In subsection (3) for “Ministry of Finance” substitute “Department of Finance and Personnel”.

4.—(1) Amend section 2 (costs of prosecution in cases of conviction) as follows.

(2) For subsection (1)(a) substitute—

“(a) in the case of proceedings to which section 1(1) applies, to the Director of Public Prosecutions; and”.

5.—(1) Amend section 3 (costs of defence in cases of acquittal, dismissal or discharge) as follows.

(2) For subsection (1)(i) substitute—

“(i) in the case of proceedings to which section 1(1) applies, order the Director of Public Prosecutions; and”.

(3) In subsection (5) for “Ministry” substitute “Director of Public Prosecutions”.

6.—(1) Amend section 4(4) (costs awarded by Court of Appeal) as follows.

(2) In subsection (1)(a)—

(a) for “to the Secretary of State” substitute “to the Director of Public Prosecutions or any other person the Court thinks appropriate”;

(b) for “by the Secretary of State” substitute “by the Director of Public Prosecutions”.

(3) In subsection (2) for “Ministry” substitute “Director of Public Prosecutions or any other person the Court thinks appropriate”.

(4) In subsection (2A) for “Secretary of State” substitute “Director of Public Prosecutions or any other person the Court thinks appropriate”.

(5) In subsection (4) for the words from “subject,” to the end substitute “subject to section 25 of the Crown Proceedings Act 1947 where that section is applicable”.

7. In section 5A(5) (fees of required interpreter) for “Ministry” substitute “Department of Justice”.

8. In section 6(b)(6) (effect of costs of legal aid) for “Ministry” substitute “Director of Public Prosecutions”.

9. In section 8 (saving) for “Ministry” substitute “Director of Public Prosecutions”.

10. Omit section 9(7) (financial provisions).

11.—(1) Amend section 10(8) (interpretation) as follows.

(2) In subsection (1), in the definition of “private prosecutor”, for “the Attorney General” substitute “the Director of Public Prosecutions, the Attorney General or the Advocate General”.

(4) Section 4(1) was substituted by [S.I. 1982/159](#); and amended by the Criminal Appeal (Northern Ireland) Act 1980 (c. 47), Schedule 4, paragraph 6; [S.I. 1988/1846 \(N.I. 16\)](#); and [S.I. 2004/1500 \(N.I. 9\)](#).

(5) Section 5A was inserted by section 18 of the Administration of Justice Act 1973 (c. 15).

(6) Section 6(b) was amended by [S.I. 1973/2163](#) and [S.I. 1982/159](#).

(7) Section 9 was amended by [S.I. 1973/2163](#).

(8) Section 10 was amended by [S.I. 2003/1247 \(N.I. 13\)](#) and the Statute Law Revision (Northern Ireland) Act 1980 (c. 50), Schedule, Part 4.

(3) Omit subsection (1A).

(4) In subsection (2) for the words from “the Ministry” to “as the case may be,” substitute “any person”.

Administration of Justice Act 1973

12.—(1) Amend the Administration of Justice Act 1973⁽⁹⁾ as follows.

(2) In section 18(2) (payment of interpreters in criminal cases: Northern Ireland) for “Secretary of State” substitute “Department of Justice”.

Criminal Appeal (Northern Ireland) Act 1980

13. Amend the Criminal Appeal (Northern Ireland) Act 1980⁽¹⁰⁾ as follows.

14. In section 15(3) (reference of point of law) for “out of money provided by Parliament” substitute “by the Department of Justice”.

15.—(1) Amend section 21 (court transcripts) as follows.

(2) In subsection (1)(b) for “Treasury” substitute “Department of Finance and Personnel”.

(3) In subsections (2) and (3) for “Secretary of State” substitute “Department of Justice”.

(4) In subsection (2) for “he” and “him” substitute “it”.

(5) In subsection (3)—

(a) for “Treasury” substitute “Department of Finance and Personnel”;

(b) for “out of money provided by Parliament” substitute “by the Department of Justice”; and

(c) for “out of money so provided” substitute “by the Department of Justice”.

16.—(1) Amend section 28 (costs) as follows.

(2) In subsection (2) for “Secretary of State” substitute “Director of Public Prosecutions”.

(3) In subsection (3) for “Secretary of State” substitute “Department of Justice”.

17. In section 34(3) (further reference on point of law) for “out of money provided by Parliament” substitute “by the Department of Justice”.

Probation Board (Northern Ireland) Order 1982

18. Amend the Probation Board (Northern Ireland) Order 1982⁽¹¹⁾ as follows.

19. In Article 2(2) (interpretation), in the definition of “prescribed”, for “Secretary of State” substitute “Department of Justice”.

20. In Article 4(1)(c) and (2) (functions of the Probation Board) for “Secretary of State” substitute “Department of Justice”.

21. In Article 6 (directions to Probation Board), and the heading to that Article, for “Secretary of State” substitute “Department of Justice”.

⁽⁹⁾ 1973 c. 15. Section 18(2) was amended by S.I. 1980/704 (NI 6) and 2005 c. 4.

⁽¹⁰⁾ 1980 c. 47. Functions under the Act were transferred to the Lord Chancellor, and relevant amendments were made to the Act, by S.I. 1982/159. Other relevant amendments were made by the Criminal Justice and Public Order Act 1994 (c. 33), section 53; the Criminal Justice Act 2003 (c. 44) Schedule 36, Part VI, paragraphs 91 and 93; and the Constitutional Reform Act 2005 (c. 4) Schedule 9, paragraph 33.

⁽¹¹⁾ S.I. 1982/713 (N.I. 10). Article 15 was substituted by S.I. 1991/1711 (N.I. 16) and amended by the Justice (Northern Ireland) Act 2002 (c. 26).

Status: This is the original version (as it was originally made).

22.—(1) Amend Article 7 (financial control of the Probation Board) as follows.

(2) In paragraph (1)—

- (a) for “Secretary of State” substitute “Department of Justice”;
- (b) for “he” substitute “the Department of Justice”;
- (c) for “Treasury” substitute “Department of Finance and Personnel”.

(3) In paragraph (2) for “Secretary of State” substitute “Department of Justice”.

23. In Articles 8(1) and (3), 10(2), 11(1)(a), (2), (3) and (4) and 12 for “Secretary of State” substitute “Department of Justice”.

24.—(1) Amend Article 15 (rules and regulations) as follows.

(2) In paragraph (1) for “Secretary of State” substitute “Department of Justice”.

(3) For paragraph (2) substitute—

“(2) Rules and regulations made by the Department of Justice under this Order are subject to negative resolution.”

25.—(1) Amend Schedule 1 (the Probation Board for Northern Ireland) as follows.

(2) In paragraph 3 for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.

(3) After paragraph 3(7) insert—

“(8) In this paragraph “the Minister of Justice” means the Minister in charge of the Department of Justice.”

(4) In paragraph 4 for “Secretary of State, with the approval of the Treasury” substitute “Department of Justice, with the approval of the Department of Finance and Personnel”.

(5) In paragraph 5—

- (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
- (b) for “Treasury” (wherever occurring) substitute “Department of Finance and Personnel”.

(6) In paragraph 9 for “Secretary of State” substitute “Department of Justice”.

(7) In paragraph 12 for “Secretary of State” (wherever occurring) substitute “Department of Justice”.

(8) In paragraph 13—

- (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
- (b) for “Treasury” (wherever occurring) substitute “Department of Finance and Personnel”.

(9) In paragraph 14 for “Secretary of State” substitute “Department of Justice”.

26. After paragraph 1(2) of Schedule 2 (transfer of property and staff) insert—

“(3) Regulations made by the Secretary of State under sub-paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946⁽¹²⁾ shall apply accordingly.”

27.—(1) Amend Schedule 3 (reports and accounts, etc.) as follows.

(2) In paragraph 1—

- (a) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
- (b) in sub-paragraph (1) for “he” substitute “the Department of Justice”.

(12) 1946 c. 36.

- (3) In paragraph 2—
- (a) in sub-paragraphs (1) and (2) for “Secretary of State” (wherever occurring) substitute “Department of Justice”;
 - (b) in sub-paragraph (1)(b) for “Treasury” substitute “Department of Finance and Personnel”;
 - (c) in sub-paragraph (1)(b) for “he” substitute “the Department of Justice”.
- (4) In paragraph 2(2) and (3) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”.
- (5) In paragraph 2(3) for “each House of Parliament” substitute “the Assembly”.
- (6) In paragraph 2(4) omit “; and “Comptroller and Auditor General” has the meaning assigned to it by Schedule 1 to the Interpretation Act 1978(13)”.
- (7) Sub-paragraphs (3) to (6) above do not apply in relation to an accounting period ending before the coming into force of this Order.

Mental Health Act 1983

- 28.**—(1) Amend the Mental Health Act 1983(14) as follows.
- (2) In section 82(7) (responsible authority for the purposes of moving patients from Northern Ireland to England and Wales) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.
- (3) In section 82A (transfer of responsibility for conditionally discharged patients)—
- (a) in subsection (1) for “the relevant Minister” and “that Minister” substitute “the Department of Justice in Northern Ireland”;
 - (b) omit subsection (4).
- (4) In section 86(4) (removal of alien patients) after “that Order” insert “and any reference in subsection (2) or (3) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland”.
- (5) At the end of section 139(4) (exclusion from protection for acts done in pursuance of Act) insert “or against the Department of Justice in Northern Ireland”.

Criminal Justice Act 1988

- 29.** Amend the Criminal Justice Act 1988(15) as follows.

- 30.**—(1) Amend section 35 (reviews of sentencing: scope of Part 4) as follows.

- (2) After subsection (9) insert—

“(9A) Any reference in subsection (4) to the Secretary of State must be construed as a reference to the Department of Justice in Northern Ireland.”

(13) 1978 c. 30.

(14) 1983 c. 20. Section 82 was amended by S.I. 1986/595; and the Mental Health Act 2007 (c. 12), Schedule 5, paragraph 8. Section 82A was inserted by the Crime (Sentences) Act 1997 (c. 43), section 48 and Schedule 3, paragraph 3; and amended by Schedule 5 to the Mental Health Act 2007 (c. 12), Schedule 5, paragraph 9. Section 86 was amended by the Mental Health Act 2007, Schedule 1, paragraph 15; and S.I. 2008/2833. Section 139 was amended by S.I. 2007/961. There are other amendments to the Act, but none are relevant.

(15) 1988 c. 33. Section 35 was amended by the Criminal Justice and Public Order Act 1994 (c. 33), Schedule 9, paragraph 34. Section 141 was amended by the Violent Crime Reduction Act 2006 (c. 38), Schedule 2, paragraph 11; and S.I. 2008/1216 (N.I. 1).

Status: This is the original version (as it was originally made).

(3) In subsection (10), in the text substituted for subsection (5), for the words from “such statutory rule” to “accordingly” substitute “such order shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽¹⁶⁾)”.

31.—(1) Amend section 141 (offensive weapons) as follows.

(2) In subsection (13) for “the reference in subsection (2) above” substitute “in subsection (2) above the reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland and the reference”.

(3) After subsection (13) insert—

“(14) In the application of this section to Northern Ireland, the power under subsection (11D) above to provide by order—

- (a) for exceptions and exemptions from the offence under subsection (1) above; and
- (b) for it to be a defence in proceedings for such an offence to show the matters specified or described in the order,

is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).

(15) Any power of the Department of Justice in Northern Ireland to make an order under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽¹⁷⁾ (and not by statutory instrument).

(16) No order shall be made by the Department of Justice under this section unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(17) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽¹⁸⁾ applies for the purposes of subsection (16) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Criminal Procedure (Scotland) Act 1995

32.—(1) Amend the Criminal Procedure (Scotland) Act 1995⁽¹⁹⁾ as follows.

(2) In section 303 (fixed penalty: enforcement)—

- (a) in subsection (4) omit “or Northern Ireland” and “or, as the case may be, Northern Ireland”; and
- (b) after subsection (4) insert—

“(5) The Department of Justice in Northern Ireland may by order make such provision as it considers necessary for the enforcement in Northern Ireland of any penalty, treated in pursuance of subsection (1) above as a fine, which is transferred as a fine to a court in Northern Ireland.

(6) The power of the Department of Justice to make an order under subsection (5) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

⁽¹⁶⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

⁽¹⁷⁾ S.I. 1979/1573 (N.I. 12).

⁽¹⁸⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽¹⁹⁾ 1995 c. 46. Section 303 was amended by section 50 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). There are other amendments to the Act, but none are relevant.

(7) An order made by the Department of Justice under subsection (5) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

(3) In section 309(4) for “303(4)” substitute “303(4) to (7)”.

(4) In section 309(5) for “303(4)” substitute “303(4) to (7)”.

Children’s Evidence (Northern Ireland) Order 1995

33. In paragraph 3(2) of Schedule 1 to the Children’s Evidence (Northern Ireland) Order 1995⁽²⁰⁾ (notice of transfer: regulations) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Criminal Procedure and Investigations Act 1996

34.—(1) Amend Schedule 4 to the Criminal Procedure and Investigations Act 1996⁽²¹⁾ (modifications for Northern Ireland) as follows.

(2) After paragraph 4 insert—

“**4A.** After section 2(5) insert—

“(5A) References to the appropriate authority—

(a) in relation to cases where a certificate has been issued under section 1 of the Justice and Security (Northern Ireland) Act 2007⁽²²⁾, are references to the Secretary of State;

(b) in relation to all other cases, are references to the Department of Justice.”.

(3) After paragraph 5 insert—

“**5A.** In section 6A(4) for “Secretary of State” substitute “appropriate authority”.

5B. In section 12(2) and (4) for “Secretary of State” substitute “appropriate authority”.

(4) After paragraph 14 insert—

“**14A.** In section 21A—

(a) in subsections (1) and (4) to (6) for “Secretary of State” substitute “appropriate authority”;

(b) in subsection (4)(c) for “he” substitute “the appropriate authority”;

(c) in subsection (7) after “made” insert “by the Secretary of State”;

(d) in subsection (8) after “An order” insert “made by the Secretary of State”;

(e) after subsection (8) insert—

“(8A) An order bringing the code into operation may not be made by the Department of Justice unless a draft of the order has been laid before and approved by a resolution of the Northern Ireland Assembly.

(8B) An order made by the Department of Justice bringing a revised code into operation shall be laid before the Northern Ireland Assembly if the order has been

⁽²⁰⁾ S.I. 1995/757 (N.I. 3).

⁽²¹⁾ 1996 c. 25. Schedule 4 modifies provisions of the Act in their application to Northern Ireland. There are relevant amendments to the provisions modified by Schedule 4. Section 6A was inserted by section 33(2) of the Criminal Justice Act 2003 (c. 44). Section 12 was amended by the Criminal Justice Act 2003 (c. 44), Schedule 36, paragraph 28. Section 21A was inserted by section 40 of the Criminal Justice Act 2003 (c. 44). Section 23 was amended by the Regulation of Investigatory Powers Act 2000 (c. 23), section 82, Schedule 4, paragraph 7.

⁽²²⁾ 2007 c. 6.

Status: This is the original version (as it was originally made).

made without a draft having been so laid and approved by a resolution of that Assembly.”;

(f) in subsection (9) for “or (8)” substitute “, (8), (8A) or (8B)”;

(g) after subsection (13) insert—

“(14) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽²³⁾ applies for the purposes of this section in relation to the laying of an order, a draft of an order or a code as it applies in relation to the laying of a statutory document under an enactment.”.

(5) After paragraph 14A insert—

“Part 2 of this Act

14B. In section 23—

(a) in subsection (1) for “Secretary of State” substitute “Department of Justice”;

(b) after subsection (8) insert—

“(9) For purposes connected with national security or any matter within paragraph 9(1)(a) or (b) of Schedule 3 to the Northern Ireland Act 1998⁽²⁴⁾, the Secretary of State may prepare a code of practice containing any provision that may be included in a code prepared by the Department of Justice under this section.

(10) Any code prepared by the Department of Justice has effect subject to any code prepared by the Secretary of State.”

14C. In section 25—

(a) in subsection (1)—

(i) for “Secretary of State” substitute “Department of Justice”;

(ii) for “he” (wherever occurring) substitute “the Department”;

(iii) for “him” substitute “it”;

(b) in subsection (2)—

(i) for “Secretary of State” substitute “Department of Justice”;

(ii) for “he” (wherever occurring) substitute “the Department”;

(iii) for “each House of Parliament” substitute “the Northern Ireland Assembly”;

(c) after subsection (2) insert—

“(2A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (2) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.”;

(d) in subsection (4) for “Secretary of State” substitute “Department of Justice”;

(e) after subsection (4) insert—

“(5) Subsections (1) to (4) above apply in relation to a code prepared by the Secretary of State under section 23(9) as they apply in relation to a code prepared by the Department of Justice and for this purpose—

(a) references to the Department of Justice are to be read as references to the Secretary of State;

⁽²³⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽²⁴⁾ 1998 c. 47.

- (b) in subsection (2) the reference to the Northern Ireland Assembly is to be read as a reference to Parliament.”.”

(6) After paragraph 33 insert—

“**33A.** After section 77 insert—

“77A Orders and regulations (Department of Justice)

(1) This section concerns the powers of the Department of Justice to make orders or regulations under this Act.

(2) Any power to make an order or regulations may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.

(3) Any order or regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Department of Justice to be necessary or expedient.

(4) Any power to make an order or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽²⁵⁾.

(5) No regulations shall be made under section 6A unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(6) Regulations (other than regulations under section 6A) shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽²⁶⁾).

(7) No order shall be made under section 25 unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽²⁷⁾ applies for the purposes of subsections (5) and (7) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”.”

Knives Act 1997

35.—(1) Amend section 11 of the Knives Act 1997⁽²⁸⁾ (short title, commencement and extent etc.) as follows.

(2) After subsection (7) insert—

“(8) In its application to Northern Ireland, this Act has effect with the following modifications—

- (a) any reference in section 3 or 7 to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
- (b) any power of the Department of Justice to make regulations under section 3 or 7 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument); and

⁽²⁵⁾ S.I. 1979/1573 (N.I. 12).

⁽²⁶⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

⁽²⁷⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽²⁸⁾ 1997 c. 21 as amended by S.I. 2008/1216 (N.I. 1).

Status: This is the original version (as it was originally made).

- (c) regulations made by the Department of Justice under section 3 or 7 shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Police Act 1997

36. Amend the Police Act 1997(29) as follows.

37.—(1) Amend section 119B (independent monitor) as follows.

(2) After subsection (4) insert—

“(4A) Before appointing a person to be the independent monitor, or terminating the appointment of the independent monitor, the Secretary of State must consult the Department of Justice in Northern Ireland.”

38. After section 126 insert—

“126A Part 5: Modifications for Northern Ireland

(1) This Part applies to Northern Ireland subject to the following modifications.

(2) Any reference to the Secretary of State, except in—

- (a) section 118(2A)(d),
- (b) section 119(1), (3), (5) and (8),
- (c) section 119B(2), (4) and (4A), and
- (d) section 122A as it applies to a function of the Secretary of State under section 119 or 119B(2), (4) or (4A),

shall be construed as a reference to the Department of Justice in Northern Ireland.

(3) Section 119 has effect subject to the following modifications—

- (a) in subsection (1), in relation to a relevant function within subsection (8)(a) or (b), any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
- (b) in subsection (3), except in relation to a request for the purposes of the provision of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that corresponds to section 24 of the Safeguarding Vulnerable Groups Act 2006, any reference to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland;
- (c) subsections (5) and (8) have effect as if any reference to the Secretary of State included a reference to the Department of Justice in Northern Ireland.

(4) The following provisions shall not have effect—

- (a) section 113A(8);
- (b) in section 113BC—

(29) 1997 c. 50. Sections 113A and 113B were inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by Schedule 9, paragraph 14 of the Safeguarding Vulnerable Groups Act 2006 (c. 47). Sections 113BA, 113BB and 113BC were inserted by the Safeguarding Vulnerable Groups Act 2006 (c. 47), Schedule 9, paragraph 14. Section 118(2A) was inserted by section 164 of the Serious Organised Crime and Police Act 2005 (c. 15). Section 119B was inserted by section 28 of the Safeguarding Vulnerable Groups Act 2006 (c. 47). Section 122A was inserted by the Criminal Justice Act 2003 (c. 44), section 328 and Schedule 35, paragraphs 1, 10. Section 125 was amended by the Criminal Justice Act 2003 (c. 44), Schedule 35, paragraph 12. Relevant amendments have also been made by Article 60(1) of, and paragraph 3 of Schedule 7 to, S.I. 2007/1351 (N.I. 11); sections 81(3)(h) and 96 and 97 of, and paragraph 118 of Schedule 7 to, the Policing and Crime Act 2009 (c. 26) (not yet in force).

- (i) in subsection (1) the words “made by statutory instrument”;
- (ii) subsection (2);
- (c) in section 120A—
 - (i) in subsection (7) the words “made by statutory instrument”;
 - (ii) subsection (8);
- (d) section 125(2), (4) and (6).
- (5) In section 122 any reference to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (6) In relation to the delegation of any function of the Department of Justice, any reference in section 122A to Parliament shall be construed as a reference to the Northern Ireland Assembly.
- (7) Any power of the Department of Justice under this Part to make orders or regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(30).
- (8) No order shall be made by the Department of Justice under section 113A(7) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (9) Any other order or regulations made under this Part by the Department of Justice shall be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(31)).
- (10) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(32) applies for the purposes of this Part in relation to the laying of anything before the Northern Ireland Assembly as it applies in relation to the laying of a statutory document under an enactment.

Criminal Justice (Children) (Northern Ireland) Order 1998

- 39.** Amend the Criminal Justice (Children) (Northern Ireland) Order 1998(33) as follows.
- 40.**—(1) Amend Article 45 (punishment of certain grave crimes) as follows.
- (2) For “Secretary of State” (wherever occurring) substitute “Minister of Justice”.
- (3) After paragraph (7) insert—
- “(8) In this Article and Article 46 “the Minister of Justice” means the Minister in charge of the Department of Justice.”
- 41.** In Article 46 (discharge on licence) for “Secretary of State” (wherever occurring) substitute “Minister of Justice”.

Youth Justice and Criminal Evidence Act 1999

- 42.** Amend the Youth Justice and Criminal Evidence Act 1999(34) as follows.
- 43.** In section 44 (restrictions on reporting alleged offences involving persons under 18) after subsection (5) insert—

(30) [S.I. 1979/1573 \(N.I. 12\)](#).

(31) [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).

(32) Section 41(3) was substituted by [S.I. 1999/663](#).

(33) [S.I. 1998/1504 \(N.I. 9\)](#). Article 45 was amended by the Justice (Northern Ireland) Order 2002, Schedule 11, paragraph 19. Article 46 was amended by [S.I. 2001/2564 \(N.I. 2\)](#).

(34) [1999 c. 23](#), to which there are amendments not relevant to this Order.

Status: This is the original version (as it was originally made).

“(5A) In the application of this section to Northern Ireland, the reference in subsection (5) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

44. In section 64 (regulations and orders) after subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make an order under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(6) No order shall be made by the Department of Justice under section 44(5) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly (and subsection (3) above shall not apply to the making of any order by the Department of Justice).

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(8) Any order made by the Department of Justice under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Department of Justice thinks fit.”

45. In section 68 (short title, commencement and extent) after subsection (3) insert—

“(3A) In relation to the coming into force of any provision of this Act for the purposes of the law of Northern Ireland, the reference in subsection (3) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

Criminal Justice and Police Act 2001

46.—(1) Amend the Criminal Justice and Police Act 2001⁽³⁵⁾ as follows.

(2) In section 52(5) (regulations about notice of exercise of powers of seizure) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

(3) In section 69 (powers of seizure designated by order) after subsection (2) insert—

“(2A) Where the power designated by the order made under subsection (1) is a power conferred in relation to Northern Ireland, the Secretary of State shall consult the Department of Justice in Northern Ireland before making the order.”

Proceeds of Crime Act 2002

47. Amend the Proceeds of Crime Act 2002⁽³⁶⁾ as follows.

48. In section 174 (confiscation: inadequacy of available amount: discharge of order)—

(a) in subsection (4)(b) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;

(b) in subsection (5) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

49. In section 175(3) (confiscation: small amount outstanding: discharge of order) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

⁽³⁵⁾ 2001 c. 16.

⁽³⁶⁾ 2002 c. 29, as amended by the Serious Crime Act 2007, section 74 and Schedule 8, paragraphs 66, 91, 119, 138, 139, 141 and section 79 and Schedule 11, paragraph 2, 3, 4, 5, 11 and 15. There are other amendments to the Act, but none are relevant.

50. In section 215(7) (seized money) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

51. In section 223 (criminal lifestyle)—

- (a) in subsection (7) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;
- (b) in subsection (8) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

52. In section 237(2) (procedure on appeal to Court of Appeal) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

53.—(1) Amend section 238 (procedure on appeal to Supreme Court) as follows.

(2) Make the existing text subsection (1).

(3) After subsection (1) insert—

“(2) The power under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998⁽³⁷⁾).”

54. In section 275(3) (recovery orders: pension schemes: supplementary) after “Scottish Ministers” insert “or, in relation to Northern Ireland, regulations made by the Department of Justice”.

55. In section 282(1) (recovery orders: other exemptions) after “Scottish Ministers” insert “or, in relation to Northern Ireland, prescribed by an order made by the Department of Justice”.

56. In section 287(2) (recovery orders: financial threshold) after “Scottish Ministers” insert “or, in relation to Northern Ireland, exercisable by the Department of Justice”.

57. In section 289(7) (recovery of cash in summary proceedings: searches) after “Scottish Ministers” insert “or, in relation to Northern Ireland, is specified by the Department of Justice by an order”.

58. In section 290(8) (recovery of cash in summary proceedings: appointed person)—

- (a) in paragraph (a) omit “and Northern Ireland”; and
- (b) after paragraph (b) insert—

“(c) in relation to Northern Ireland, a person appointed by the Department of Justice.”

59.—(1) Amend section 291 (recovery of cash in summary proceedings: report on exercise of powers) as follows.

(2) In subsection (4) after “Scottish Ministers” insert “or the Department of Justice”.

(3) In subsection (5) after “Scottish Parliament” insert “; and the Department of Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly”.

(4) After subsection (5) insert—

“(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽³⁸⁾ applies for the purposes of subsection (5) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

⁽³⁷⁾ 1998 c. 47.

⁽³⁸⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

60.—(1) Amend section 292 (recovery of cash in summary proceedings: code of practice) as follows.

(2) In subsection (1) omit “and Northern Ireland”.

(3) In subsection (2)(b) after “Scottish Ministers” insert “, the Department of Justice”.

61. After section 293 insert—

“293A Code of practice (Northern Ireland)

(1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by virtue of section 289.

(2) Where the Department of Justice proposes to issue a code of practice it must—

(a) publish a draft,

(b) consider any representations made to the Department of Justice about the draft,

(c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.

(3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.

(4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(6) The Department of Justice may revise the whole or any part of the code issued by it and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.

(7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.”

62.—(1) Amend section 302 (compensation) as follows.

(2) After subsection (8)—

“(9) The power in subsection (7B) is exercisable by the Department of Justice (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

63. In section 303(1) (definition of “the minimum amount”) after “Scottish Ministers” insert “and the Department of Justice”.

64. In section 309(4) (exemptions) after “Scottish Ministers” insert “and the Department of Justice”.

65. In section 316(1) (interpretation of Part 5) after the definition of “dealing” insert—

““the Department of Justice” means the Department of Justice in Northern Ireland;”.

66.—(1) Amend section 355 (further provisions: confiscation and money laundering) as follows.

(2) In subsection (2)—

(a) after “applies” insert “, in relation to England and Wales,”;

(b) for “subsections (3) and (4) apply” substitute “subsection (3) applies”.

(3) After subsection (3) insert—

“(3A) In relation to such warrants and powers, the Department of Justice in Northern Ireland may make an order which applies, in relation to Northern Ireland, the provisions to which subsection (4) applies subject to any specified modifications.”

67.—(1) Amend section 377 (code of practice) as follows.

(2) In subsection (1) at the beginning of each of paragraphs (c) and (d) insert “in relation to England and Wales,”.

(3) Omit subsection (9).

68. After section 377 insert—

“377ZA Code of practice (Northern Ireland)

(1) The Department of Justice in Northern Ireland must prepare a code of practice as to the exercise, in relation to Northern Ireland, by constables and accredited financial investigators of functions they have under this Chapter.

(2) After preparing a draft of the code the Department of Justice—

(a) must publish the draft;

(b) must consider any representations made to the Department of Justice about the draft;

(c) may amend the draft accordingly.

(3) After the Department of Justice has proceeded under subsection (2) it must lay the code before the Northern Ireland Assembly.

(4) When the Department of Justice has done so it may bring the code into operation on such day as the Department of Justice may appoint by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.

(6) A constable or accredited financial investigator must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.

(7) If a constable or accredited financial investigator fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.

(8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

(9) The Department of Justice may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

377ZB Disapplication of PACE codes

377ZB The following provisions do not apply to an appropriate officer or the relevant authority in the exercise of any function either has under this Chapter—

- (a) section 67(9) of the Police and Criminal Evidence Act 1984⁽³⁹⁾ (application of codes of practice under that Act to persons other than police officers);
- (b) Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁴⁰⁾ (which makes similar provision for Northern Ireland)."

69. In section 436 (disclosure of information to Directors) after subsection (7) insert—

"(7A) In relation to persons exercising functions in Northern Ireland, any reference in subsection (6) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland."

70. In section 444(4) (external requests and orders) after paragraph (c) insert—

"(ca) the Department of Justice in Northern Ireland;"

71. In section 445(2)(b) (external investigations) after "Scottish Ministers," insert "the Department of Justice in Northern Ireland,"

72. In section 452 (Crown servants) after subsection (2) insert—

"(3) In relation to Northern Ireland, the power to make regulations under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) in relation to persons in the public service of the Crown in right of Her Majesty's Government in Northern Ireland."

73. In section 458 (commencement)—

- (a) in subsection (1) after "(3)" insert "or (4)";
- (b) in subsection (2) after "made" insert "by the Secretary of State";
- (c) after subsection (3) insert—

"(4) Any provision of this Act which provides for the repeal of any provision of the Proceeds of Crime (Northern Ireland) Order 1996⁽⁴¹⁾ comes into force in accordance with provision made by the Department of Justice in Northern Ireland by order."

74.—(1) Amend section 459 (orders and regulations) as follows.

(2) In subsection (3) for the words from "other than" to "which is" substitute

"other than—

- (a) the power of the Advocate General for Northern Ireland to make an order under section 377A(5), and
- (b) any power of the Department of Justice in Northern Ireland to make subordinate legislation,

which are".

(3) In subsections (4)(a) and (6)(a) omit "223(7) or (8),".

(4) After subsection (7) insert—

"(7A) Subordinate legislation made by the Department of Justice in Northern Ireland is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act

⁽³⁹⁾ 1984 c. 60.

⁽⁴⁰⁾ S.I. 1989/1341 (N.I. 12).

⁽⁴¹⁾ S.I. 1996/1299 (N.I. 9).

(Northern Ireland) 1954(42)) other than an order under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4), 436(6) or 458.

(7B) No order shall be made by the Department of Justice under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4) or 436(6) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7C) The Department of Justice must lay before the Northern Ireland Assembly a copy of every statutory instrument containing an Order in Council under section 444 or 445.

(7D) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(43) applies for the purposes of subsections (7B) and (7C) in relation to the laying of a draft or copy as it applies in relation to the laying of a statutory document under an enactment.”

75. In section 460(3)(b) (sums received by the DPPNI) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Crime (International Co-operation) Act 2003

76.—(1) Amend the Crime (International Co-operation) Act 2003(44) as follows.

(2) In section 29 (hearing witnesses abroad through television links)—

(a) in subsection (1) omit “or Article 80A(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (SI 1989/1341 (NI 12))”;

(b) after subsection (2) insert—

“(3) The Department of Justice in Northern Ireland may by order provide for Article 80A(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989(45) (proceedings in which evidence may be given through television link) to apply to any further description of criminal proceedings, or to all criminal proceedings.”

(3) In section 50 (subordinate legislation)—

(a) after subsection (1) insert—

“(1A) Any power to make an order conferred by this Part on the Department of Justice in Northern Ireland is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(46).”;

(b) in subsection (2) for “Such an order” substitute “An order made under this Part by the Secretary of State, the Treasury, the Scottish Ministers or the Department of Justice”;

(c) after subsection (5) insert—

“(6) An order made by the Department of Justice is to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Sexual Offences Act 2003

77.—(1) Amend the Sexual Offences Act 2003(47) as follows.

(2) In section 136 (modifications of Part 2 for Northern Ireland) after subsection (10) insert—

(42) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(43) Section 41(3) was substituted by S.I. 1999/663.

(44) 2003 c. 32. Section 29 was amended by S.I. 2005/1965 (N.I. 15). There are other amendments to the Act, but none are relevant.

(45) S.I. 1989/1341 (N.I. 12).

(46) S.I. 1979/1573 (N.I. 12).

(47) 2003 c. 42. Section 138 was amended by the Criminal Justice and Immigration Act 2008, s.142(10) and Sch.26 para.57. There have been other amendments to the Act but none are relevant.

Status: This is the original version (as it was originally made).

“(11) References to the Secretary of State, except in sections 94 and 95, are to be read as references to the Department of Justice in Northern Ireland.”

(3) In section 138 (orders and regulations) after subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make orders or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(48).

(6) An order or regulations under any of sections 83 to 86 or section 130 may not be made by the Department of Justice unless a draft of the order or regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(49) applies for the purposes of subsection (6) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(8) Any other order or regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(50)).

(9) Orders or regulations made by the Department of Justice may—

- (a) make different provision for different purposes;
- (b) include supplementary, incidental, consequential, transitional, transitory or saving provisions.”

Criminal Justice Act 2003

78.—(1) Amend the Criminal Justice Act 2003(51) as follows.

(2) In section 50(10) (application of Part 7 to Northern Ireland), after “47(8)” insert

“—

- (a) for “Secretary of State” substitute “Department of Justice in Northern Ireland”; and
- (b)”.

(3) In section 97 (application of Criminal Appeal Acts to proceedings under Part 10)—

- (a) omit the words “or the Criminal Appeal (Northern Ireland) Act 1980 (c.47)”;
- (b) the remaining words become subsection (1);
- (c) in subsection (1) after “to proceedings” insert “in England and Wales”;
- (d) after subsection (1) insert—

“(2) Subject to the provisions of this Part, the Department of Justice in Northern Ireland may make an order containing provision, in relation to proceedings in Northern Ireland before the Court of Appeal under this Part, which corresponds to any provision, in relation to appeals or other proceedings before that court, which is contained in the Criminal Appeal (Northern Ireland) Act 1980(52) (subject to any specified modifications).”

(4) After section 330 insert—

(48) S.I. 1979/1573 (N.I. 12).

(49) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(50) Section 41(6) was amended by S.I. 1999/663.

(51) 2003 c. 44, to which there are amendments not relevant to this Order.

(52) 1980 c. 47.

“330A Orders: Northern Ireland

(1) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁵³⁾.

(2) The Department of Justice shall not make any order—

(a) making any provision by virtue of section 333(2)(b) which adds to, replaces or omits any part of the text of an Act, or

(b) under section 336(3) bringing section 43 into force,

unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁵⁴⁾ applies for the purposes of subsection (2) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(4) Any other order made by the Department of Justice under section 333, or an order made by the Department of Justice under section 47(8) or 97(2), is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁵⁵⁾).

(5) Any power of the Department of Justice to make an order under this Act—

(a) may be exercised so as to make different provision for different purposes or different areas, and

(b) may be exercised either for all the purposes to which the power extends, or for those purposes subject to specified exceptions, or only for specified purposes.

(6) The power includes power to make—

(a) any supplementary, incidental or consequential provision, and

(b) any transitory, transitional or saving provision,

which the Department of Justice considers necessary or expedient.”

(5) In section 333 (supplementary and consequential provision, etc.)—

(a) after subsection (1) insert—

“(1A) In the application of this section to Northern Ireland, any reference to the Secretary of State is to be read as a reference to the Department of Justice in Northern Ireland.”;

(b) in subsection (3) after “330(4)(b)” insert “or 330A(6)(b)”.

(6) In section 336 (commencement) after subsection (4) insert—

“(5) For the purposes of the law of Northern Ireland, the power in subsection (3) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State).”

Commissioner for Children and Young People (Northern Ireland) Order 2003

79.—(1) Amend the Commissioner for Children and Young People (Northern Ireland) Order 2003⁽⁵⁶⁾ as follows.

⁽⁵³⁾ S.I. 1979/1573 (N.I. 12).

⁽⁵⁴⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽⁵⁵⁾ Section 41(6) was amended by S.I. 1999/663.

⁽⁵⁶⁾ S.I. 2003/439 (N.I. 11); as amended by section 9(5) of the Justice (Northern Ireland) Act 2004.

Status: This is the original version (as it was originally made).

(2) In paragraph 13 of Schedule 1 (relevant authorities) for “Secretary of State” substitute “Department of Justice”.

Justice (Northern Ireland) Act 2004

80. Amend the Justice (Northern Ireland) Act 2004⁽⁵⁷⁾ as follows.

81.—(1) Amend section 8 (guidance on human rights standards) as follows.

(2) In subsection (3)(b) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(3) After subsection (3) insert—

“(3A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3)(b) in relation to the laying of any guidance as it applies in relation to the laying of a statutory document under an enactment.”

(4) In subsection (4)—

(a) for “Northern Ireland Office” (in both places) substitute “Department of Justice”;

(b) in paragraph (e)—

(i) omit “functions exercised by”;

(ii) before sub-paragraph (i) insert—

“(ai) the Department’s functions mentioned in section 69(1) of the Judicature (Northern Ireland) Act 1978⁽⁵⁸⁾,”;

(iii) at the beginning of each of sub-paragraphs (i) to (v) insert “functions exercised by”.

82.—(1) Amend section 21 (statutory rules) as follows.

(2) In subsection (2) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(3) After subsection (2) insert—

“(2A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (2) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(4) In subsection (3) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

Gender Recognition Act 2004

83.—(1) Amend section 22 of the Gender Recognition Act 2004⁽⁵⁹⁾ (prohibition on disclosure of information) as follows.

(2) After subsection (6) insert—

“(6A) The power conferred by subsection (5) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) where the provision to be made could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998⁽⁶⁰⁾).”

⁽⁵⁷⁾ 2004 c. 4.

⁽⁵⁸⁾ 1978 c. 23.

⁽⁵⁹⁾ 2004 c. 7. Section 22 was amended by section 250 of the Civil Partnership Act 2004. There are other amendments to the Act, but none are relevant.

⁽⁶⁰⁾ 1998 c. 47.

Domestic Violence, Crime and Victims Act 2004

84. Amend the Domestic Violence, Crime and Victims Act 2004⁽⁶¹⁾ as follows.

85.—(1) Amend section 9 (establishment and conduct of domestic homicide reviews) as follows.

(2) After subsection (3) insert—

“(3A) Any reference in subsection (2) or (3) to the Secretary of State shall, in relation to persons and bodies within subsection (4)(b), be construed as a reference to the Department of Justice in Northern Ireland.”

(3) In subsection (6)—

(a) after “may” insert “, in relation to England and Wales,”;

(b) for “(4)” substitute “(4)(a)”.

(4) After subsection (6) insert—

“(7) The Department of Justice in Northern Ireland may, in relation to Northern Ireland, by order amend subsection (4)(b).”

86.—(1) Amend section 18A (appeals in respect of hearings under section 18(1)(b)), as it applies to Northern Ireland by virtue of section 21 and paragraph 1 of Schedule 1, as follows.

(2) In subsection (7) for “Secretary of State” substitute “Department of Justice”.

(3) Omit subsection (8).

87. In section 56 (grants for assisting victims, witnesses etc.) after subsection (2) insert—

“(3) In the application of this section to Northern Ireland, any reference in subsection (1) or (2) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland.”

88.—(1) Amend section 61 (orders) as follows.

(2) In subsection (2) after “power” insert “of the Secretary of State”.

(3) After subsection (4) insert—

“(5) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁶²⁾.

(6) An order made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁶³⁾).”

Constitutional Reform Act 2005

89.—(1) Amend the Constitutional Reform Act 2005⁽⁶⁴⁾ as follows.

(2) In sections 27(2)(e) and 28(5)(e) (consultation during selection process for judge of Supreme Court) for “Secretary of State for Northern Ireland” substitute “Northern Ireland Judicial Appointments Commission”.

⁽⁶¹⁾ 2004 c. 28, to which there are amendments not relevant to this Order.

⁽⁶²⁾ S.I. 1979/1573 (N.I. 12).

⁽⁶³⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

⁽⁶⁴⁾ 2005 c. 4, to which there are amendments not relevant to this Order.

Status: This is the original version (as it was originally made).

Police and Justice Act 2006

90.—(1) Amend the Police and Justice Act 2006⁽⁶⁵⁾ as follows.

(2) In section 13(2)(b) (supply of information to police etc. by Registrar General: exercise of power to make order under section 13(1)(d)) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

(3) In section 49 (orders and regulations) after subsection (8) insert—

“(9) The power of the Department of Justice in Northern Ireland to make an order under section 13(1)(d) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subsection (3) above applies in relation to the power as it applies in relation to a power mentioned in subsection (1) above.

(10) An order made by the Department of Justice under section 13(1)(d) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Counter-Terrorism Act 2008

91.—(1) Amend the Counter-Terrorism Act 2008⁽⁶⁶⁾ as follows.

(2) In section 45(3)(a)(vi) (sentences or orders triggering notification requirements) for “Secretary of State” substitute “Minister in charge of the Department of Justice”.

(3) In section 53(2)(c)(v) (period for which notification requirements apply) for “Secretary of State” substitute “Minister in charge of the Department of Justice”.

Taxis Act (Northern Ireland) 2008

92.—(1) Amend the Taxis Act (Northern Ireland) 2008⁽⁶⁷⁾ as follows.

(2) In section 42(1) (regulations concerning seized vehicles and equipment) for “Secretary of State” substitute “Department of Justice”.

(3) In section 56 (orders and regulations)—

- (a) in subsection (2) for “Secretary of State” substitute “Department of Justice”;
- (b) in subsection (4) for “Subject to subsection (5), an” substitute “An”;
- (c) omit subsection (5).

Coroners and Justice Act 2009

93. Amend the Coroners and Justice Act 2009⁽⁶⁸⁾ as follows.

94.—(1) Amend section 74 (anonymity in investigations: qualifying offences) as follows.

(2) In subsection (4) for “Secretary of State” substitute “appropriate authority”.

(3) In subsection (5), at the appropriate place, insert—

““the appropriate authority” means, in relation to England and Wales, the Secretary of State and, in relation to Northern Ireland, the Department of Justice in Northern Ireland;”.

⁽⁶⁵⁾ 2006 c. 48. Section 13 was amended by [S.I. 2008/678](#).

⁽⁶⁶⁾ 2008 c. 28, to which there are amendments not relevant to this Order.

⁽⁶⁷⁾ 2008 c. 4 (N.I.).

⁽⁶⁸⁾ 2009 c. 25.

95.—(1) Amend section 75 (anonymity in investigations: qualifying investigations) as follows.

(2) After subsection (4) insert—

“(5) The power to make an order under subsection (3) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998⁽⁶⁹⁾).”

96.—(1) Amend section 77 (anonymity in investigations: applications) as follows.

(2) After subsection (8) insert—

“(9) The power to make an order under subsection (7) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

97.—(1) Amend section 78 (anonymity in investigations: conditions for making order) as follows.

(2) In subsection (10) for “Secretary of State” substitute “appropriate authority”.

(3) After subsection (11) insert—

“(12) In subsection (10) “the appropriate authority” means, in relation to England and Wales, the Secretary of State and, in relation to Northern Ireland, the Department of Justice in Northern Ireland.”

98.—(1) Amend section 83 (review of Chapter 1 of Part 3) as follows.

(2) In subsection (1) after “Chapter” insert “in England and Wales”.

(3) After subsection (2) insert—

“(3) The Department of Justice in Northern Ireland must review the operation of this Chapter in Northern Ireland and prepare a report of that review.

(4) The Department of Justice must lay a copy of the report before the Northern Ireland Assembly before the end of the period of 2 years beginning with the day on which section 77 comes into force.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁷⁰⁾ applies for the purposes of subsection (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

99. In section 161 (exploitation proceeds orders: applications) after subsection (5) insert—

“(6) In the application of this section to Northern Ireland, in subsections (2)(a)(ii) and (4) references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

100. In section 166 (exploitation proceeds orders: effect of conviction being quashed etc) after subsection (9) insert—

“(9A) In the case of an exploitation proceeds order made in Northern Ireland on the application of an enforcement authority other than the Serious Organised Crime Agency, references in this section to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

⁽⁶⁹⁾ 1998 c. 47.

⁽⁷⁰⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

101.—(1) Amend section 176 (orders etc) as follows.

(2) After subsection (2) insert—

“(2A) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(71).”

(3) After subsection (6) insert—

“(7) No order may be made under this Act by the Department of Justice in Northern Ireland unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (7) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(9) Subsection (7) does not apply to the making by the Department of Justice of—

- (a) an order under section 177 which does not contain any provision amending or repealing any provision of an Act;
- (b) an order under section 182;

and an order within paragraph (a) above made by the Department of Justice is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(72)).”

102.—(1) Amend section 177 (consequential amendments etc) as follows.

(2) After subsection (3) insert—

“(3A) In relation to the making of provision that could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(73)), in subsection (3) references to the appropriate minister are to be read as references to the Department of Justice in Northern Ireland.”

103.—(1) Amend section 182 (commencement) as follows.

(2) After subsection (5) insert—

“(6) The power to make provision by order under subsection (4) or (5) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor or the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).

(7) Before making an order under subsection (4) or (5) bringing into force any provision for the purposes of the law of Northern Ireland, the Lord Chancellor or the Secretary of State must consult the Department of Justice.”

104.—(1) Amend Schedule 16 (extension of disqualification for driving) as follows.

(2) In paragraph 1, in the inserted Article 8A(10), for the words from “annulment” to “accordingly” substitute “negative resolution”.

(3) In paragraph 4, in the inserted Article 40A—

- (a) in paragraph (9) for “Secretary of State” substitute “Department of Justice”;

(71) [S.I. 1979/1573 \(N.I. 12\)](#).

(72) Section 41(6) was amended by [S.I. 1999/663](#).

(73) [1998 c. 47](#).

- (b) in paragraph (10) for the words from “annulment” to “accordingly” substitute “negative resolution”.

Policing and Crime Act 2009

105. Amend the Policing and Crime Act 2009⁽⁷⁴⁾ as follows.

106. After section 113 insert—

“113A Northern Ireland: minor and consequential amendments etc

(1) In relation to the making of provision that could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998⁽⁷⁵⁾), in sections 112(3) and 113 references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.

(2) The power of the Department of Justice to make an order under section 112 or 113 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (and not by statutory instrument).

(3) Section 112(6) to (8) does not apply in relation to the power of the Department of Justice to make an order under section 112.

(4) The Department of Justice may not make an order under section 112 unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5) Subsection (4) does not apply to an order if the order does not amend or repeal a provision of a public general Act.

(6) An order made by the Department of Justice under section 112 to which subsection (4) does not apply is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(7) Section 112(9) applies for the purposes of subsection (5) as it applies for the purposes of section 112(7).

(8) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

107.—(1) Amend section 116 (commencement) as follows.

(2) After subsection (1) insert—

“(1A) The power to make provision by order under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

(3) In subsection (2) after “Secretary of State” insert “(but not the Department of Justice)”.

(4) In subsection (7)(a) after “instrument” insert “(subject to subsection (8))”.

(5) After subsection (7) insert—

⁽⁷⁴⁾ 2009 c. 26.

⁽⁷⁵⁾ 1998 c. 47.

Status: This is the original version (as it was originally made).

“(8) The power of the Department of Justice in Northern Ireland to make an order under subsection (1) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

108.—(1) Amend Schedule 2 (closure orders) as follows.

(2) In paragraph 1, in the inserted section 136R, after subsection (8) insert—

“(8A) In the application of this Part to Northern Ireland, references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.”

(3) In paragraph 2 for “subsection (2)” substitute “subsections (2) and (6)”.