

JUSTICE BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department of Justice in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The devolution of policing and justice powers to the Northern Ireland Assembly presents a major step forward in the governance of Northern Ireland. The Northern Ireland justice system and its constituent parts are now accountable to the Assembly and to the Northern Ireland electorate as a whole with one of the most important features of devolution being the ability to deliver justice legislation specifically for Northern Ireland. Within that context it will be important to ensure that the devolution of justice powers is fully exercised by creating the first piece of justice legislation in a Northern Ireland legislature in almost 40 years.
4. The need to make various changes to Northern Ireland's justice system has come from a range of sources: from a desire within the justice system to do its business better; from a need to reduce costs – particularly in the area of legal aid; and a need to improve access to the justice system. In parallel, with these come the desire to deliver better and enhanced services to victims and witnesses alongside the need to improve public safety and build stronger and safer communities.
5. In terms of doing its business better and reducing costs, the Bill's proposals will tackle delay by providing new and speedier ways of delivering justice. They will

improve efficiency through the removal of many low level cases from the court system. The proposals will also tackle the problem of criminal legal aid expenditure by allowing for the introduction of means testing and will ensure that the resources that are available are targeted at the most deserving cases.

6. The time is also right to improve services for victims and witnesses: the creation of a victims of crime fund through a levy to be imposed on offenders will generate additional resources for the provision of victim support services; special measures for the giving of evidence by vulnerable and intimidated witnesses will be expanded; and video link powers will be widened to include for example psychiatric hospitals.
7. The proposals aim to tackle a number of issues around community safety and public order which have built up over time: problems with behaviour, violence and occasional sectarianism at major sporting events; alongside the sharpening up of the enforcement of sex offender law. They will create better, simpler and more cost-effective ways of engaging communities and statutory bodies in delivering our community safety structures along with opportunities around administrative rationalisation.
8. Other miscellaneous provisions include extending the rights of audience for solicitor advocates in higher courts, allowing the deduction directly from funds held in court on behalf of minors and patients the cost of certain services provided by stockbrokers and the power to allocate the proceeds of criminal assets remitted to the NI Consolidated Fund.
9. The Bill builds on a series of separate policy consultations (see paragraphs 11 to 19).
10. The Justice Bill is a key and specific commitment in the Hillsborough Agreement and will provide an early opportunity to consolidate the devolution of justice powers.

CONSULTATION

11. Consultation has been a key feature of the proposals for the Justice Bill. All of the main components have been the subject of public consultation; many of the miscellaneous technical and procedural improvements proposed have been the subject of targeted or specialist consultation; and the package as a whole has been presented to and considered by the Justice Committee.
12. The proposals for the Bill are largely based on a series of public policy consultations – some 7 in total – carried out across 2008-2010. These were:

- Sports law and spectator controls
 - Special Measures Consultation
 - Offender Levy and Victims of Crime Fund
 - Local Partnership working on Policing and Community Safety
 - Alternatives to Prosecution consultation
 - A Proposal to Revise the Means Test for Criminal Legal Aid in Northern Ireland
 - Equality Impact Assessment for a proposed Justice Bill (NI) 2010.
13. Summaries of responses on all of the closed consultations are available alongside the original documents online.
14. A number of other matters are included in the Bill – in essence a list of “miscellaneous” matters: some largely technical adjustments or corrections to drafting errors in previous legislation; some addressing the removal of existing legislative flaws; others that are system improvements that have benefited from specialist views by way of “targeted” consultation.
15. For completeness these were also included in the equality impact assessment for consultation.
16. The following matters, whilst originally proposed for the Bill, are not at this stage being taken forward.
- Redrawing the Map: a consultation on Court Boundaries in Northern Ireland; and
 - Provision to allow the Public Prosecution Service to commence proceedings without recourse to a Lay Magistrate.

These will not be included in the Bill at this stage and will be considered for future legislation.

17. The outcome of one further consultation:
- Arrangements for notification of sex offender from jurisdictions outside the UK

is still being analysed. It recently emerged by way of an E&W judicial review that underpinning UK sex offender law needs adjustment before we can amend as we

proposed. As a UK cross-jurisdictional issue with a need to agree policies and procedures in parallel and the need for further time to agree the way forward with other jurisdictions, a proposal for an amendment to the Bill, subject to Executive and Committee approvals, may be forthcoming.

18. In overall terms across all of the consultations respondents have generally been positive about the proposals and where adjustments were required, they have been made (see Options Considered).
19. The various consultations can be accessed separately at www.dojni.gov.uk or at www.courtsni.gov.uk or individually as now listed.

Sports law and spectator controls

Consultation document: http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf

Summary of Responses: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/responses_to_consultation_on_proposals_for_new_sports_law_and_spectator_controls.htm

Special Measures

Consultation document: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/special_measures_consultation.htm

Summary of Responses: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/the_department_of_justice_s_response_to_assist_vulnerable_and_intimidated_witnesses_give_their_best_evidence_in_criminal_proceedings.pdf

Offender levy and victims of crime fund

Consultation document: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/offender_levy_and_victims_of_crime_fund_consultation_summary_report_of_consultation_responses.htm

Summary of Responses: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/pdf_summary_of_responses_and_way_forward_-_offender_levy_and_victims_of_crime_fund_-_october_2010.pdf

Local Partnership working on Policing and Community Safety

Consultation document: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/local_partnership_working_on_policing_and_community_safety_consultation.htm

Summary of Responses: http://www.dojni.gov.uk/index/public-consultations/archive-consultations/summary_of_responses_to_consultation_on_local_partnership_working_on_policing_community_safety.pdf

Alternatives to Prosecution consultation

Consultation document: http://www.nio.gov.uk/alternatives_to_prosecution_-_a_discussion_paper.pdf

Summary of Responses: http://www.nio.gov.uk/alternatives_to_prosecution_consultation_-_summary_of_responses_october_2009.pdf

A Proposal to Revise the Means Test for Criminal Legal Aid in Northern Ireland

Consultation document: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_A_Proposal_to_Revise_the_Means_Test_for_Criminal_Legal_Aid_in_Northern_Ireland.htm

Summary of Responses: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_ReviseMeansTestCriminalLegalAid_ReportOnConsultation.htm

Redrawing the Map: a consultation on Court Boundaries in Northern Ireland

Consultation document: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_Redrawing+the+Map+%E2%80%93+A_Consultation_on_Court_Boundaries_in_Northern_Ireland.htm

Summary of Responses: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_RedrawingMap_ReportOnConsultation.htm

Provision to allow the Public Prosecution Service to commence proceedings without recourse to a Lay Magistrate

Consultation document: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_ProposaltoallowthePublicProsecutionServiceetoissuesummonses.pdf.htm

Summary of Responses: http://www.courtsni.gov.uk/en-GB/Publications/Public_Consultation/p_pc_PPSSummonses_ReportOnConsultation.htm

Arrangements for notification of sex offender from jurisdictions outside the UK

Consultation document and Summary of Responses:

http://www.dojni.gov.uk/index/public-consultations/archive-consultations/arrangements_for_notification_of_sex_offenders_from_jurisdictions_outside_the_uk.htm

Equality Impact Assessment for a Proposed Justice Bill (NI) 2010

Consultation document and Summary of Responses:

http://www.dojni.gov.uk/index/public-consultations/archive-consultations/equality_impact_assessment_for_a_proposed_justice_bill_ni_2010.htm

OPTIONS CONSIDERED

20. Considering the options for the Justice Bill has been a two-tiered exercise. At an over-arching level, and given the priority for delivering a Bill within the existing Assembly mandate, options had to be considered from a policy menu and legislative priorities; and in practical, working terms, what could be achieved in the time available. At a more detailed level, options were then considered within selected policy priorities.

Policy priorities

21. From a range of policy options and consultations three main themes - victims and witnesses; community safety; and system efficiency and effectiveness - were identified. A fourth theme was also included that would allow for miscellaneous improvements to existing laws.
22. Within those themes the policy priorities for theme one, victims and witnesses, were identified as an offender levy; special measures for vulnerable and intimidated witnesses; and wider opportunities for “live links”. For theme two, community safety, the priorities were district policing and community safety structures; sports law; and the treatment of offenders. For theme three, system efficiency and effectiveness, the priorities were alternatives to prosecution, a number of courts related reforms including changes to bail processes to free up High Court time and legal aid reform.

Individual policy topics

23. A number of individual policy topics being included in the Bill then had their own policy options considered.

The Offender Levy

24. The Offender Levy involves the imposition of a statutory and mandatory financial levy on adult offenders at a rate ranging between £5 and £50, to be applied in proportion to the disposal or penalty given. Revenue from the Offender Levy would be ring-fenced and used solely to resource a non-statutory Victims of Crime Fund which will subsequently be used to deliver improvements in services to victims and witnesses of crime.
25. Consultative policy proposals were developed following an examination of best practice operating across a range of jurisdictions and following a pre-policy consultation exercise with operational partners, which was necessary to ensure workable policy proposals could be discussed during public consultation. The consultation explored a number of key policy issues and views were sought in those areas which included: the levy's potential application to young offenders; the rate of the levy; and the ability to reduce or remit the levy.
26. **Options considered:** Age of the offender - specific views were sought on whether the levy should be restricted to adult offenders only (those aged 18 years and over) or whether its application should be extended to include the more serious young offender (those sentenced to a period of custody or detention). Application of the levy to young offenders was not well supported during consultation because of the existing statutory requirements in place for payment of monetary penalties where penalties imposed on children usually become the responsibility of parents or guardians. It was therefore decided to limit the levy's application to adult offenders only.
27. **Options considered:** Rate of the levy - the consultation proposed application of a tiered rate across the range of specified disposals and penalties, which would escalate in line with the severity of the disposal or penalty given (£5 - £30). During consultation, however, concerns were raised on the rate of £30 proposed for the more serious offender (those given a custodial sentence) which respondents believed should be higher to reflect the perceived seriousness of the offence committed. Following consultation, it was decided that a two-tier rate of levy will be applied to immediate custody sentences in recognition of the greater harm caused to victims by those convicted of serious and violent offences: the higher rate of £50 will apply to those sentenced to more than 2 years and; £25 to those sentenced to 2 years or less (rather than the single rate of £30 originally proposed). In order to ensure a differential rate is applied across the remaining disposals and penalties, a rate of £20 will be applied to suspended custody and community sentences (the rate originally proposed was £30). The rate for a fine (£15) and a fixed penalty notice (£5) remains unchanged.
28. **Options considered:** Remitting the levy - the consultation proposed including provision to enable the court to reduce the levy (if necessary to zero) where they

also award a victim a compensation order and the offender does not have the means to pay both. This was well supported, as it gave primacy to the needs of the direct victim of the offence. Following consultation it was decided that the levy imposed on custodial sentences would be remitted on the expiry of the full term of a custodial sentence, where full payment of the levy has not been recouped by the offender's release date, and he/she is no longer eligible to be recalled to custody for deduction from prison earnings to recommence.

Vulnerable and Intimidated Witnesses

29. Special measures are statutory provisions to assist vulnerable and intimidated witnesses give their best possible evidence in criminal proceedings. These proposals will introduce a number of improvements to the current provisions.
30. **Options considered:** Type of offence was considered in one particular area. It was proposed that witnesses in proceedings related to offences involving firearms, knives and offensive weapons should be *automatically* eligible for special measures assistance. The consultation responses were exactly split on the matter. On balance, it was decided not to take forward the proposal at this particular time. In coming to this decision, it was noted that witnesses of such offences can of course still be *considered* for special measures assistance as is the case at present.

Policing and Community Safety Partnerships

31. The main purpose of the consultation regarding local partnership working was to look at how the existing functions of District Policing Partnerships and Community Safety Partnerships, which currently sit side by side, can be brought together in anticipation of the changing landscape in local government. The review was not dependent on the implementation of Review of Public Administration in May 2011.
32. **Options considered:** The consultation paper presented three options/models to demonstrate how the amalgamation of the functions might be achieved. The paper made clear that model two was the Department's favoured model.
33. Model one - Proposed a fully integrated single partnership. The DoJ and the Northern Ireland Policing Board would jointly set regional priorities. These would be reflected, along with the local council's priorities, in an overall local Partnership Plan.
34. The Plan would contain specific actions which would be delivered by multi agency task groups established at the operational level. These groups would be monitored by the strategic tier of the Partnership. The Partnership would be required to hold regular public meetings which would be inclusive of all sections of the community.

35. Model two - Proposed a single Partnership incorporating a separate monitoring group on policing. The DoJ and the Northern Ireland Policing Board would jointly set regional priorities which would then be communicated to local councils. Councils would identify the local issues of concern for Partnership, which would be responsible for the development of a Partnership Plan to address these issues and for informing the Local Policing Plan. The Delivery Group (or Groups) would be responsible for the outworkings of the Partnership Plans. As with model one, regular dialogue with the community will be the responsibility of Partnership.
36. Model three - Proposed a single strategic partnership with separate monitoring, consultation and delivery groups. Again, the regional priorities would be set jointly by the DoJ and the Northern Ireland Policing Board and communicated to local councils. These regional objectives, combined with locally identified issues, would be used to develop a Partnership Plan. Project delivery would be taken forward by a separate Delivery Group with police monitoring and community engagement and consultation under the control of two further sub-groups.
37. The principle of a single partnership was widely embraced by the overwhelming majority of responses from all sectors including the Policing Board and political parties. Although the responses did cover a wide and diverse range of views there was no overall consensus on the detail of the partnership. We have carefully considered each response and the views expressed shaped our final draft policy. This is evident around the following issues:
- title of the partnership (we have moved away from Crime Reduction Partnerships to Policing and Community Safety Partnerships);
 - the need to have more streamlined lines of accountability and funding (we have incorporated a joint committee made up of representatives from the DoJ and NIPB to create a more straightforward reporting, funding and accountability structure between the partnership, the council and the DoJ and NIPB);
 - the need for the department and the Policing Board to work more closely together in setting high level strategic objectives (again has been considered a role for the joint committee); and
 - the size and composition of the partnership (we are not being prescriptive around the overall size and we have agreed to draw membership from three areas - Elected/Independent & Service Delivery (statutory/voluntary)).
38. The broad shape of the model now crafted is in line with most of the features of model two but with modifications directed by the responses to the consultation. The model consists of a single partnership comprising councillors, independent

appointees and representatives of designated organisations (both statutory and voluntary). Within that partnership the two former groups would, as required, sit as a body performing the core monitoring functions inherited from the DPPs that cannot be performed by the partnership as a whole and reporting on these to the Policing Board. Otherwise, the functions of DPPs and CSPs would be passed to the whole partnership, reporting to Council, a joint committee, the Department and the Policing Board.

Sports law

39. These provisions create new offences to promote good behaviour by fans of association football, Gaelic games and rugby. The offences are unauthorised pitch incursion; offensive chanting; missile throwing; the possession of flares or fireworks at regulated matches; and the possession of alcohol on hired buses en route to regulated matches. It also introduces football banning orders for the purpose of helping to prevent violence and disorder at association football matches.
40. **Options considered:** Items to be banned from taking into sports events were considered. Following consultation fireworks were added so as to supplement the existing controls on firework possession in Northern Ireland's explosives legislation. The new offence will make possessing a firework at a regulated match an offence except for firework displays organised by the match organisers under a Department of Justice licence.
41. **Options considered:** It was considered whether a football banning order should be available not only following a person's conviction in Northern Ireland of a relevant offence, but also on the application of the Chief Constable or the Director of Public Prosecutions, without a prior conviction. It was concluded that though the "application" route has attractions in terms of covering e.g. violence committed outside Northern Ireland, the Assembly may not have legislative competence to include such a provision.
42. **Options considered:** Whether the regulated time periods around alcohol consumption at sports matches should be fixed or should be adjustable was an issue. It was concluded that whilst the offence will be created for all three sports (gaelic games, football and rugby) flexibility in the application of the provisions will be important, potentially covering matches in different sports in different ways. The problem may be greater in one sport than in another and the regulations could be applied accordingly. Within the parameters described, regulation periods would also be amendable by subordinate legislation which would be fully consulted upon before being created, and tailored according to need. Following Consideration Stage the provisions around alcohol consumption at sports matches were removed from the Bill.

43. **Options considered:** The administration of the banning regime could be by a new, independent Northern Ireland Football Banning Authority; by extending the remit of one of the GB Banning Authorities to include NI; or by enforcement by PSNI. It was decided not to establish a separate or free-standing Football Banning Authority for Northern Ireland. We were not convinced that the potential numbers of these orders would merit separate apparatus at this stage. The view was that the PSNI could act as the enforcing authority in the interim in Northern Ireland and could perform both the reporting and monitoring roles in respect of individual offenders. Police work in these roles would be subject to any necessary guidelines published by the Department.

Alternatives to Prosecution

44. Two new disposals - police-issued fixed penalty notices and conditional cautions - aimed at providing effective ways to deal with certain types of uncontested non-habitual minor crime.
45. **Options considered:** The payment period that a person should get to pay their penalty notice before enforcement action is taken was one of the issues considered. There were concerns expressed during the consultation about the potential impact on persons with low incomes in making payments before salaries or benefits were due to be paid. It was therefore decided that the period for making payment should be extended from 21 to 28 days to enable recipients to budget more effectively.
46. **Options considered:** The list of possible offences which can receive a penalty notice was considered during consultation. These included first-time offences of selling intoxicating liquor to a minor and purchasing intoxicating liquor for a minor. However initiatives to tackle these offences are now being taken forward as part of a wider strategy being taken forward developed by the Department of Social Development. The Licensing and Registration of Clubs (Amendment) Bill proposes introducing a new "penalty points" system for licensees with points added on conviction for a number of relevant offences which cumulatively would lead to suspension of their licence. Consequently these offences no longer form part of our proposals.

Membership of Crown Court Rules Committee and Court of Judicature Rules Committee

47. This proposal extends the membership of the Northern Ireland Crown Court Rules Committee to include a public prosecutor nominated by the Director of Public Prosecutions for Northern Ireland and a practising member of the Bar or practising solicitor nominated by the Attorney General. It also extends the membership of the Court of Judicature Rules Committee to include the Attorney

General, or a practising member of the Bar or practising solicitor nominated by the Attorney General.

48. **Options considered:** It was considered as to whether the membership of the Crown Court Rules Committee should be expanded to include a person nominated by the Attorney General, a public prosecutor nominated by the Director of Public Prosecutions or both. It was decided that both should be represented as they could both bring value to the Committee.
49. It was also considered whether the membership of the Court of Judicature Rules Committee should be expanded to include the Attorney General or his nominee. It was decided also to proceed with this option.

OVERVIEW

50. The following descriptions take each Part in turn, following the sequence of the Bill. Within each Part provisions are largely in sequence though this varies on occasion to facilitate the flow of the document. This overview section is supported by the detailed Commentary on Clauses that follows.
51. The Bill has 112 clauses and 8 schedules and is divided into 10 parts. The policy description takes each part in turn, following the sequence of the Bill.

Victims and Witnesses

52. Part 1 of the Bill provides new services to Victims and Witnesses. Chapter 1 creates a new “Offender Levy” and Chapter 2 expands the “special measures” facilities available to vulnerable and intimidated witnesses.
53. The principal aim of the Offender Levy, Part 1 Chapter 1, is to make offenders more accountable for the harm they cause by requiring them to make a financial contribution towards support services to victims of crime. The Offender Levy will create a new revenue stream, to be used exclusively to resource a non-statutory Victims of Crime Fund, which will pay for projects that support victims and witnesses in the criminal justice process and which will support local groups working with victims in the community.
54. The levy will be a statutory, mandatory monetary order imposed on adult offenders, and will be applied to a specified range of court disposals and non-court based penalties. When sentencing, courts will be required to impose the levy on custodial and community sentences, and fines. The levy will also be attachable to a range of non-court imposed penalties, such as fixed penalty notices for minor criminal offences, endorsable road traffic offences and conditional offers for speed camera detections.

55. The levy will be set at a fixed, but tiered rate, of between £5 and £50 which will be proportionate to the disposal or penalty given. The levy will be collected and enforced by the courts in the same way as a fine, except where a period of immediate custody has been given; in which case the NI Prison Service will collect the levy by statutory deduction from prisoner earnings. The court will have the ability to reduce or remit the levy in certain circumstances.
56. The intention is that the levy will be implemented on a phased basis across the relevant disposals and penalties in line with the operational capabilities of partner agencies. Levy revenue would be channeled directly to the Victims of Crime Fund, which in full operation could realise around £500,000 per annum. Allocation of the Fund will be prioritised by the Victim and Witness Steering Group - a strategic multi-agency group comprising representation of all the criminal justice agencies, Victim Support (NI) and NSPCC – which is responsible for co-ordinating the development and implementation of victim and witness of crime policy across the criminal justice system.
57. Expanded court services for vulnerable and intimidated witnesses are created by Part 1, Chapter 2 “special measures” provisions. Special measures are statutory provisions to assist vulnerable and intimidated witnesses give their best possible evidence in criminal proceedings and are legislated for in the Criminal Evidence (NI) Order 1999 (the 1999 Order). The Bill inserts improvements to the provisions in the 1999 Order.
58. Special measures already provided in the 1999 Order include the use of screens in a courtroom to prevent a defendant from seeing a witness; a witness giving evidence from a separate room outside of the courtroom by live link (described more fully below); a witness giving evidence in private in sex offence and intimidation cases; the removal of wigs and gowns in the Crown Court to make proceedings appear less intimidating to vulnerable and intimidated witnesses; video recording the witness’s statement which is then played at the trial as their evidence in chief; and video recorded cross-examination or re-examination where any further evidence can be recorded in advance of the trial and played on the day of trial. The Order also provides for the use of intermediaries - people who act as ‘go-betweens’ - who can help a vulnerable witness who has difficulty understanding questions or giving evidence. Finally, there is a provision for aids to communication, such as a symbol book or alphabet board, to be permitted to help vulnerable witnesses understand questions and respond to them both in court and when giving police their statement.
59. The Bill will include a range of improvements to special measures provisions. It will raise the upper age limit, under which a young witness is eligible for special measures from 17 years to 18 years - thereby expanding the scope of the services - and, subject to safeguards, will allow their views to be taken into account when special measures applications are being made. The Bill will remove the special

category of child witnesses who are in need of special protection thereby placing all child witnesses on the same footing, regardless of the offence to which the proceedings relate.

60. Other expansions include adult complainants of sexual offences being automatically entitled to give video recorded evidence in chief; provisions to formalise the presence of a supporter in the live link room when a witness is giving evidence; relaxing restrictions on a witness giving additional evidence in chief after their video recorded statement has been admitted; and allowing intermediaries to be made available to vulnerable defendants.
61. The additional provisions will largely bring Northern Ireland's "special measures" provisions on a par with what is already available in England and Wales. The one exception is we are not proceeding with the proposal to make witnesses in proceedings related to offences involving firearms, knives and offensive weapons automatically eligible for special measures assistance.

Live Links

62. Part 2 of the Bill provides a related expansion in court services by extending the range of matters that can be dealt with by way of "live link". When evidence is given by live link a room is provided outside the courtroom where the witness can give evidence via a live television link to the courtroom. This means that the witness will be able to see the courtroom, and that those in the courtroom, including the defendant, will be able to see the witness through a television screen.
63. The additional "live link" provisions being created will extend the conditions for a vulnerable accused live link direction to include those of any age who have a physical disability or suffer from a physical disorder. This will be consistent with the eligibility criteria applied to witnesses. The Bill will improve the services for mentally disordered offenders by allowing live link connections between courts and psychiatric hospitals. A number of technical improvements are also being made to fill gaps in existing law where they might be beneficial. Preliminary and sentencing hearings in the county court will be incorporated as well as certain specified criminal appeals to the Court of Appeal. The opportunity is also being taken to update the law on bail hearings in the High Court. Currently accessible by live link by way of the court's inherent jurisdiction, the provisions will now put this on a statutory footing.
64. The provisions do not change a patient's or defendant's entitlement to be present at a hearing nor do they alter the right to consult privately with their legal representative before, during or after a live link. As a package they are designed to increase the use of live links in courts, prisons and now hospital psychiatric units

providing a cost effective and secure means for patients/prisoners to participate in hearings.

Policing and Community Safety Partnerships

65. Part 3 of the Bill creates new Policing and Community Safety Partnership structures.
66. The provisions will integrate the roles of Community Safety Partnerships (CSPs) and District Policing Partnerships (DPPs) to create a single partnership for each district council. These single partnerships will be known as a Policing and Community Safety Partnerships (PCSPs). Each single partnership will comprise of councillors, independent members and representatives of delivery partners (both statutory and voluntary). Within that partnership will sit a 'policing committee' comprising councillors and independents performing specific functions inherited from the DPPs relating to police monitoring and making arrangements for obtaining the co-operating of the public with the police, and reporting on these to the Policing Board. All the other functions of DPPs and CSPs are being passed to the whole partnership, reporting to the relevant council, the Department of Justice and the Policing Board.
67. The size of the policing committee will be 15, 17 or 19 members as determined by the district council, which established the PCSP, with one more elected representative than independents. The third group will be made up of representatives of designated organisations. There will be a minimum of four on each PCSP, but it will be for the PCSP to determine the number - the provisions are not prescriptive on the overall size of the PCSP. The Department may by order designate organisations which must be on each PCSP. The Bill allows for a "District Policing and Community Safety Partnerships" (DPCSPs) to be established for each police district within Belfast (which is restricted to a maximum of four by the Police (Northern Ireland) Act 2000). The members of a DPCSP need not be members of the principal PCSP.
68. The creation of single partnerships will provide for a more joined-up approach and will result in better local delivery and accountability more closely targeted on the real issues of concern in local neighbourhoods. Through streamlining structures, better use of the resources available for partnership working will be possible by directing more of the funding projects and initiatives on the ground. In order to streamline the joint strategic direction, funding and accountability functions of the Department of Justice and the Policing Board, a "joint committee" will be formed and will consist of representatives of the Department and the Policing Board. The joint committee will issue a code of practice containing guidance to PCSPs (and DPCSPs).

Sport

69. Part 4 of the Bill creates a new package of powers in the area of sports and spectator law designed to promote good behaviour amongst sports fans in Northern Ireland. The proposals will sit alongside the Safety of Sports Grounds (NI) Order 2006 and are collectively designed to improve safety at some of our large sports grounds. They also address wider aspects of misbehaviour by fans such as indecent chanting and anti-social drinking. These are designed to support clubs and authorities to establish a welcoming, safe environment for all spectators at major events.
70. The package applies specifically to association football, GAA sports and rugby union by way of the concept of “regulated matches”. Regulated matches (Chapter 1) vary with each provision but apply principally to Premiership and Championship division football teams and international football matches in Northern Ireland. For GAA sports, the matches are those played at National, County or some Secondary County Grounds in Northern Ireland. For rugby, the matches are those involving the Ireland or Ulster Rugby teams when played in Northern Ireland.
71. The provisions create new offences of offensive chanting, missile throwing and unauthorised pitch incursion (Chapter 2). They cover chanting which is sectarian or indecent, threatening, abusive or insulting to someone by reason of their race, colour, nationality, ethnic or natural origins, religious belief, sexual orientation or disability. Missile throwing inside grounds will be explicitly outlawed where the object may cause harm. Pitch incursion will cover unauthorised entry on to the pitch - a practice which can damage grounds; cause severe crowd control problems; result in injury to players, referees and other officials; and lead to civil claims. The Bill will also create new offences of possessing fireworks or flares at specified sporting matches in the three sports concerned. These offences will apply from one hour before each “regulated” match until 30 minutes after it.
72. A new offence of possessing alcohol or allowing it to be carried on hired buses to certain matches played inside or outside Northern Ireland is also covered by the provisions (Chapter 3). Other criminal law about drunkenness and disorderly behaviour will continue to apply to the individual, as will legislation and bye-laws about public consumption. The new offence, however, will extend, for example, to the transport rental company for allowing alcohol to be carried on relevant vehicles.
73. The provisions create football banning orders to help prevent violence and disorder sometimes linked with association football matches with powers to ban attendance at matches in NI (Chapter 4). Banning orders can be made along with a criminal conviction. Breach of a banning order will be a criminal offence. Additionally, powers of enforcement are provided so that a constable may enter

the sports ground and may search a person who he has reasonable suspicion of committing, or having committed, an offence under this part of the Bill (Chapter 5).

Treatment of Offenders

74. Part 5 of the Bill provides a series of standalone and individual sentencing powers – some nine in total - across a range of areas under the collective heading of Treatment of Offenders. These are changes or “tidy-up” improvements – not new sentences per se – which address problems caused by gaps or inconsistencies in existing laws.
75. In terms of offences connected to *violence and assault*, Part 5 makes four adjustments to existing sentencing powers. Currently the offence of *common assault* has a maximum penalty of three months imprisonment. Common assault has been an increasing problem – exemplified in the increase in numbers of healthcare workers assaulted in the course of their duties. The proposed increase in the current penalty to six months would play a part in providing a deterrent effect. In terms of *knife crime and the possession of weapons*, a sentencing package was created in 2008 of up to one year summarily or four years imprisonment on indictment for various knife and weapons offences. Knife crime in particular was an increasing problem and enhanced sentencing powers were created. Two offensive weapon offences were overlooked in that package – possession with intent and possession on school premises. The Bill now completes the package by creating the same sentencing powers. The Bill also extends the court sentencing powers by including the offence of *hi-jacking* within the *public protection sentences regime*. A recent case has highlighted that this is a gap which we should seek to address in order to strengthen public protection. A conviction for hi-jacking could therefore in future attract an indeterminate or extended custodial sentence in appropriate circumstances.
76. Two improvements are made in relation to *sex offending law*: One a technical amendment in respect of closure orders (orders which close premises being used for activities relating to certain prostitution or pornography offences for up to three months); the other an enhancement to breach powers in certain circumstances. The technical amendment ensures that only a district judge (magistrates’ courts), rather than, as is currently possible a Lay Magistrate or a district judge (magistrates’ courts) can deal with applications for “closure orders”. The proposal provides that such applications will be made to a court of summary jurisdiction, so that all applications will be determined by a district judge (magistrates’ courts), who is considered the most appropriate judicial officer. The enhancement to breach powers is designed to allow those few sex offenders living outside the jurisdiction who may breach their requirements to be dealt with before the court that imposed the original sex offender licence – not the one “where the offender resides”. Currently, problems can arise for both the GB court area of

residence *and* the original NI sentencing court as neither would appear competent to deal with the breach. The adjustment will go some way to tackling the occasional circumstances where this problem can arise.

77. Three other adjustments are made to sentencing powers. When courts are *deferring sentence* for the purpose of, for example, assessing a person's conduct after conviction, the current maximum period is six months. With one specific exception (in relation to interim driving disqualifications) the Bill proposes increasing this to a 12 month maximum giving the court a greater chance of seeing if the offender has shown marked and persistent improvement in conduct before sentencing. A further change proposed to fill an existing gap in *financial reporting law* is to include the offences of money laundering, corruption and fraud within the remit of the "financial reporting order" – an order under the Serious Organised Crime and Police Act 2005 requiring an offender convicted of specified offences to make reports of his financial affairs as the court directs. The reports enable law enforcement agencies to monitor an offender's financial activities over the period of the order and bring NI into line with GB. The final, technical change, allows NI to comply with the *EU Framework Decision on the mutual recognition of financial penalties*. The change will allow the supervised activity order, when commenced, to be available to a magistrates' court to impose on an offender who is fined outside the jurisdiction and defaults and moves or returns to NI. Again this addresses a gap in our existing law.

Alternatives to Prosecution

78. Part 6 of the Bill creates new Alternatives to Prosecution by introducing Penalty Notices and Conditional Cautions. These two new diversionary disposals are aimed at dealing effectively with minor offences outside the court room. They may be offered to offenders as an alternative to prosecution in suitable cases though offenders will retain the right to ask to have their case heard at court instead.
79. The fixed penalty provisions (Chapter 1) will create a power for police to dispose of certain prescribed offences, without a direction from the Public Prosecution Service (PPS), by giving a first-time or non-habitual offender a notice offering the opportunity to discharge his liability for that offence by paying a Fixed Penalty within 28 days. There are 7 eligible offences: simple drunk, breach of the peace, disorderly behaviour, obstructing police, indecent behaviour, criminal damage and petty shoplifting. Offences will attract either £40 or £80 penalties. The circumstances in which penalty notices would be issued for these offences will be set out in guidance. This will include for example that for petty shoplifting it will be limited to first-time offences involving goods of up to £100 which are recovered in a re-saleable condition or where the offender offers to pay for the item; for criminal damage, that damage is valued at less than £200; and indecent behaviour is to be limited to incidents of urination in the street. Where recipients

take no action within 28 days of the issue of the penalty, its value is uplifted by 50%, registered as a court fine and enforced through existing court fine default arrangements.

80. The conditional caution provisions (Chapter 2) will enable prosecutors to attach rehabilitative and reparative conditions to a caution with which the offender must comply or face reconsideration of prosecution for the original offence. (PPS is currently able to direct the issue of an *unconditional* caution as a disposal in suitable cases.) Rehabilitative conditions would include e.g. attendance at relevant programmes whilst reparative conditions may include an oral or written apology to a victim or other reparative activity to make good the harm caused.
81. The proposals are aimed at improving the criminal justice system in dealing with low level crime. It is estimated that the deployment of these measures will remove up to 2,000 cases from prosecution through the courts each year; enable the Chief Constable to minimise the time officers spend on case file preparation and court attendance and maximise the time spent on front-line policing duties; enable PPS prosecutors to concentrate on more serious offending (by eliminating their need to make prosecution decisions on the minor cases noted above); reduce the number of cases requiring listing in the courts; and together, contribute to reducing avoidable delay in the justice system. They will also reduce pressure on the criminal legal aid budget; assist in the rehabilitation of offenders and contribute to reducing their potential for re-offending; and improve the response to victims - through speedier resolution of offences, eliminating the need for them to give evidence at court and, in some cases, providing for direct victim reparation.

Legal Aid, etc.

82. Part 7 of the Bill makes a series of changes to legal aid legislation. These include enabling powers both for a new means test for criminal legal aid and for recovery of defence cost orders; provisions to remove restrictions on litigation funding arrangements; along with other adjustments to legal aid granting, eligibility or scope.
83. In deciding whether or not to grant criminal legal aid, the judiciary consider whether it is in the interests of justice that the accused should have legal representation (the merits test) and whether the accused person's means are insufficient for him to pay for his own representation (the means test). The Bill contains a rulemaking power for a fixed *means test* for the grant of criminal legal aid. Rules made under this power would include the detail of the actual financial eligibility limits. This should assist in making decisions on legal aid more consistent. In due course the rules and accompanying impact assessment detailing the cost/benefit analysis will be subject to a full public consultation.

84. Currently, those in receipt of criminal legal aid do not have to pay towards the costs of their legal representation. The Bill proposes a separate enabling power to allow courts to *recover costs* (by way of “recovery of defence costs orders” (RDCOs)) from legally aided defendants who are convicted if, at the end of the case, the court considers that the defendant has sufficient funds to pay all, or a proportion of, the costs of his defence. Again, rules would subsequently include the detail of how these orders would operate in practice and would be consulted upon and equality screened separately. Initially, RDCOs would be restricted to grants of legal aid under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 for cases in the Crown Court, though it may be extended to grants under the Criminal Appeal (Northern Ireland) Act 1980 for cases in the Court of Appeal at a later date.
85. The Bill also proposes to remove the restriction on the Northern Ireland Legal Services Commission from establishing or funding services under a *Litigation Funding Agreement* (LFA) – a type of agreement that allows litigants to pursue money damages cases, including personal injury litigation, on the basis that they would not be liable for their legal costs if their case was unsuccessful. If a client, funded by way of an LFA, was successful in his claim for damages, then either a success fee obtained from the losing side, or a portion of the client’s award (or both) would be paid into a central fund. This fund would then help meet the cost of legal fees in unsuccessful cases.
86. The remaining adjustments proposed include: having a single legal aid certificate process for bail applications made initially in the magistrates’ court and subsequently made to the Crown Court as repeat bail applications and allowing a compassionate bail application to be made to a magistrates’ court after an assisted person has been returned for trial to the Crown Court; the inclusion of applicants in receipt of the guarantee credit element of State Pension Credit as automatically meeting, in certain circumstances, the financial eligibility tests for civil legal aid; amending the Access to Justice (Northern Ireland) Order 2003 to provide that the power of the court or the Commission to grant criminal legal aid may only be exercised following an assessment of the applicant’s means to be provided for in regulations; enhanced remuneration of solicitors exercising existing rights of audience in the Crown Court, magistrates’ courts, county courts and in certain tribunals who have completed the requisite advocacy training for the relevant court or tribunal; and a series of miscellaneous amendments most of which relate to extending the scope of civil legal services. These amendments largely fill small gaps in existing laws.

Solicitors’ rights of audience

87. Part 8 gives effect to a key recommendation in the Bain Report (2006) to extend solicitors’ rights of audience in the higher courts in Northern Ireland. Presently solicitors in Northern Ireland enjoy unlimited rights of audience in the Crown

Court, County Courts, Magistrates' Courts and tribunals. There are, however, restrictions placed on solicitors appearing in the High Court and Court of Appeal, where effectively they may only appear in an insolvency matter, in chambers or where counsel is unavailable.

88. The proposal extends solicitors' rights of audience in the High Court and Court of Appeal. The clauses create a system of authorisation for solicitors wishing to exercise rights of audience in the High Court and Court of Appeal and the authorisation process is to be prescribed by the Law Society in regulations. The clauses require the Law Society to make regulations setting the education, training or experience requirements which a solicitor must meet before authorisation can be granted. These Law Society regulations will require the concurrence of the Lord Chief Justice and the Department, given after consultation with the Attorney General.
89. A solicitor holding authorisation shall have the same rights of audience as counsel in the High Court and Court of Appeal. The clauses also contain a range of measures which are designed to ensure that competition for advocacy services is maintained and conflicts of interest prevented. These measures include the creation of a duty for a solicitor to advise the client in writing of the options available for representation in the High Court and Court of Appeal; a duty to act in the best interest of the client when providing this advice and to give effect to the decision of the client. A solicitor is also under a duty to inform the Court that they have complied with these requirements and that the client has been advised accordingly. This is intended to reinforce consumer confidence and to reassure clients that their needs are paramount. Provision is made to ensure that a complaint can be made to the Solicitors' Disciplinary Tribunal where there has been an alleged breach of these requirements.
90. The clauses also give the Department an order-making power to make technical amendments to certain legal aid primary legislation to take account of the extension of solicitors' rights of audience. These orders will be subject to the negative resolution procedure.

Miscellaneous

91. Part 9 provides for improvements to a range of miscellaneous powers available to courts along with several other business improvement matters. The Bill will "open-up" the court tiers to which a compassionate bail or repeat bail application can be made. The Bill will allow a magistrates' court to deal with a compassionate bail application and the Crown Court to hear a repeat bail application. The Bill will also adjust the membership of the Crown Court Rules Committee to include a Public Prosecutor and a practising member of the Bar or practising solicitor nominated by the Attorney General for NI (AGNI) and also the membership of the

Court of Judicature Rules Committee to include the AGNI or a practising member of the Bar or practising solicitor nominated by AGNI.

92. The Bill will make provision to allow a magistrates' court, in criminal proceedings, to consider applications for witness summonses in respect of any evidence that may be likely to assist a party to the proceedings in presenting their case and make orders as appropriate. Currently this is restricted to evidence which is admissible. It will also make provision to allow court rules to be made specifying the circumstances in which the disclosure of information relating to family proceedings concerning children is permitted. It improves arrangements for appeals under Proceeds of Crime law; adjusts the processes around the preparation of NI Law Commission accounts; and will allow AccessNI to issue a copy of a criminal record certificate (or basic disclosure) to an employer where that employer was specifically identified within the application. At present the disclosure is issued to the applicant only.
93. As a consequence of an adjustment to knife penalties in Part 5, Part 9 also repeals an existing offence under the Vagrancy Act 1824 (being armed with a dangerous or offensive weapon, or with an instrument, with intent to commit an arrestable offence) to create a more modern equivalent, free-standing offence within the knife crime package of 12 months maximum for a summary offence or four years on indictment.
94. Part 9 gives the Department of Justice the power, with the consent of the Department of Finance and Personnel, to allocate the proceeds of criminal assets remitted to the NI Consolidated Fund to prevent crime, reduce the fear of crime and to support the recovery of criminal assets.
95. The Bill also amends the law in relation to funds held under the protective jurisdiction of the court on behalf of minors and patients by creating a specific power to allow the court to order the payment from such funds of any fees or expenses (at an amount or rate approved by the court) incurred in connection with or for the purposes of the Accountant General of the Court of Judicature investing those funds in securities. The court shall not make such an order unless it is necessary and proportionate to do so and the court may refund any fees which have been deducted where it is in the interests of justice to do so.
96. Part 9 also includes provisions amending the Firearms (Northern Ireland) Order 2004. The first of these allows a firearms dealer to vary a firearms certificate and notify the Police Service if a certificate holder sells to the dealer a firearm, other than a shotgun (which is covered by existing legislation) or a prohibited weapon, and buys another firearm of the same type *and* calibre. The second provision allows under 18 year olds to shoot shotguns in certain circumstances when they are under the supervision of a firearms certificate holder authorised to possess the shotgun. The final provision increases from 14 to 18 the age under which

individuals must be supervised if they possess a low powered air gun and lowers the age of a person who can act as the supervisor in such cases from 21 to 18 years and introduces a new requirement that the supervisor must hold a firearms certificate for the air gun.

Supplementary Provisions

97. Part 10 provides supplementary, incidental, consequential and transitional provisions. It provides for the making of regulations or orders under the Bill; interpretation; transitional provisions and savings; and minor and consequential amendments and repeals. It provides powers of commencement. Eleven sections come into effect on Royal Assent; four come into operation two months after the day on which Royal Assent is received; and the remainder will come into effect by order.

COMMENTARY ON CLAUSES

Part 1: Victims and Witnesses

This part contains two policies to assist victims and witnesses in the criminal justice system.

The principal aim of the offender levy is to make offenders more accountable for the harm which their actions cause, by requiring them to make a financial contribution to the delivery of support services to victims and witnesses of crime. It is intended to help increase victim satisfaction with the criminal justice system, and create a new revenue stream, which would be used exclusively to resource a non-statutory Victims of Crime Fund. The Fund would pay for projects that support victims and witnesses during their engagement with the criminal justice system, as well as grants to support initiatives by local groups working with victims in the community.

Special measures are statutory provisions to assist vulnerable and intimidated witnesses give their best possible evidence in criminal proceedings. These proposals will introduce a number of improvements for young witnesses, adult complainants of sexual offences and vulnerable defendants; as well as some procedural changes such as formalising the presence of a supporter in the live link room when a witness is giving evidence.

Chapter 1 - The Offender Levy

This chapter contains the power for a financial levy to be imposed by the court on conviction, or attached to relevant voluntarily accepted non-court imposed penalties.

Clause 1: Offender levy imposed by court

This clause sets out the sentences which will attract the offender levy. These are: imprisonment; detention in the young offenders centre; a suspended custodial sentence; a community order or; a fine. The levy will only be attached to those offenders 18 years old or over. Where a period of imprisonment or detention has been applied concurrent with a previous sentence of imprisonment or detention and a levy has been imposed on that previous sentence, a further levy will not be applied. Payment of compensation orders will take priority over the levy, and the levy must be reduced (to nil if necessary) by the court, where it has been determined that the offender has insufficient means to pay both the compensation order and the levy. The amount of any fine imposed can only be reduced on account of the levy, where the offender has insufficient means to pay both the fine and the levy. The Department may by affirmative resolution amend the list of sentences to which a levy applies.

Clause 2: Enforcement and treatment of offender levy imposed by court

This clause states that the offender levy shall, except where provided for in this Bill, be enforced in the same manner as a fine, and that the DOJ can make regulations with respect to the enforcement of the levy, where it considers this appropriate.

Clause 3: Deduction of offender levy imposed by court from prisoners' earnings

This clause permits the governor of a prison or young offenders centre (or a person authorised by the governor) to deduct money from the earnings of a prisoner, to recover the value of levy imposed by the court. It also enables the DOJ to make directions on the rate, timing and conditions of those deductions.

Clause 4: Offender levy imposed by court: other supplementary provisions

Clause 4 states that a court cannot, at the point of sentencing, set a default period of imprisonment for non-payment of the offender levy. When a fine and an offender levy are imposed together, any payment made shall first discharge the levy. If an offender defaults on paying a fine and is imprisoned, or given a supervised activity order, the court may remit such part of the levy which remains outstanding. Where an offender has been given a determinate sentence of imprisonment or detention (which is not suspended) and has made payments towards discharging the levy through deductions from earnings whilst in prison, any outstanding levy amount will be discharged by statute, on the full expiry of their sentence i.e. when they are no longer eligible for recall to custody for deductions from prison earnings to recommence.

Clause 5: Offender levy on certain penalties

This clause sets out the fixed penalties which will attract an offender levy: fixed penalties (introduced in this Bill); endorsable road traffic offences; and conditional

offers of fixed penalties for speed camera detections for persons aged 18 years and over. It also provides that other departmental penalties may be levied, subject to approval by an affirmative order of the Assembly. Where the relevant penalty is increased on default, the levy is to be increased by the same proportion.

Clause 6: Amount of the offender levy

This clause sets out the amount of offender levy to be paid depending on the sentence or fixed penalty given. Where more than one sentence is given at the same time, the levy will be applied to the sentence which attracts the highest rate.

If the sentence includes a determinate sentence of imprisonment for more than two years, or an indeterminate sentence of imprisonment the levy value is £50.

Where the sentence includes a determinate sentence of imprisonment less than two years and no sentence falling within (a), it is £25.

Where a sentence includes a community order or suspended sentence of imprisonment it is £20, providing the sentence does not include anything in (a) and (b).

Where it includes a fine, it is £15, providing the sentence does not include anything in (a), (b) or (c).

For fixed penalties (set out under clause 5), the levy is £5.

The Department may make an order by affirmative resolution of the Assembly, which amends the list and values of the levy.

Chapter 2 - Vulnerable and Intimidated Witnesses

This chapter amends the Criminal Justice (Northern Ireland) Order 1999 to introduce improvements to the special measures provisions and deal with some procedural changes.

Clause 7: Eligibility for special measure: age of child witnesses

This clause amends the age at which persons are considered to be young witnesses to be 18 years rather than 17 years.

Clause 8: Special measures directions for child witnesses

This clause allows the views of young witnesses to be taken into account when special measures applications are being made. This is subject to certain specified safeguards. It also removes the category of child witnesses who are in need of special protection thereby placing all child witnesses on the same footing, regardless of the offence to which the proceedings relate.

Clause 9: Special provisions relating to sexual offences

This clause gives adult complainants of sexual offences automatic entitlement to give video recorded evidence in chief. This does not apply in magistrates' courts.

Clause 10: Evidence by live link: presence of supporter

This clause formalises the presence of a supporter in the live link room when a witness is giving evidence.

Clause 11: Video recorded evidence in chief: supplementary testimony

This clause relaxes the restrictions on a witness giving additional evidence in chief after their video recorded statement has been admitted.

Clause 12: Examination of accused through intermediary

Clause 12 allows any examination of vulnerable defendants to be conducted through an interpreter or other person approved by the court. A vulnerable defendant is a person who has not attained the age of 18 or else is over 18 but suffers from a mental disorder or otherwise has a significant impairment of intelligence and social functioning. The court can give direction allowing examination through an intermediary if the above conditions are met and it is necessary in order to ensure the accused receives a fair trial.

Clause 13: Age of child complainant

This clause amends Article 23 of the Criminal Justice (Northern Ireland) Order 1999 so that the age of a child complainant is raised to 18 from 17.

Part 2: Live Links

This part expands the use of live links facilities in courts to include physical disability and provide for defendants or patients who have a psychiatric illness. Live links will also be available for a wider range of appeals, for sentencing hearings in a county court as well as bail hearings in the High Court.

Clause 14: Live links for patients detained in hospital

This clause provides for the use of live links between courts and psychiatric units for patients detained in hospitals under Part 3 of the Mental Health (Northern Ireland) Order 1986.

Clause 15: Live links at preliminary hearings in the High Court

This clause provides for the use of live links at preliminary hearings in the High Court. Currently accessible by live link by way of the court's inherent jurisdiction, the provision will now put this on a statutory footing.

Clause 16: Live links at preliminary hearing on appeals to the county court

This clause extends the use of live links to preliminary hearings in connection with appeals to the county court where the appellant is likely to be held in custody during the hearing. The court shall not give or rescind a live link direction unless the parties to the proceedings have been given the opportunity to make representations.

Clause 17: Live link in sentencing hearing on appeals to the county court

This clause allows for the use of live links in relation to sentencing hearings in connection with appeals to a county court where the appellant is likely to be held in custody during the hearing. A live link direction may be given by the court with the appellant's consent or on an application by a party.

Clause 18: Live links in the Court of Appeal

This clause extends the use of live links in the Court of Appeal in relation to certain specified criminal appeal proceedings if a party to those proceedings is expected to be in custody. The Court of Appeal would only issue a live link direction with the consent of the party whose sentencing is the subject of the appeal and after the other parties to the proceedings have had the opportunity to make representations.

Clause 19: Live link direction for vulnerable accused

This clause provides for an accused person of any age, who has a physical disability or suffers from a physical disorder to make an application to the court to give oral evidence through a live link. The court must be satisfied that the accused person suffers from the said disability or disorder; use of a live link would enable them to participate more effectively in the proceedings and that it is in the interests of justice for them to give evidence through a live link. This is in any proceedings in a magistrates' court or before the Crown Court for an offence and to any proceedings in a county court on an appeal.

Part 3: Policing and Community Safety Partnerships

This Part integrates the roles of Community Safety Partnerships (CSPs) and District Policing Partnerships (DPPs) to create a single partnership for each district council. These single partnerships will be known as Policing and Community Safety

Partnerships (PCSPs). Each single partnership will comprise of councillors, independent members and representatives of delivery partners (both statutory and voluntary). Within that partnership will sit a ‘policing committee’ comprising councillors and independents performing the police monitoring functions inherited from the DPPs and reporting on these to the Policing Board. All the other functions of DPPs and CSPs are being passed to the whole partnership, reporting to the relevant council, the Department of Justice and the Policing Board.

Clause 20: Establishment of PCSPs and DPCSPs

This clause requires each district council to establish a PCSP and the district council for Belfast to establish a DPCSP for each police district. The clause also gives effect to Schedules 1 and 2. It also states that a joint committee shall be formed with representatives from the Department of Justice and the Policing Board to oversee the PCSPs.

Schedule 1 provides for the membership composition and rules; the election of a chair and vice chair; procedure of the partnership; details of the policing committee and any other committees; insurance; finance; the establishment of joint PCSPs; and modifications specific to Belfast PCSP. Schedule 2 does this for the Belfast DPCSPs.

Clause 21: Functions of PCSP

This clause sets out the functions of a PCSP. The functions are in relation to policing of and community safety in the district. They are to obtain and fully consider the views of the public, to act as a forum for discussion and consultation on these matters, prepare plans to reduce crime, identify targets to measure the success of the plans and provide financial or other support to persons involved in ventures designed to reduce crime or enhance community safety in the district. This clause also explains that there are a number of “restricted functions” which must be carried out by the policing committee of the PCSP, these are the specific functions inherited from DPPs in relation to holding PSNI to account for its performance in respect of the local policing plan, and making arrangements for obtaining the co-operation of the public with the police, and reporting on these to the Policing Board.

Clause 22: Functions of DPCSP

This clause sets out the functions of the DPCSP which are the same as in Clause 21 except they are all in relation to the police district rather than district.

Clause 23: Code of practice for PCSPs and DPCSPs

This clause states the joint committee will issue a code of practice containing guidance as to the exercising of functions of the PCSPs. Before issuing a code the joint committee will consult with district councils and the Chief Constable. The code of

practice may include provisions concerning procedures for meetings, holding public meetings, arrangements for giving notice of meetings, arrangements for submitting reports or other documents to the joint committee and arrangements for dealing with the Policing Board and the Department. It can also contain arrangements for the policing committee's functions in relation to monitoring the police.

Clause 24: Annual report by PCSP to council

Clause 24 outlines that annual reports (for each council except Belfast) must be sent to the district council and the joint committee by a PCSP no later than three months after the end of the financial year. Before a report is submitted the policing committee shall consult with the relevant district commander. The council will arrange for the report to be published in such a manner as it feels appropriate.

Clause 25: Annual report by Belfast PCSP to council

This clause states that the PCSP for the district of Belfast has up to four months after the end of each financial year to produce a report on the exercise during that year of its functions and those of the DPCSPs. The PCSP report and the various DPCSP reports must be submitted to the council and copied to the joint committee. Before a report is submitted the policing committee shall consult with the district commander of each police district in the district of Belfast. The council will arrange for the PCSP report to be published and if appropriate the DPCSP reports.

Clause 26: Annual report by DPCSPs to principal PCSP

This clause states that a DPCSP must, no later than two months after the end of the financial year, submit to the principal PCSP a report on its functions in that year. Before submitting the report the DPCSP shall consult the relevant district commander.

Clause 27: Reports by PCSP to joint committee

This clause requires the PCSP (except Belfast) to provide a report at any time when requested by the joint committee. The report must be provided within three months, or a longer period if agreed by both parties, from the request. The joint committee can publish the report as it sees appropriate.

Clause 28: Reports by Belfast PCSP to joint committee

This clause allows the joint committee to request reports on the Belfast PCSP or any of the DPCSPs. The report must be received within three months unless it relates wholly or partly to the functions of a DPCSP in which case the time limit is four months. The joint committee can publish the report as it sees appropriate.

Clause 29: Reports by DPCSP to principal PCSP

This clause requires a DPCSP to provide a report on its functions to the PCSP whenever it is requested. This must be done within two months or an agreed longer timescale. The PCSP can publish this report as it sees fit.

Clause 30: Reports by policing committees to Policing Board

This clause allows the Policing Board to request a report from a policing committee of a PCSP, except Belfast, at any stage. The policing committee has three months, or longer if agreed, to provide the report which the Policing Board may publish if appropriate.

Clause 31: Reports by policing committee of Belfast PCSP to Policing Board

This clause requires the policing committee of the Belfast PCSP to submit reports to the Policing Board on request. The report must be received within three months unless it relates wholly or partly to the functions of a DPCSP in which case the time limit is four months. When submitting the report the policing board of the Belfast PCSP must also send any relevant policing board reports from the DPCSPs. The Policing Board may publish any reports if appropriate.

Clause 32: Reports by policing committee of DPCSP to policing committee of principal PCSP

This clause requires a policing committee of a DPCSP to submit a report to the policing committee of the principal PCSP at any point it is requested. The policing committee of a DPCSP has two months, or longer if agreed, to comply. The policing committee of the principal PCSP can arrange for the report to be published if appropriate.

Clause 33: Other community policing arrangements

This clause allows policing committees, with the Policing Board's approval, to make arrangements to facilitate consultation by the police with any local community within their district. If it appears to the Policing Board that this has not been done the Board itself may make arrangements to facilitate consultation by the police with that local community. The Policing Board may pay reasonable expenses of any body set up to achieve the consultation. The Chief Constable should be consulted to ensure the arrangements are satisfactory.

Clause 34: Functions of joint committee and Policing Board

This clause states that the joint committee must assess the level of public satisfaction with the partnerships and assess the effectiveness of the partnerships to perform their functions. The Policing Board must assess the level of public satisfaction with the policing committees and assess the effectiveness of the policing committees to perform their functions.

Part 4: Sport

This part creates new offences to promote good behaviour by fans of association football, Gaelic games and rugby. The offences are unauthorised pitch incursion; offensive chanting; missile throwing; the possession of flares or fireworks; and the possession of alcohol on hired buses en route to regulated matches. It also introduces football banning orders for the purpose of helping to prevent violence and disorder at association football matches. A court will be able to make a banning order prohibiting a person from attending certain football matches for a set period. It will be a criminal offence to fail to comply with a football banning order.

Chapter 1 and Schedule 3 set out the definitions for regulated matches and the period of a regulated match. Chapter 2 deals with the new offences at regulated matches, Chapter 3 deals with alcohol on vehicles travelling to a regulated match, and Chapter 4 deals with banning orders.

Chapter 1 - Regulated matches

This Chapter consists only of clause 35, which sets out which sports matches are covered by each Chapter in this Part of the Bill, and also the period during which the offences in Chapter 2 are to apply.

Clause 35: Regulated matches

This clause outlines what matches are affected by each of the Chapters in this Part, by reference to Schedule 3. The notes on Schedule 3 outline the matches concerned.

In Chapter 2 (offences at regulated matches) a regulated match is those outlined in paragraph 2, 3, 6 or 8 of Schedule 3. For Chapter 3 (alcohol on transport) designated matches are those specified in paragraph 2, 3, 4, 6, 7, 8 or 9 of Schedule 3. For Chapter 4 (banning orders) regulated matches are matches named in paragraph 2, 3, 4, or 5 of Schedule 3.

This clause also explains, for the purposes of all offences in Chapter 2, the period of a regulated match, including on occasions where a match is postponed or cancelled. The period of a regulated match begins one hour before the start of the match or (if earlier) one hour before the time at which it is advertised to start. The period ends 30 minutes after the end of the match. Postponements or match delays are catered for by retaining the same period before the advertised match starting time as would have applied had the match taken place as advertised.

The Department may amend Schedule 3 by order subject to negative resolution.

Chapter 2 - Conduct at Regulated Matches

This Chapter outlines all of the offences being introduced which relate to conduct at matches.

Clause 36: Throwing of Missiles

This clause creates an offence of throwing any article capable of causing injury if it strikes a person at or towards a playing area, or other specified areas without lawful authority. A person guilty of this offence is liable to a fine not exceeding level 3 on the standard scale. Currently a level 3 fine is £1,000.

Clause 37: Chanting

This clause creates an offence of sectarian or indecent chanting during regulated matches. Chanting is defined as the repeated uttering of any words or sounds (whether alone or in concert with one or more others). Chanting that consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability is also covered by this offence. A person guilty of this offence is liable to a fine not exceeding level 3 on the standard scale (currently £1,000).

Clause 38: Going onto the playing area

This clause makes it an offence for a person to go onto the playing area, or any area adjacent to the playing area to which spectators are not generally admitted, without lawful authority or excuse. A person guilty of this offence is liable to a fine not exceeding level 3 on the standard scale (currently £1,000).

Clause 39: Possession of fireworks, flares, etc.

This clause creates an offence of having a specified article, when at a regulated match, or trying to enter a ground during the regulated period. A specified article is a firework or an article or substance whose main purpose is the emission of a flare for purposes of illuminating or signalling (as opposed to igniting or heating) or the emission of smoke or a visible gas. In particular this applies to distress flares, fog signals and pellets and capsules intended to be used as fumigators or for pipe testing but not to matches, cigarette lighters or heaters. A person guilty of this offence is liable to a fine not exceeding level 3 on the standard scale (currently £1,000), or to imprisonment for a term not exceeding 3 months.

Chapter 3 - Alcohol on vehicles travelling to regulated match

This chapter relates to possession of alcohol on vehicles which are travelling to a regulated match.

Clause 40: Offences in connection with alcohol on vehicles

This clause creates two offences around alcohol on certain transport to regulated matches. First, it defines which vehicles are covered by the offences created; these are motor vehicles which can carry 9 or more passengers and are being used principally for the purpose of carrying passengers for reward for the whole or part of a journey to a regulated match. The first offence is that of causing or permitting intoxicating liquor to be carried on such a vehicle, and applies to an operator, servant or agent of the operator, or the person who hired the vehicle, or their servant or agent. The operator of a vehicle is the driver, if the driver owns the vehicle, or in any other case it is the person for whom the driver works. A person guilty of this offence is liable to a fine not exceeding level 4 on the standard scale. Currently a level 4 fine is £2,500.

It is also to be an offence to possess intoxicating liquor while on a relevant vehicle. A person guilty of this offence is liable to a fine not exceeding level 3 on the standard scale (currently £1,000), or to imprisonment for a term not exceeding 3 months.

A constable may stop and search a vehicle if he suspects that one of these offences has taken or is taking place. Definitions of ‘intoxicating liquor’ and ‘motor vehicle’ are provided.

The clause gives the Department an order-making power to amend which vehicles this offence applies to. Such orders would be subject to affirmative resolution of the Assembly.

Chapter 4 - Banning orders in relation to regulated matches

This chapter deals banning orders, the content, period and additional requirements of banning orders, terminations, exemptions, appeals and enforcement.

Clause 41: Banning orders made on conviction

This clause states the sorts of which offence which may trigger the sentencing court’s consideration of a banning order. These are where the person who committed the offence engaged in violence or disorder at, entering or leaving a regulated match, on the journey to or from a regulated match or where it appears to the court the offence was motivated by a regulated match. The court must impose a banning order if a person has been convicted of such an offence and the court believes making a banning order would help to prevent violence or disorder at or in conjunction with any regulated matches.

The clause states what evidence may be considered and that a banning order may only be made in addition to a sentence or conditional discharge.

The clause states that a banning order is to be taken to be a sentence for the purposes of appeal rights.

Clause 42: Banning order: content

This clause provides a definition of banning order as an order prohibiting the person from entering any premises for the purpose of attending a regulated match. The court is required to explain the effect of the banning order to the subject in ordinary language.

This clause requires the person to report initially to a police station. It also sets out a list of events which require the person to notify the police (e.g. a change of address), and the time period in which notification may take place. It also provides for the suspension of reporting requirements when the person is in legal custody or when the person is living outside Northern Ireland.

Clause 43: Banning orders: supplementary

This clause gives the requirements for the adjournment of proceedings, covering warrants, remand, and bail. The clause also gives a right of appeal to the prosecution, where the court has not made a banning order.

Clause 44: Banning orders: “violence” and “disorder”

This clause gives the definitions of violence and disorder for the purposes of this chapter.

Violence is defined as violence against persons or property and includes threatening violence and doing anything which endangers the life of any person.

Disorder includes stirring up sectarian hatred or hatred against groups of persons defined by reference to colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability or against an individual as a member of such a group; using threatening, abusive or insulting words or behaviour or disorderly behaviour; and displaying any writing or other things which are threatening, abusive or insulting.

Clause 45: Banning order: duration

This clause explains how the maximum period of a banning order is determined. The period starts when the banning order is made. Where an order is made in addition to a sentence of immediate detention the maximum is 10 years and the minimum is 6 years. In any other case the maximum is 5 years and the minimum is 3 years.

Clause 46: Additional requirements of banning orders

This clause provides that in making a banning order court may, if it thinks fit, include additional requirements of the person. It also provides that the court which made the order may vary it, on the request of the person, or of the prosecutor.

Clause 47: Termination of orders

This clause allows that when two thirds of the period of the order has elapsed the person subject to an order may apply to have the order terminated. On application the court may terminate the order or refuse the application. The clause sets out factors which must be considered by the court such as the person's character, conduct of the person since the order was made and the nature of the offence which led to it. A second termination application may not be made within 6 months of the refusal of the first. The applicant may be required to pay the costs of the application.

Clause 48: Information

This clause determines to whom the court must send a copy of each banning order, and each terminating order. These are, as relevant, the person, the Chief Constable, the police station that the person must report to initially and, if the person is being detained in custody, the person in whose custody they are detained, and any other person prescribed by the Department. Notice of the subject's release from custody, in certain circumstances, must also be provided to the Chief Constable.

Clause 49: Offences under this chapter

This clause sets out the offences related to banning orders and the penalties associated with each. A person guilty of the offence of failing to comply with any requirement imposed by a banning order, is liable to imprisonment for a term not exceeding 6 months, a fine not exceeding level 5 on the standard scale (currently £5,000), or both.

Chapter 5 - Enforcement

This Chapter consists only of clause 50.

Clause 50: Powers of enforcement

This clause sets out what constables may do in enforcing the provisions of this Part of the Bill. Where they suspect an offence has been committed under this Part constables may enter a sports ground and / or search a person.

Part 5: Treatment of Offenders

This part makes various amendments to existing legislation.

Clause 51: Increase in maximum term of imprisonment for common assault or battery

This clause increases the maximum term of imprisonment for common assault or battery under section 42 of the Offences against the Person Act 1861 to six months. As a consequence it also repeals section 43 (aggravated assault).

Clause 52: Penalty for certain knife offences

This clause increases the maximum penalty for the offence of having a weapon on school premises to, on summary conviction, 12 months' imprisonment, a fine not exceeding the statutory maximum, or both; and on conviction on indictment, 4 years' imprisonment, an unlimited fine, or both.

Clause 53: Extension of maximum period of deferment of sentence

This clause increases the maximum period for which sentencing for an offence may be deferred from six months to twelve months, except where an interim driving disqualification is also being imposed, in which case the maximum remains at six months.

Clause 54: Breach of licence conditions by sex offenders

This clause amends article 27 of the Criminal Justice (Northern Ireland) Order 1996 so that if a person breaches the conditions of their licence and have no known address in Northern Ireland they can be brought before the court which made the original order.

Clause 55: Sexual offences: closure orders

This clause amends the Sexual Offences Act 2003 to ensure that a district judge (magistrates' courts) will hear applications relating to closure orders.

Clause 56: Financial reporting orders

This clause adds the offences of money laundering, corruption and fraud to the list of offences which can receive a Financial Reporting Order.

Clause 57: Dangerous offenders: serious and specified offences

This clause makes the offence of hijacking under Section 2 of the Criminal Jurisdiction Act 1975 (the 1975 Act) eligible for both indeterminate and extended custodial sentences under the provisions of the Criminal Justice (Northern Ireland) Order 2008.

Clause 58: Supervised activity order in respect of certain financial penalties

This clause ensures that supervised activity orders (community-based alternatives to custody for fine default) are available to magistrates' courts in respect of anyone who

has had a financial penalty imposed elsewhere in the EU, who then returns or moves to Northern Ireland without having paid the fine, and in respect of whom the penalty is transferred to Northern Ireland.

Part 6: Alternatives to Prosecution

This part provides for two new diversionary disposals - penalty notices and conditional cautions - aimed at dealing effectively with minor offences outside the court room. They may be offered to offenders as an alternative to prosecution in suitable cases but offenders will retain the right to ask to have their case heard at court instead.

Penalty notices are introduced for first-time or non-habitual offenders committing a prescribed offence. Paying the notice within 28 days discharges his liability for that offence. They are issued by the police, without a direction from the Public Prosecution Service (PPS). There are 7 eligible offences which are listed in Schedule 4. Offences will attract either £40 or £80 penalties. Where recipients take no action within 28 days of the issue of the penalty, its value is uplifted by 50%, registered as a court fine and enforced through existing court fine default arrangements.

The PPS is currently able to direct the issue of an unconditional caution (by police or departmental officials) as a disposal in suitable cases. The conditional caution provisions will enable prosecutors to attach rehabilitative and reparative conditions to a caution with which the offender must comply or face reconsideration of prosecution for the original offence. This disposal is intended to be used for individuals who might willingly avail of the opportunity to begin addressing any issues underpinning their offending behaviour in order to minimise their risk of re-offending. Rehabilitative conditions would include for example attendance at relevant programmes, whilst reparative conditions may include an oral or written apology to a victim or other reparative activity to make good the harm caused.

Chapter 1 - Penalty Notices

This chapter creates a power for police to dispose of certain prescribed offences, without a direction from the PPS, aimed at giving a first-time or non-habitual offender a notice offering the opportunity to discharge his liability for that offence by paying a penalty notice within 28 days (“the suspended enforcement period”).

Clause 59: Penalty offences and penalties

This clause brings in Schedule 4 which lists the offences which can attract a penalty notice and the amount payable in relation to that offence. Offences which attract a £40 penalty are indecent behaviour (urination) in any street, road, highway or other public place, or in any place to which the public have access; and being drunk in any road or

other public place. Offences with an £80 penalty are theft (guidance will state this is for first-time shoplifting only); criminal damage (i.e. destroying, damaging or intending to do so to any property belonging to or being reckless as to whether any such property would be destroyed or damaged); disorderly behaviour in any public place; behaviour likely to cause a breach of the peace in a public place; and assaulting, resisting, obstructing or impeding a constable in the execution of his duty.

The Department may amend Schedule 4 by an affirmative resolution order of the Assembly. The penalty payable in respect of a penalty offence may not exceed one quarter of the maximum fine for which a person is liable on summary conviction of the offence. Penalty notices are also subject to the offender levy provisions in this Bill.

Clause 60: Penalty notices

This clause defines a “penalty notice” as a notice offering the opportunity by paying a fixed penalty to discharge any liability to be convicted of the offence to which the notice relates. Penalty notices are issued by the police to a person over the age of 18.

Clause 61: Form of penalty notice

This clause dictates that a penalty notice must state the alleged offence, specifics about the alleged offence so as to provide reasonable information about it, specify the period before prosecution will be brought about (suspended enforcement period), the amount of the penalty, to whom and where the penalty must be paid and inform the alleged offender of the right to request a trial.

Clause 62: Effect of penalty notice

This clause states that if the alleged offender requests to be tried for the alleged offence then proceedings may be brought against them. The request to be tried must be made in the manner specified in the notice within the suspended enforcement period. If the suspended enforcement period elapses and the person has neither requested to be tried nor paid the amount then the sum of the notice is increased by 50% and the penalty may be registered as a court fine.

Clause 63: General restrictions on prosecution

This clause sets out the restrictions on prosecution. No proceedings can be brought within the suspended enforcement period which is 28 days from the date on which the notice was given, unless the individual requests to be tried. If the penalty is paid before the end of the suspended enforcement period no proceedings may be brought for the offence.

Clause 64: Guidance

This clause allows the Department of Justice to issue guidance about issuing penalty notices, about the exercise of the discretion given to police officers and with a view to encouraging good practice in connection with the operation of this provision.

Clause 65: Payment of penalty

This clause sets out the procedure for payment of a penalty. The payment must be made to, or at an office of, the fixed penalty clerk specified in the penalty notice. Where payment is made by post, this is to be done by addressing, pre-paying and posting a letter to the fixed penalty clerk containing the penalty notice and the amount of the penalty. Sums paid by way of a penalty for an offence shall be treated as if they were fines imposed on summary conviction of that offence. The fixed penalty clerk is the clerk of petty sessions or such other persons as the Department of Justice may by order direct.

Clause 66: Registration certificates

This clause comes into effect if a person either does not pay their penalty notice or request to be tried within the suspended enforcement period. In this instance the Chief Constable, or a person authorised by him, may issue a certificate stating that the sum can be registered as a fine. This certificate must be issued to the fixed penalty clerk.

Clause 67: Registration of penalty

This clause states that the fixed penalty clerk must upon receiving a certificate under clause 66 register a sum in default for enforcement as a court fine. Once registered as a fine the individual who received the penalty notice is given a notice of registration specifying the amount and date for payment alongside information with respect to the offence. It will be treated as a court fine and therefore attract the normal payment and enforcement methods such as payment by installments, extra time to pay or any of the sanctions available for fine default.

The Department can make regulations with respect to the enforcement of payment of sums registered under this section as it considers appropriate.

Clause 68: Challenge to notice

This clause applies where a person who has received a notice of registration of a sum under clause 67 for enforcement as a fine makes a declaration, within 21 days (or outside that period at the discretion of the court), that they were not the person to whom the relevant penalty notice was given or that they gave notice requesting to be tried. If the person is not the individual to whom the penalty notice was issued the registration as a fine and any other proceedings made will be void. If the person requested to be tried

within the specified period then the registration of the fine is void and the case shall be treated as if the person requested to be tried as stated.

Clause 69: Setting aside of sum enforceable under section 67

This clause allows a court of summary jurisdiction to void the penalty notice, the registration as a fine and any proceeding related to the alleged offence if it considers it is in the interests of justice to do so. It also allows the court to set aside the registration as a fine and to treat the case as if the person concerned had given notice requesting to be tried in respect of the offence.

Clause 70: Interpretation of this Chapter

This clause defines some of the terms used in this chapter.

Chapter 2 - Conditional Cautions

This chapter enables prosecutors to attach rehabilitative and reparative conditions to a caution with which the offender must comply or face reconsideration of prosecution for the original offence.

Clause 71: Conditional Cautions

This clause introduces conditional cautions which are cautions given in respect of an offence which have conditions attached to it that the offender must comply with. A conditional caution can be given if the five requirements set out in clause 72 are satisfied. The conditions should have the objective of facilitating the rehabilitation of the offender and/or ensuring the offender makes reparation for the offence. For this chapter an “authorised person” is a police officer or a person authorised by the Director of Public Prosecutions for Northern Ireland.

Clause 72: The five requirements

This clause sets out the requirements that must be met for a conditional caution to be issued. The first requirement is that the authorised person has evidence that the offender committed an offence, other than an offence triable only on indictment. The second is that a Public Prosecutor decides there is sufficient evidence to charge the offender with the offence and that a conditional caution should be given to the offender. The third is that the offender admits to the authorised person that they committed the offence. The fourth is that the authorised person explains the effect of a conditional caution and that failure to comply may result in the offender being prosecuted for the offence. Finally the offender must sign a document detailing the offence, admitting the offence, consenting to be given a conditional caution and outlining the conditions attached to the caution.

Clause 73: Variation of conditions

This clause allows a Public Prosecutor, with the consent of the offender, to vary the conditions attached to a caution by modifying or omitting any of the conditions or adding a condition.

Clause 74: Failure to comply with the conditions

This clause details that if an offender fails (without reasonable excuse) to comply with the conditions then criminal proceedings may be instituted against the offender for the offence in question in which case the conditional caution will cease to have effect

Clause 75: Arrest for failure to comply

This clause states that a constable can arrest an offender without a warrant if they have reasonable grounds for believing that the offender has failed (without reasonable excuse) to comply with any of the conditions attached to the caution and makes provision for dealing with such circumstances. The arrested person must (i) be charged, (ii) released without charge on bail to enable a decision to be made as to whether he should be charged or (iii) released without charge or bail and with or without any variations to the conditions of his caution as appropriate. Conditional cautions are issued to an offender by PPS with a clear indication that a failure to comply may result in prosecution for the original offence. This power enables the facilitation of such a prosecution in the event of default of conditions by an offender.

Clause 76: Application of PACE provisions

This clause ensures that the relevant provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 apply in relation to a person arrested, under provisions in clause 75, for suspected failure to comply with a conditional caution.

Clause 77: Code of practice

This clause requires the Department of Justice to prepare a code of practice in relation to conditional cautions. The code may include provisions as to the circumstances, procedures and places for giving a conditional caution; what conditions can be attached to a caution and time they can have effect for; the people who can give a caution; the form the caution takes and the manner in which they are to be given and recorded; the monitoring of compliance with conditions; the use of arrest powers for non-compliance; and who makes decisions about the release of persons arrested.

The code must be published in draft for comment and the Department of Justice may amend the code accordingly. The code cannot be amended or published without the consent of the Attorney General for Northern Ireland. Once the draft is agreed it must be

laid before, and approved by a resolution of, the Assembly. The code can then be brought in by order. The Department may from time to time revise the code.

Clause 78: Powers of Probation Board

This clause gives to the Probation Board for Northern Ireland power to make provision to assist the Public Prosecutors in determining whether a conditional caution should be given and which conditions to attach. The Probation Board can also make provision for the supervision and rehabilitation of persons to whom a conditional caution is given.

Clause 79: Interpretation of this Chapter

This clause defines some of the terms used in this chapter.

Part 7: Legal Aid, etc.

This part allows rules/regulations to be made to introduce a new means test for the grant of criminal legal aid in Northern Ireland and make amendments to Legal Aid. These include powers to enable the courts to make recovery of defence costs orders; repeal of a provision which prevents the Northern Ireland Legal Services Commission from establishing or funding services under a Litigation Funding Agreement; and a number of miscellaneous amendments to legal aid legislation, mainly relating to the scope of civil legal services, to ensure that access to justice is maintained.

Clause 80: Eligibility for criminal legal aid

This clause allows the introduction of a new means test for the grant of criminal legal aid in Northern Ireland. This is an enabling power to make rules. The rules will prescribe the financial eligibility limits. The first rules under this clause shall not be made unless a draft of the rules has been laid before, and approved by a resolution of, the Assembly.

Clause 81: Order to recover costs of legal aid

This clause allows courts to make recovery of defence costs orders against legally aided defendants who are convicted if the court considers that the defendant has sufficient funds to pay all, or a proportion of, the costs of his defence. The clause is for an enabling power which allows rules to be made. The rules would subsequently include the detail of how these orders would operate in practice.

Clause 82: Eligibility of persons in receipt of guarantee credit

This clause amends the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 to include applicants in receipt of the guarantee credit element of State Pension Credit as automatically meeting, in certain circumstances, the financial test for civil legal aid.

Clause 83: Legal aid for certain bail applications

This clause ensures that an accused person who has been granted a criminal aid certificate for proceedings before the magistrates' court will continue to get free legal aid not only for any bail application heard in the magistrates' court, but also for a repeat bail application made in the Crown Court. For an accused person who has been granted a criminal aid certificate for proceedings before the Crown Court, this certificate will now include free legal aid not only for any bail application in the Crown Court but also for any compassionate bail application made in the magistrates' court.

Clause 84: Financial eligibility for grant of right to representation

The clause amends the Access to Justice (Northern Ireland) Order 2003 and provides that the power of the court or the Commission to grant criminal legal aid may only be exercised following an assessment of the applicant's means.

Clause 85: Litigation funding agreements

This clause removes the restriction on the Northern Ireland Legal Services Commission from establishing or funding services under a Litigation Funding Agreement (LFA). LFAs are a type of agreement that allows litigants to pursue money damages cases, including personal injury litigation, on the basis that they would not be liable for their legal costs if their case was unsuccessful. If a client, funded by way of an LFA, was successful then either a success fee obtained from the losing side, or a portion of the clients' award (or both) would be paid into a fund. This fund would then help meet the cost of legal fees in unsuccessful cases.

Clause 86: Civil legal services: scope

This clause ensures that civil legal services are available for applications in the Crown Court or in a court of summary jurisdiction to vary or discharge a witness anonymity order or an order under the Protection from Harassment (Northern Ireland) Order 1997. In a court of summary jurisdiction, civil legal services will also be available for applications for a foreign travel restriction order or to vary, renew or discharge a foreign travel restriction order, for applications to discharge an investigation anonymity order, for applications to release property subject to a confiscation order under the Proceeds of Crime Act 2002.

Clause 87: Enhanced legal aid fees for certain solicitors

This clause brings in Schedule 5 which provides the power to allow legal aid regulations to be made in order to remunerate at an enhanced rate solicitors who exercise rights of audience in the lower courts and certain tribunals where they have undergone the requisite advocacy training specified by the Law Society and have complied with certain duties.

Part 8: Solicitors' rights of audience

This part gives solicitors, who are authorised by the Law Society, rights of audience in higher courts in Northern Ireland.

Clause 88: Authorisation of Society conferring additional rights of audience

This clause makes various amendments to the Solicitors (Northern Ireland) Order 1976 which are related to the granting of authorisation to solicitors by the Law Society to appear in the High Court and Court of Appeal. The application for authorisation shall be made in a way, and accompanied by such fee, as the Law Society may prescribe, together with such information the Society may reasonably require. The Law Society is required to make regulations with regard to the education, training and experience which a solicitor must possess before authorisation can be granted. These regulations may provide that a solicitor who has already completed such training, education or experience shall be taken to hold such authorisation. These regulations are subject to the concurrence of the Lord Chief Justice and the Department which must consult with the Attorney General. Where a solicitor meets the prescribed training, education and experience requirements, the Law Society shall grant authorisation. The Law Society must maintain a register of authorised solicitors.

Clause 89: Rights of audience of solicitors

This clause amends the Judicature (Northern Ireland) Act 1978 to provide that a solicitor holding authorisation shall have the same rights of audience as counsel in the High Court and Court of Appeal. It also amends the Solicitors (Northern Ireland) Order 1976 to create certain duties which will apply where a solicitor is minded to engage an authorised solicitor to represent a client in the High Court or Court of Appeal or, where he is an authorised solicitor, to provide that representation himself. Specifically, in these circumstances, a solicitor will be required to advise their client in writing of the advantages and disadvantages of representation by an authorised solicitor and by counsel respectively and that the decision as to representation is entirely that of the client. The detail of the matters to be covered by this advice is to be prescribed by the Law Society in regulations. These regulations are subject to the concurrence of the Lord Chief Justice and the Department, which must consult with the Attorney General. When advising a client, a solicitor must act in the best interest of the client and give effect to any decision of the client. The solicitor must inform the court, in a way and timescale provided by court rules, that they have complied with these requirements. If a solicitor breaches any of these duties, any person may make a complaint to the Solicitors' Disciplinary Tribunal. This clause also makes a technical amendment to the County Courts (Northern Ireland) Order 1980 to remove a restriction which prevents a solicitor being retained by another solicitor as an advocate. A solicitor may now instruct an authorised solicitor to act on behalf of a client in the County Court.

Clause 90: Consequential and supplementary provisions

This clause gives the Department an order-making power to make technical amendments to certain legal aid primary legislation to take account of the extension of solicitors' rights of audience. These orders will be subject to the negative resolution procedure

Part 9: Miscellaneous

This part contains miscellaneous provisions.

Clause 91: Bail: compassionate grounds

This clause gives magistrates' courts the power to grant defendants compassionate bail. At present, only the High Court or Crown Court has the jurisdiction to do so.

Clause 92: Bail: repeat applications

This clause allows repeat bail applications to be heard by the Crown Court (i.e. where bail has been refused by the magistrates' court and there has not been a change in circumstances). Currently such applications are heard by the High Court under its inherent jurisdiction.

Clause 93: Possession of offensive weapon with intent to commit an offence

This clause replaces part of section 4 of the Vagrancy Act 1824, the offence of being armed with a dangerous or offensive weapon with intent to commit an arrestable offence. It creates a more modern equivalent, free-standing offence with increased penalties - up to 4 years' imprisonment, an unlimited fine, or both on conviction on indictment. Article 90 of the Criminal Justice (NI) Order 2008 (NI 1) gave effect to policy to set a standard set of maximum penalties for various offences involving knives, offensive weapons and crossbows. This aligns this offence with the wider package.

Clause 94: Power of Department to make payments in relation to prevention of crime, etc.

This clause gives the Department of Justice the power to allocate the proceeds of criminal assets, remitted to the NI Consolidated Fund, up to a limit to be agreed between the Department of Finance and Personnel and HM Treasury to prevent crime and reduce the fear of crime and to support the recovery of criminal assets.

Clause 95: Publication of material relating to legal proceedings

This clause enables court rules to be made on disclosure of information relating to family proceedings concerning children without the need for a court order authorising the disclosure. This disclosure will be between specified persons and in specified circumstances.

Clause 96: Membership of Crown Court Rules Committee

This clause provides for a public prosecutor (nominated by the Director of Public Prosecutions) and a practising member of the Bar or practising solicitor nominated by the Attorney General for Northern Ireland to be included within the membership of the Crown Court Rules Committee.

Clause 97: Membership of the Court of Judicature Rules Committee

This clause provides for the Attorney General for Northern Ireland or a practising member of the Bar or practising solicitor nominated by the Attorney General for Northern Ireland to be included within the membership of the Court of Judicature Rules Committee.

Clause 98: Funds in court: investment fees or expenses

This clause gives the court a power to order the payment, from funds held under the court's protective jurisdiction on behalf of minors and patients, of any fees or expenses (at an amount or rate approved by the court) incurred in connection with or for the purposes of the investment of those funds in securities by the Accountant General of the Court of Judicature. The court shall not make such an order unless it is necessary and proportionate to do so and the court may also order the refund of any fees which have been deducted where it is in the interests of justice to do so.

Clause 99: Appeals from Crown Court: Proceeds of Crime Act 2002

This clause makes provision for appeals from the Crown Court (following committal to that court for consideration of a confiscation order under section 219 of the Proceeds of Crime Act) to be dealt with by the Court of Appeal.

Clause 100: Witness summons in a magistrates' court

This clause allows magistrates' courts to consider applications for third party disclosure in respect of any evidence that may be of use to a party to the proceedings in presenting their case. The purpose of this is to bring the powers of the magistrates' courts into line with those available to the Crown Court. This will enhance the existing provision for magistrates' courts and relieve the burden of such applications to the Crown Court.

Clause 101: Criminal conviction certificates to be given to employers

This clause enables AccessNI to issue a copy of a criminal conviction certificate (or basic disclosure) to an employer in addition to issuing the certificate to the applicant. This will reduce delay in employers completing pre-employment checks on job applicants.

Clause 102: Accounts of the Law Commission

This clause removes the requirement for the NI Law Commission to produce a full set of audited accounts (a requirement will remain to include a financial summary within their annual report) removing the need for the Comptroller & Auditor General for NI to undertake separate examination and certification.

Clause 103: Variation of firearms certificate

This clause allows variations to firearms certification to be made by a dealer where the individual is exchanging firearms of a similar type and calibre. The dealer must then notify the PSNI. Previously this was available for only shotguns however this clause extends it to all firearms other than prohibited weapons.

Clause 104: Restrictions on possession of shotguns by young persons

This clause allows persons under the age of 18 to shoot shotguns in certain supervised situations. The person acting as the supervisor must hold a firearms certificate authorising them to possess such a shotgun as is being used.

Clause 105: Restrictions on possession of air guns by young persons

This clause changes the age restrictions on possessing a low power air gun. It provides that all individuals under 18 are to be supervised if they possess such an air gun. The clause also lowers the age of a person who can act as the supervisor to someone 18 years or older and introduces a new requirement that the supervisor must hold a firearms certificate authorising them to possess such an air gun.

Part 10: Supplementary Provisions

This part contains the supplementary provisions including powers to make regulations.

Clause 106: Supplementary, incidental, consequential and transitional provision, etc

This clause provides for supplementary, incidental, consequential and transitional provisions.

Clause 107: Regulations and orders

This clause provides that regulations and orders made by the Department may include such additional provisions as the Department considers necessary.

Clause 108: Interpretation

This clause contains interpretation provisions.

Clause 109: Transitional provisions and savings

This clause provides for transitional provisions and savings set out in Schedule 6 to have effect.

Clause 110: Minor and consequential amendments and repeals

This clause provides for minor and consequential amendments and repeals set out in Schedules 7 and 8 to have effect.

Clause 111: Commencement

The clause concerns the commencement of the Bill and enables the Department to make Commencement Orders.

Clause 112: Short title

This clause provides a short title for the Bill.

Schedules

Schedule 1: Policing and community safety partnerships

This schedule sets out how a policing and community safety partnership under Part 3 is to be established and the arrangements for its proceedings.

Paragraph 3: Political members

This paragraph details that the number of political members is determined by the council and it is to be based on the number of members constituting the council. In appointing political members the council must ensure as far as possible that they reflect the balance of the parties prevailing among the members of the council immediately after the last local general election. This paragraph also details how long a political member can hold office, how they vacate office and when a casual vacancy can and cannot be filled.

Paragraphs 4 - 6: Independent members

These paragraphs detail how the number of independent members should be determined, how the independent members should be appointed, how long they should hold office, how they vacate office and when a casual vacancy can and cannot be filled. These paragraphs also detail that the Department of Justice is responsible for preparing and revising a code of practice in relation to the appointment of independent members.

Paragraph 7: Representatives of designated organisations

This paragraph details the minimum number of representatives from delivery partners that should be on each PCSP and who is responsible for designating organisations that must be represented. The paragraph also details that a PCSP is responsible for the revoking a designated organisation's membership. It also allows the Department by order to designate organisations which must be on each PCSP. The department must consult with each PCSP and lay the order before the Assembly for approval by resolution before making the order.

Paragraph 8: Removal of members

This paragraph details that the Policing Board or the Council with the approval of the Policing Board is responsible for the removal of political and independent members of a PCSP. The paragraph sets out the circumstances in which members of the PCSP can be removed.

Paragraph 9: Disqualification

This paragraph sets out the circumstances in which persons are disqualified from membership of a PCSP.

Paragraph 10: Chair and vice-chair

This paragraph provides for the appointment of a chair and a vice-chair of a PCSP. It sets out that the chair must be appointed by the council from among the political members and vice-chair will be elected by the independent members from such members. The person appointed to the office of chair shall usually be appointed for a term of 12 months and the office will be held in turn by each of the largest four parties represented on the council. The paragraph explains how a member resigns from the position of chair and vice-chair of the PCSP.

Paragraph 11: Procedure of PCSP

This paragraph details that there is a quorum for each meeting of a PCSP which shall be one-quarter of the total of members. The paragraph also sets out how each question at a meeting of a PCSP shall be determined and what happens in the event of the elected chair and vice-chair are absent from a meeting of a PCSP.

Paragraph 12: Policing committee: constitution

This paragraph sets out that there shall be a policing committee consisting of political members and independent members for each PCSP. The paragraph explains that each policing committee shall have a chair who is the chair of the PCSP and a vice-chair elected by the independent members. If a person wishes to resign from the position of vice-chair they should do so in writing to the Policing Board. The paragraph also explains that if a person ceases to be a member of the policing committee they will automatically vacate the position of chair or vice-chair.

Paragraph 13: Policing Committee: procedure

This paragraph details that there is a quorum of 5 for a meeting of the policing committee. The paragraph also sets out how each question at a meeting of a policing committee shall be determined and what happens in the event of the elected chair and vice-chair are absent from a meeting of a PCSP. The paragraph explains that a policing committee may constitute sub-committees to be made up of 5 or more of its members. The policing committee can delegate to a sub-committee any of its functions.

Paragraph 14: Other committees

This paragraph provides for a PCSP to constitute other committees made up of 5 or more of its members. A PCSP can delegate to a committee any of the functions of the PCSP (except the functions restricted to the policing committee). This paragraph allows for a committee appointed to co-opt other persons who are not members of the committee or the PCSP.

Paragraph 15: Indemnities

This paragraph details that the council can cover a PCSP member in respect of liability incurred by that member in connection with the business of the PCSP.

Paragraph 16: Insurance against accidents

This paragraph sets out that the council may insure against risks of a member of the PCSP meeting with a personal accident, whether fatal or not whilst engaged in PCSP business.

Paragraph 17: Expenses

This paragraph provides that the council may pay members of the PCSP such expenses as the council determines.

Paragraph 18: Finance

This paragraph requires the Department and the Policing Board to make a grant for each financial year to the district council towards the expenses incurred by the council in connection with the establishment of, or the exercise of the functions by PCSPs.

Paragraphs 19 & 20: Validity of proceedings & Disclosure of pecuniary interests, family connections etc.

These paragraphs set out the circumstances which should not affect the proceedings of a PCSP.

Paragraph 21: Joint PCSPs

This paragraph enables the Department after consultation with the Policing Board and the councils affected, to provide by order that two or more councils can establish a joint PCSP for their districts.

Paragraph 22: Belfast PCSP

This paragraph makes modifications to the Schedule in relation to the Belfast PCSP, to accommodate the DPCSPs.

Schedule 2: District policing and community safety partnerships

This schedule sets out how a district policing and community safety partnership in Part 3 is to be established for each police district of Belfast and the arrangements for their proceedings.

Paragraph 2: Composition

This paragraph sets out that each DPCSP shall consist of 6 political members, 5 independent members and representatives nominated by designated organisations. It also provides that members of DPCSPs need not be members of the principal PCSP.

Paragraph 3: Political members

This paragraph details that the number of political members is determined by the council and it is to be based on the number of members constituting the council. In appointing political members the council must ensure as far as possible that they reflect the balance of the parties prevailing among the members of the council immediately after the last local general election. This paragraph also details how long a political member can hold office, how they vacate office and when a casual vacancy can and cannot be filled.

Paragraphs 4 - 6: Independent members

These paragraphs detail how the number of independent members should be determined, how the independent members should be appointed, how long they should hold office, how they vacate office and when a casual vacancy can and cannot be filled. These paragraphs also detail that the Department of Justice is responsible for preparing and revising a code of practice in relation to the appointment of independent members.

Paragraph 7: Representatives of designated organisations

This paragraph details the minimum number of representatives from delivery partners that should be on each DPCSP and who is responsible for designating organisations that must be represented on each DPCSP. It provides that there should be at least 4 designated organisations. The paragraph also details that a DPCSP is responsible for the revoking a designated organisation's membership. It also allows the Department by order to designate organisations which must be on each DPCSP. The department must consult with each DPCSP and lay the order before the assembly for approval by resolution before making the order.

Paragraph 8: Removal of members

This paragraph details that the Policing Board or the Council with the approval of the Policing Board is responsible for the removal of political and independent members of a DPCSP. The paragraph sets out the circumstances in which members of the DPCSP can be removed.

Paragraph 9: Disqualification

This paragraph sets out the circumstances in which persons are disqualified from membership of a DPCSP.

Paragraph 10: Chair and vice-chair

This paragraph provides for the appointment of a chair and a vice-chair of a DPCSP. It sets out that the chair must be appointed by the council from among the political members and vice-chair will be elected by the independent members from such members. The person appointed to the office of chair shall usually be appointed for a term of 12 months and the office will be held in turn by each of the largest four parties represented on the council. The paragraph explains how a member resigns from the position of chair and vice-chair of the DPCSP.

Paragraph 11: Procedure of DPCSP

This paragraph details that there is a quorum for each meeting of a PCSP which shall be one-quarter of the total of members. The paragraph also sets out how each question at

a meeting of a DPCSP shall be determined and what happens in the event of the elected chair and vice-chair are absent from a meeting of a DPCSP.

Paragraph 12: Policing committee: constitution

This paragraph sets out that there shall be a policing committee consisting of political members and independent members for each DPCSP. The paragraph explains that each policing committee shall have a chair who is the chair of the DPCSP and a vice-chair elected by the independent members. If a person wishes to resign from the position of vice-chair they should do so in writing to the Policing Board. The paragraph also explains that if a person ceases to be a member of the policing committee they will automatically vacate the position of chair or vice-chair.

Paragraph 13: Policing Committee: procedure

This paragraph details that there is a quorum of 5 for a meeting of the policing committee. The paragraph also sets out how each question at a meeting of a policing committee shall be determined and what happens in the event of the elected chair and vice-chair are absent from a meeting of a DPCSP. The paragraph explains that a policing committee may constitute sub-committees to be made up of 5 or more of its members. The policing committee can delegate to a sub-committee any of its functions.

Paragraph 14: Other committees

This paragraph provides for a DPCSP to constitute other committees made up of 5 more of its members. A DPCSP can delegate to a committee any of the functions of the DPCSP (except the functions restricted to the policing committee). This paragraph allows for a committee appointed to co-opt other persons who are not members of the committee or the DPCSP.

Paragraph 15: Indemnities

This paragraph details that the council can cover a DPCSP member in respect of liability incurred by that member in connection with the business of the DPCSP.

Paragraph 16: Insurance against accidents

This paragraph sets out that the council may insure against risks of a member of the DPCSP meeting with a personal accident, whether fatal or not whilst engaged in DPCSP business.

Paragraph 17: Expenses

This paragraph provides that the council may pay members of the DPCSP such expenses as the council determines.

Paragraph 18: Finance

This paragraph requires the Department and the Policing Board to make a grant for each financial year to the district council towards the expenses incurred by the council in connection with the establishment of, or the exercise of the functions by DPCSPs.

Paragraphs 19 & 20: Validity of proceedings & Disclosure of pecuniary interests, family connections etc.

These paragraphs set out the circumstances which should not affect the proceedings of a DPCSP.

Schedule 3: Regulated matches

This schedule sets out the “regulated matches” for the sports law provisions under Part 4 of the Bill. The provisions in each of the Chapters 1 to 4 of Part 4 apply to a different set of “regulated matches”. Each of the schedule’s paragraphs 2 to 9 describes a different set of matches, and clause 35 specifies which of those paragraphs applies to which Chapter in Part 4.

Paragraph 1 of the schedule defines terms: “the IFA” as the Irish Football Association; “the FAI” as the Football Association of Ireland; “FIFA” as the Fédération Internationale de Football association; “the IRFU” as the Irish Rugby Football Union; “gaelic game” as gaelic football (including international rules football), hurling or camogie; “member to include a full or associate member; and “UEFA” as Union des Associations Européennes de Football.

Paragraphs 2 to 5 cover regulated association football matches.

These are association football matches where -

Paragraph 2 - one or both participating teams represent a country or territory.

Paragraph 3 - one or both participating teams represents a club which is for the time being a member of:

- the IFA Premiership,
- the IFA Championship,
- the FAI Premier League, or
- the FAI First Division.

Paragraph 4 - one or both participating teams represents a club which is for the time being a member of:

- the Football League,
- the Football Association Premier League,
- the Football Conference,
- the Welsh Premier League,
- the Scottish Premier League, or
- the Scottish Football League.

Paragraph 5 - a match being played in Northern Ireland -

- in which one or both participating teams is a member of, or affiliated to, a national football association which is a member of FIFA,
- which is part of a competition or tournament organized by, or under the authority of FIFA or UEFA

Paragraph 6 and 7 apply to gaelic games.

These include a match played -

Paragraph 6 - at a sports ground in Northern Ireland which is designated as requiring a safety certificate under Part 2 of the Safety of Sports ground (Northern Ireland) Order 2006.

Paragraph 7 - outside Northern Ireland and:

- in which one or both participating teams represents a county, or
- which is an international rules football match.

Paragraphs 8 and 9 cover rugby union matches.

These comprise a rugby union match which -

Paragraph 8 - is subject to regulation by the IRFU, and is played at a sports ground in Northern Ireland which is designated as requiring a safety certificate under Part 2 of the Safety of Sports ground (Northern Ireland) Order 2006.

Paragraph 9 - is subject to regulation by the IRFU, is played outside Northern Ireland and in which one or both participating teams represents Ireland or Ulster Rugby.

Schedule 4: Penalty offences and penalties

This schedule lists the offences covered by the Penalty Notices created by Part 6 and the penalty payable in respect of that penalty offence.

The offences and the penalties are:

- indecent behaviour in any street, road, highway or other public place, or in any place to which the public have access - £40
- theft (guidance will state this is for first-time shoplifting only) - £80
- destroying, damaging or intending to do so to any property belonging to or being reckless as to whether any such property would be destroyed or damaged (guidance will state this is for damage valued at under £200) - £80
- drunk in any road or other public place - £40
- disorderly behaviour in any public place - £80
- behaviour likely to cause a breach of the peace in a public place - £80
- assaulting, resisting, obstructing or impeding a constable in the execution of his duty - £80

Schedule 5: Enhanced legal aid fees for certain solicitors

Paragraph 1 provides the power to provide for enhanced fees to a solicitor who is exercising a relevant right of audience, is accredited by the Law Society and has complied with the duties listed in paragraph 3. The Schedules applies to rights of audience in the Crown Court, a county court, a magistrates' court and certain tribunals.

Paragraph 2 outlines that the Law Society will make regulations regarding the accreditation of solicitors. It allows a solicitor to apply to the Law Society for accreditation and outlines the application process.

Paragraph 3 sets out the duties of the solicitor where the client will be represented by an accredited solicitor. The solicitor is required to advise the client of the advantages and disadvantages of representation by an accredited solicitor and by counsel. The Law

Society will make regulations outlining how this is to be done. The solicitor must inform a court or tribunal before which they are representing the client that they have given such advice. The solicitor must act in the best interest of the client and comply with any decision they make as to representation by an accredited solicitor or counsel. If the solicitor fails to comply with any of the duties in this paragraph any person may make a complaint against the solicitor to the Solicitors Disciplinary Tribunal.

Paragraph 4 sets out that regulations made under this Schedule require the concurrence of the Lord Chief Justice and the Department of Justice which will consult with the Attorney General.

Paragraph 5 allows the Department of Justice to make consequential amendments to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or to Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 as appears necessary.

Paragraph 6 provides definitions for the terms used in this Schedule.

Schedule 6: Transitional and saving provisions

This schedule lists the transitional and saving provisions necessary to the Bill.

Schedule 7: Minor and consequential amendments

This schedule lists the minor and consequential amendments necessary in the Bill.

Schedule 8: Repeals

This schedule lists the repeals brought in by the Bill.

FINANCIAL EFFECTS OF THE BILL

98. The Department is of the view that, taken as a whole, the proposals in the Bill will be cost neutral and will be delivered within existing resources. It will however incur a number of costs but through time new measures in the Bill could well lead to considerable efficiency gains and larger scale savings. Clause 94 will ensure that funds from proceeds of criminal assets remitted to the NI Consolidated Fund in Northern Ireland can be used in connection with measures intended to prevent or reduce the fear of crime or support the recovery of assets and proceeds of crime.

HUMAN RIGHTS ISSUES

99. All proposals have been screened and are considered to be Convention compliant.

EQUALITY IMPACT ASSESSMENT

100. All of the constituent parts of the proposed Bill have been screened out as not having an adverse impact on any of the Section 75 categories in the Northern Ireland Act 1998. A full EQIA of the Bill proposals was published for public consultation and can be viewed at www.dojni.gov.uk.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

101. No direct costs will be created for the private or voluntary sectors. Indeed for the victim support side of the voluntary sector, the offender levy will in fact increase resources available.

LEGISLATIVE COMPETENCE

102. The Minister of Justice had made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Justice Bill would be within the legislative competence of the Northern Ireland Assembly."

SECRETARY OF STATE CONSENT

103. A statement is required under section 10(3)(b) of the Northern Ireland Act 1998, on Secretary of State consent:

"The Secretary of State had consented under section 10(3)(b) of the Northern Ireland Act 1998 to the Assembly considering this Bill."