



Department of  
**Justice**

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An Roinn Dlí agus Cirt

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Máinnystrie O tha Laa

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A consultation on the contents of the list of  
Qualifying Offences  
as specified under Article 53A of the  
Police and Criminal Evidence (Northern  
Ireland) Order 1989

This consultation begins on 1 May 2025

This consultation ends on 6 August 2025

Department of Justice  
Safer Communities Directorate

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## 1. Introduction

1.1. The Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) and its associated Codes of Practice (the Codes) are vital parts of the framework of legislation providing the police with the powers they need to investigate crime.

1.2. A qualifying offence is an offence, or ancillary offence, specified under [Article 53A](#) of PACE NI. The current list of qualifying offences in Northern Ireland contains offences such as murder, rape, grievous bodily harm, assault occasioning actual bodily harm, robbery and burglary, and numerous sexual, indecency, and firearms offences. These offences are considered to be the most serious and those convicted of such offences are of greatest risk to the public.

1.3. The list of qualifying offences will be a key component of the new retention legislative framework, with designation of an offence as a qualifying offence having implications for the following:

- the maximum length of time that DNA profiles and fingerprints can be retained;
- the timelines for statutory reviews of retained DNA profiles and fingerprints;
- the retention of DNA profiles and fingerprints from individuals charged but not convicted of a qualifying offence;
- the retention of DNA profiles and fingerprints from individuals who have been arrested for, but not charged with, a qualifying offence (only if prescribed circumstances are passed by the NI Assembly); and
- the range of individuals that the PSNI can recall to a police station to have their DNA sample and fingerprints taken (the police will have a power to take DNA samples and fingerprints from certain individuals convicted of past offences, with no time restrictions on the taking powers if the offence is a qualifying offence. This will assist in the detection of crime by allowing the use of DNA profiles and fingerprints to link such individuals to unsolved past crimes, or crimes they might commit in the future).

It is therefore vital that the list of offences in Article 53A is as complete as possible, given its importance in ensuring a graduated approach to the retention of DNA profiles and fingerprints.

## Background

1.4. When the list was originally developed by the Home Office (before the devolution of Justice to the Northern Ireland Assembly), it consisted of almost all offences under the Sexual Offences (Northern Ireland) Order 2008, some other sexual offences, the most violent offences, and terrorism related offences. The rationale was that DNA profiles and fingerprints from these types of offenders could prove useful in the investigation of future offences by the same individual. The offences may involve

leaving evidence on the victim or at the crime scene in the form of blood, saliva or semen traces from which a DNA profile could be extracted. It was also considered that repeat sexual offenders may avoid conviction because of victims' reluctance to come forward or give evidence and that the retention of DNA profiles and fingerprints for a limited period from those arrested for, or charged with, such offences could assist with the detection of future offending.

### **Review of qualifying offences**

1.5. The Department of Justice (DoJ) has completed an extensive review of the offences contained in Article 53A and have considered what offences may have been omitted from the original list and what new offences may be suitable for addition to the list. The exercise has been completed with assistance from the Police Service of Northern Ireland (PSNI), the Departmental Solicitor's Office (DSO), the Public Prosecution Service for Northern Ireland (PPSNI), the Home Office and the Northern Ireland Office (NIO), to ensure that the list is as complete as possible and to minimise the risk of any offences being omitted. The DoJ has also engaged with the Scottish Biometrics Commissioner and the office of the Biometrics and Surveillance Camera Commissioner.

1.6. In taking forward the review, the DoJ has sought to balance proportionality regarding the range of offences included in the list, considering the additional powers that can be applied to an offence specified as a qualifying offence.

### **Historic offences**

1.7. At present, Article 53A contains offences that are in current legislation. However, individuals can be arrested today for historic offences, and, if appropriate, would be charged with the legislation that was in force at the time the offence was committed. It is therefore important that Article 53A is updated to equalise the treatment of individuals convicted of offences under past legislation and those convicted of equivalent offences under current legislation (if Article 53A is not updated to include both current and similar repealed offences, it could result in retention of DNA profiles and fingerprints being treated differently when committing broadly the same offence, with the historic offence conviction potentially attracting a shorter retention period). Therefore, the proposed amendments will put the retention of material for historic offences on the same footing as those arrested or charged under current legislation. As a result, the review of qualifying offences has involved the mapping of historic offences that are similar to offences already contained in Article 53A for proposed addition to the qualifying offences list.

## **Serious offences – wider considerations**

1.8. In taking forward the review, the DoJ also considered offences that are contained in serious offences lists within other pieces of legislation, for example, Schedules 1, 2 and 2A of the Criminal Justice (NI) Order 2008, Schedule 1 Part 2 of the Serious Crime Act 2007, and Schedule 3 of the Legal Aid for Crown Court Proceedings (Costs) Rules (NI) 2005. Consideration was also given to offences on the Access NI list of specified offences, i.e. offences that will never be filtered from standard or enhanced criminal record certificates. Cognisance was also given to the maximum sentence each offence can attract as an indicator regarding the potential seriousness of an offence.

1.9. Consideration was also given to offences that can be deemed to be serious because of their impact on society or because they may lead to, or be associated with, the most serious offences e.g. offences relating to drugs, offensive weapons etc., some of which have been suggested for inclusion by the Biometrics and Surveillance Camera Commissioner [[Page 30, paragraph 90 of the UK Biometrics Commissioner Annual Report 2014](#) and [page 26, paragraphs 66 & 67 of the UK Biometrics Commissioner Annual Report 2015](#)]. Therefore, the DoJ has proposed the addition of offences that have a harmful impact on society and/or individuals (in particular, vulnerable individuals or children) e.g. offences created by recent and upcoming legislation, such as the Domestic Abuse and Civil Proceedings Act (NI) 2021, the Protection from Stalking Act (NI) 2022 and the proposed Adult Protection Bill.

## **Excepted/reserved matters**

1.10. Whilst taking forward the review, it became apparent that some of the proposed offences would fall into the excepted or reserved sphere (e.g. terrorism and drugs offences), which are the responsibility of the Westminster government. Following legal advice, officials engaged with the Home Office and the Northern Ireland Office regarding these offences.

1.11. The DoJ has now reached an agreement with the Home Office regarding the offences that would fall into the excepted or reserved categories. The Home Office has advised that they will consider what offences they will take forward as part of a wider exercise to update the England and Wales list (section 65A of PACE 1984).

## **Monitoring and Further Updates**

1.12. The Northern Ireland Biometrics Commissioner will be responsible for keeping Northern Ireland biometric related legislation under review, including the list of qualifying offences. The Commissioner will provide an annual report and advice to the Department on the outworkings of the legislation. This may include advice on any new

offences that should be considered as qualifying or an assessment of the qualifying offences for which material is most frequently retained.

## **2. Summary of Proposals**

2.1. This consultation provides details of the proposed changes to the qualifying offences list in Article 53A of PACE NI.

2.2. Following completion of the review, the DoJ created a list of proposed additions as qualifying offences. The list separates out the devolved offences (which the DoJ has the competence to take forward) and excepted / reserved offences (which the Home Office would have responsibility to take forward). Narrative on the rationale for offences being proposed as qualifying offences is included in the list.

2.3. In summary, the DoJ proposals involve the updating of Article 53A to include:

- historic repealed offences;
- offences broadly similar to offences already contained in Article 53A;
- offences deemed to be serious because of their impact on society or because they may lead to, or be associated with, the most serious offences; and
- terrorism related offences.

A summary of the main devolved offence types to be included in the proposed updated list of qualifying offences is provided below. We would appreciate your views on the proposals and would therefore welcome answers to the following questions:

***A.** Do you agree with the proposed changes to the list of devolved qualifying offences? If you don't agree please provide reasons for your answer providing evidence where possible.*

***B.** Are there any other offences you think should be included in the list of devolved qualifying offences? If you are suggesting the addition of an offence, you must provide reasons for the addition including evidence to support your suggestion.*

### **Qualifying Offences**

- ❖ Murder and manslaughter
- ❖ Kidnap, false imprisonment, child abduction
- ❖ Offences against the person, such as assault, assault occasioning grievous or actual bodily harm, wounding, choking, poisoning
- ❖ Rape and other sexual offences, including those committed against a child or person with a mental disorder, offences related to indecent images/unwanted sexual images, voyeurism, offences involving abuse of a position of trust, incest, controlling prostitution or sexual exploitation for gain
- ❖ Stalking, threatening or abusive behaviour
- ❖ Domestic abuse
- ❖ Child cruelty, causing or failing to prevent the death of a child or vulnerable adult

- ❖ Blackmail
- ❖ Safeguarding (disqualified person working with children or vulnerable adult)
- ❖ Human trafficking (forced labour or for sexual exploitation)
- ❖ Robbery and burglary, aggravated vehicle taking
- ❖ Arson causing damage to a property
- ❖ Hijacking an airplane, spacecraft or ship
- ❖ Firearms offences – possession, carrying and use
- ❖ Possession and carrying of offensive weapons (including explosives, firearms, blades and crossbows)
- ❖ Public order – riotous assembly, unlawful assembly and affray
- ❖ Incitement to hatred
- ❖ Possession and supply of psychoactive substances
- ❖ Harassment and intimidation (including of witnesses)

For completeness, this is a summary of the main excepted/reserved offence types:

- ❖ Terrorism offences
- ❖ National Security offences (providing support to a foreign threat)
- ❖ Breaches of the Geneva Conventions
- ❖ Hostage taking
- ❖ Organised crime – concealing the proceeds of organised crime
- ❖ Production and supply of drugs

### **3. Policy Proposals**

This section sets out the proposed new offences to be added to Article 53A of PACE NI. Similar offences have been grouped together and a rationale has been provided regarding their proposed inclusion.

#### **A. Offence Detail - Sexual Offences**

- Rape (Common law)
- Rape (S48 – Offences Against the Person Act 1861)
- Assault with intent to commit rape (S2 – Attempted Rape, Etc. Act (NI) 1960)
- Rape (S18 - Criminal Justice (NI) Order 2003)

##### Rationale

Proposed addition of historical rape offences for consistency with Article 5 of the Sexual Offences (NI) Order 2008 (rape) which is already a qualifying offence.

#### **Offence Detail - Sexual Offences continued**

- Buggery (Article 19 – Criminal Justice (NI) Order 2003)
- Assault with intent to commit buggery (Article 20 – Criminal Justice (NI) Order 2003)
- Indecent assault on a male (Article 21 – Criminal Justice (NI) Order 2003)
- Attempted indecent assault on a male (S62 – Offences Against the Person Act 1861)
- Gross indecency (S11 – Criminal Law Amendment Act 1885)

##### Rationale

Proposed addition of buggery and gross indecency offences for consistency with Articles in the Sexual Offences (NI) Order 2008 which are already qualifying offences as follows:

- Art 5 – Rape
- Art 6 – Assault by penetration
- Art 7 – Sexual assault
- Art 8 – Causing a person to engage in sexual activity without consent

Convictions relating to buggery and gross indecency may relate to non-consensual and underage gay sex acts (which are already qualifying offences as per the above) and consensual adult gay sex acts which are no longer offences. The latter will be excluded from the list of qualifying offences.

#### **Offence Detail - Sexual Offences continued**

- Attempt to carnally know a girl under 12(S52 – Offences Against the Person Act 1861)
- Unlawful detention with intent to have carnal knowledge (S8 – Criminal Law Amendment Act 1885)



- Defilement with intent to have unlawful carnal knowledge (S4 & 5 – Criminal Law Amendment Act 1885)
- Indecent conduct towards a child (S22 – Children and Young Persons Act (NI) 1968)
- Householder permitting defilement of a girl under 17 with intent to have carnal knowledge (S6 – Criminal Law Amendment Act 1885).

### Rationale

Proposed addition of these offences for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 8 – Causing a person to engage in sexual activity without consent
- Art 12 – Rape of a child under 13
- Art 13 – Assault of a child under 13 by penetration
- Art 14 – Sexual Assault of a child under 13
- Art 15 – Causing or inciting a child under 13 to engage in sexual activity
- Art 16 – Sexual activity with a child
- Art 17 – Causing or inciting a child to engage in sexual activity
- Art 21 – Arranging or facilitating commission of a sex offence against a child

### **Offence Detail - Sexual Offences continued**

- Meeting a child following sexual grooming (S15 – Sexual Offences Act 2003)

### Rationale

Proposed addition of this offence for consistency with Article 22 of the Sexual Offences (NI) Order 2008 (Meeting a child following sexual grooming etc.) which is already a qualifying offence.

### **Offence Detail - Sexual Offences continued**

- Arranging or facilitating commission of a child sex offence (S14 – Sexual Offences Act 2003)
- Sexual communication with a child (S15A – Sexual Offences Act 2003)
- Possession of paedophile manual (S69 Serious Crime Act 2015)

### Rationale

Proposed addition of these child sex offences for consistency with Articles 22A to 22E of the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 22A - Sexual communication with a child
- Art 22B - Communicating with a person with a view to grooming a particular child
- Art 22C - Communicating with a group with a view to grooming a particular child
- Art 22D - Communicating with a person with a view to grooming any child
- Art 22E - Communicating with a group with a view to grooming any child

## **Offence Detail - Sexual Offences continued**

- Paying for sexual services of a child (S47 – Sexual Offences Act 2003)
- Causing or inciting child prostitution or pornography (S48 – Sexual Offences Act 2003)
- Causing girl under 17 to become prostitute (S21 – Children and Young Persons Act (NI) 1968)
- Controlling a child prostitute or a child involved in pornography (S49 – Sexual Offences Act 2003)
- Procuration and exportation of girls (S2 – Criminal Law Amendment Act 1885)
- Arranging or facilitating child prostitution or pornography (S50 – Sexual Offences Act 2003)
- Seduction or prostitution of girl under 17 (S12 Children and Young Persons Act (NI) 1950)
- Allowing a child or young person to reside in/frequent a brothel (S14 Children and Young Persons Act (NI) 1950)

### Rationale

Proposed addition of these child prostitution related offences for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 37 -Paying for sexual services of a child
- Art 38 - Causing or inciting abuse: payment for sexual services and involvement in indecent images
- Art 39 - Controlling a child: payment for sexual services and involvement in indecent images
- Art 40 - Arranging or facilitating abuse: payment for sexual services and involvement in indecent images

## **Offence Detail - Sexual Offences continued**

- Procuring defilement of women by threats or fraud or administering drugs (S3 – Criminal Law Amendment Act 1885)
- Causing or inciting prostitution for gain (S52 – Sexual Offences Act 2003)
- Offences relates to a man living on the earnings of prostitution (S1 – Vagrancy Act 1898)
- Living on earnings of a male prostitute (Article 8 - Homosexual Offences (NI) Order 1982)
- Controlling prostitution for gain (S53 – Sexual Offences Act 2003)
- Brothel-keeping (S13 – Criminal Law Amendment Act 1885)
- A woman directing prostitution (S7 – Criminal Law Amendment Act 1912)
- Keeping a brothel used for prostitution (Article 64 – Sexual Offences (NI) Order 2008)

### Rationale

Proposed addition of these prostitution related offences for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 62 - Causing or inciting prostitution for gain
- Art 63 - Controlling prostitution for gain

## **Offence Detail - Sexual Offences continued**

- Protection of women suffering from severe mental handicap (Article 122 – Mental Health (NI) Order 1986)
- Protection of patients (Article 123 – Mental Health (NI) Order 1986)

### Rationale

Proposed addition of these offences for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 43- Sexual activity with a person with a mental disorder impeding choice
- Art 44 - Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity
- Art 45 - Engaging in sexual activity in the presence of a person with a mental disorder impeding choice
- Art 46 - Causing a person, with a mental disorder impeding choice, to watch a sexual act
- Art 47 - Inducement, threat or deception to procure sexual activity with a person with a mental disorder
- Art 48 - Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception
- Art 49 - Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
- Art 50 - Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
- Art 51 - Care workers: sexual activity with a person with a mental disorder
- Art 52 - Care workers: causing or inciting sexual activity
- Art 53 - Care workers: sexual activity in the presence of a person with a mental disorder
- Art 54 - Care workers: causing a person with a mental disorder to watch a sexual act

## **Offence Detail - Sexual Offences continued**

- Inciting a girl under 16 to commit incest (Article 9 – Criminal Justice (NI) Order 1980)
- Incest by males (S1 – Punishment of Incest Act 1908)
- Incest by females (S2 – Punishment of Incest Act 1908)

### Rationale

Proposed addition of these incest related offences for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 32 - Sexual activity with a child family member
- Art 33 - Inciting a child family member to engage in sexual activity
- Art 68 - Sex with an adult relative: penetration
- Art 69 - Sex with an adult relative: consenting to penetration

### **Offence Detail - Sexual Offences continued**

- Indecently exposing his person (S28 – Town Police Clauses Act 1847)
- Indecent exposure with intent to insult a female (S4 Vagrancy Act 1824 – Indecent exposure with intent to insult a female)
- Indecent exposure (Common law)
- Acts Outraging Public Decency (Common law)
- Exposure (S66 – Sexual Offences Act 2003)

#### Rationale

Proposed addition of these indecent exposure related offences for consistency with Article 70 of the Sexual Offences (NI) Order 2008 (Exposure) which is already a qualifying offence.

### **Offence Detail - Sexual Offences continued**

- Voyeurism (S67 – Sexual Offences Act 2003)

#### Rationale

Proposed addition of this voyeurism related offence for consistency with offences in the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 71 - Voyeurism
- Art 71A - Voyeurism: additional offences (genitals and buttocks)
- Art 71B - Voyeurism: additional offences (breasts)

### **Offence Detail - Sexual Offences continued**

- Possession of an extreme pornographic image (S63 – Criminal Justice and Immigration Act 2008)
- Disclosing private sexual photographs and films with intent to cause distress (S51 – Justice Act (NI) 2016)

#### Rationale

Proposed addition of this offence for consistency with Article 72A of the Sexual Offences (NI) Order 2008 (Sending etc an unwanted sexual image) which is already a qualifying offence.

### **Offence Detail - Sexual Offences continued**

- Sodomy and Bestiality (S61 – Offences Against the Person Act 1861)
- Intercourse with an animal (S69 – Sexual Offences Act 2003)

#### Rationale

Proposed addition of this offence for consistency with Article 73 of the Sexual Offences (NI) Order 2008 (Intercourse with an animal) which is already a qualifying offence.

## **Offence Detail - Sexual Offences continued**

- Sexual Penetration of a corpse (S70 – Sexual Offences Act 2003)

### Rationale

Proposed addition of this offence for consistency with Article 74 of the Sexual Offences (NI) Order 2008 (Sexual penetration of a corpse) which is already a qualifying offence.

## **Offence Detail - Sexual Offences continued**

- Possession of Prohibited Images of Children (S62 (1) Coroners and Justice Act 2009)
- Possession of indecent photograph of child (Article 15 - Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988)
- Importing indecent or obscene article (Customs Consolidation Act 1876 – Section 42)
- An offence under S170 of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where the prohibited goods included indecent photographs of children under the age of 16 (Section 170 – Customs and Excise Management Act 1979)

### Rationale

Proposed addition of these offences for consistency with Article 3 of the Protection of Children (NI) Order 1978 (Indecent photographs of children) which is already a qualifying offence.

## **Offence Detail - Sexual Offences continued**

- Abuse of position of trust– sexual activity with a child (S16 – Sexual Offences Act 2003)
- Abuse of position of trust (sexual activity / intercourse) (S3 – Sexual Offences (Amendment) Act 2000)
- Abuse of position of trust, causing or inciting a child to engage in sexual activity (S17 – Sexual Offences Act 2003)
- Abuse of position of trust– sexual activity in the presence of a child (S18 – Sexual Offences Act 2003)
- Abuse of position of trust– causing a child to watch a sexual act (S19 – Sexual Offences Act 2003)

### Rationale

Proposed addition of these offences for consistency with Articles 23 to 26 of the Sexual Offences (NI) Order 2008 which are already qualifying offences.

- Art 23 Abuse of position of trust: sexual activity with a child
- Art 24 - Abuse of position of trust: causing or inciting a child to engage in sexual activity
- Art 25 - Abuse of position of trust: sexual activity in the presence of a child
- Art 26 - Abuse of position of trust: causing a child to watch a sexual act

## **Offence Detail - Sexual Offences continued**

- Prohibition of Female Circumcision (S1 – Prohibition of Female Circumcision Act 1985)
- Offence of Female Genital Mutilation (S1 – Female Genital Mutilation Act 2003)
- Offence Of Assisting A Girl To Mutilate Her Own Genitalia (S2 – Female Genital Mutilation Act 2003)
- Offence Of Assisting A Non-UK Person To Mutilate Overseas A Girl's Genitalia (S3 – Female Genital Mutilation Act 2003)

### Rationale

Proposed addition of these offences due to the seriousness of the offences.

Offences under Sections 1-3 of the Female Genital Mutilation Act 2003 have a maximum sentence of 14 years and are already deemed to be serious offences as per the Criminal Justice (NI) Order 2008 and are also included on the list of specified offences that will never be filtered from a standard or enhanced criminal record certificate.

Furthermore, Section 1 of the Prohibition of Female Circumcision Act 1985 is already a qualifying offence in England and Wales.

## **B. Offence Detail - Violence against the person**

- Infanticide (S1 – Infanticide Act (NI) 1939)
- Child destruction (S25 – Criminal Justice Act (NI) 1945)
- Murder (S1) Offences against the Person Act 1861

### Rationale

Proposed addition of these offences for consistency with murder and manslaughter which are already qualifying offences in Article 53A.

## **Offence Detail - Violence against the person continued**

- Causing death, or grievous bodily injury, by dangerous driving (Article 9 – The Road Traffic (NI) Order 1995) (limited to death)
- Causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs (Article 14 – The Road Traffic (NI) Order 1995) (limited to death)

### Rationale

Proposed addition of offences due to seriousness of causing death with maximum sentence of 14 years.

These offences are also deemed to be serious offences as per the Criminal Justice (NI) Order 2008, the Legal Aid for Crown Court (Costs) Rules (NI) 2005 and the list of

specified offences that will never be filtered from standard or enhanced criminal record certificates.

### **Offence Detail - Violence against the person continued**

- Cruelty to persons under 16 (S11 – Children and Young Persons Act (NI) 1950)

#### Rationale

Proposed addition of this offence for consistency with Section 20 of the Children and Young Persons Act (NI) 1968 (Cruelty to persons under sixteen) which is already a qualifying offence.

### **C. Offence Detail – Abduction**

- Abduction of a woman against her will, for motives of lucre (S53 – Offences Against the Person Act 1861)
- Abducting a female with intent to carnally know her (S54 – Offences Against the Person Act 1861)
- Abducting unmarried girl under 16 (S55 – Offences Against the Person Act 1861)
- Abduction of a girl under 18 with intent to have carnal knowledge (S7 – Criminal Law Amendment Act 1885)
- Child stealing (S56 – Offences Against the Person Act 1861)
- Child Abduction by Parent (Article 3 – Child Abduction (NI) Order 1985)
- Abduction of child in care (Article 68(1)(a) Children (NI) Order 1995)

#### Rationale

Proposed addition of these abduction related offences for consistency with:

- Kidnapping (common law):
- False imprisonment (common law): and
- Offence of abduction of child by other persons (Article 4 of the Child Abduction (NI) Order 1985)

which are already qualifying offences.

### **D. Offence Detail - Robbery / Theft / Fraud**

- Hijacking of vehicles or ships (S2 – Criminal Jurisdiction Act 1975)

#### Rationale

Proposed addition of this offence for consistency with other hijacking offences which are already qualifying offences.

- S1 of the Aviation Security Act 1982 (Hijacking)
- S9 of the Aviation and Maritime Security Act 1990 (Hijacking of ships)
- Schedule 4, Paragraph 1 of the Space Industry Act 2018 (Hijacking of spacecraft).

Hijacking of vehicles or ships is also deemed to be a serious offence as per the Criminal Justice (NI) Order 2008 and the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

### **Offence Detail - Robbery / Theft / Fraud continued**

- Possession of false identity documents etc. with improper intention (S4 – Identity Documents Act 2010)
- Apparatus designed or adapted for the making of false identity documents etc. (S5 – Identity Documents Act 2010)

#### Rationale

The PSNI proposed the addition of these offences due to seriousness, links to organised crime gangs and a maximum sentence of 10 years.

### **E. Offence Detail – Weapons**

- Making or possession of explosive under suspicious circumstances (S4 (1) – Explosive Substances Act 1883)
- Making or possessing petrol bombs, etc. (S2 – Protection of the Person and Property Act (NI) 1969)
- Use of petrol bombs, etc. (Throwing petrol bomb) (S3 – Protection of the Person and Property Act (NI) 1969)

#### Rationale

Proposed addition of offences for consistency with offences in the Explosives Substances Act 1883 which are already qualifying offences.

- S2 - Causing explosion likely to endanger life or property
- S3 - Attempt to cause explosion, or making or keeping explosive with intent to endanger life or property

These offences already deemed to be serious offences as they are contained on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

Proposed addition of these offences due to link to serious terrorism related offending.

### **Offence Detail – Weapons continued**

- Possession of firearm(s) with intent to injure (S14 – Firearms Act (NI) 1969)
- Possession of firearm with intent to injure (Article 17 – Firearms (NI) Order 1981)
- Possession of a firearm or imitation firearm with intent to cause fear of violence (Article 17A – Firearms (NI) Order 1981)
- Prohibition of possession of a firearm or ammunition by certain persons (Article 63(1) – Firearms (NI) Order 2004)



### Rationale

Proposed addition of offences for consistency with Article 58 of the Firearms (NI) Order 2004 (Possession with intent) which is already a qualifying offence.

Proposed addition of these offences also due to seriousness of the offences:

- maximum 14 year sentence regarding S14 of the 1969 Act; and
- maximum life sentence regarding Articles 17 & 17A of the 1981 Order.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Use of firearm to resist arrest (S15 – Firearms Act (NI) 1969)
- Use of firearm to resist arrest (Article 18 – Firearms (NI) Order 1981)

### Rationale

Proposed addition of these offences for consistency with Article 59 of the Firearms (NI) Order 2004 (Use of firearm to resist arrest) which is already a qualifying offence.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Carrying a firearm with criminal intent (S16 – Firearms Act (NI) 1969)
- Carrying a firearm with criminal intent (Article 19 – Firearms (NI) Order 1981)

### Rationale

Proposed addition of offences also for consistency with Article 60 of the Firearms (NI) Order 2004 (Carrying firearm with criminal intent) which is already a qualifying offence.

Proposed addition of these offences due to seriousness of the offences.

- maximum 10 year sentence regarding S16 of the 1969 Act; and
- maximum life sentence regarding Article 19 of the 1981 Order).

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Firearm certificate required (Article 3 – Firearms (NI) Order 2004)
- Requirement for Firearm Certificate (S1 – Firearms Act (NI) 1969)
- Requirement for firearm certificate (Article 3 – Firearms (NI) Order 1981)

### Rationale

The PSNI requested the addition of Article 3 of the Firearms (NI) Order 2004) due to the seriousness of the offence and a maximum sentence of 10 years.

This offence is also included as a serious offence in the Legal Aid for Crown Court (Costs) Rules (NI) 2005 and on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

The 1981 and 1969 offences are being proposed as equivalent historical offences.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail - Weapons continued**

- Carrying firearm in a public place (Article 61 (1) – Firearms (NI) Order 2004)
- Carrying firearm in a public place (Article 20 (1) – Firearms (NI) Order 1981)
- Carrying firearm in a public place (S17 – Firearms Act (NI) 1969)

### Rationale

The PSNI requested the addition of Article 61 of the Firearms (NI) Order 2004) due to the seriousness of the offence and a maximum sentence of 10 years.

The offence is included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

The 1981 and 1969 offences are being proposed as equivalent historical offences. Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Trespassing with a firearm (Article 62 – Firearms (NI) Order 2004)
- Trespassing with a firearm (Article 21(1)– Firearms (NI) Order 1981)
- Trespassing with a firearm (S18(1) – Firearms Act (NI) 1969)

### Rationale

The PSNI requested the addition of Article 62 of the Firearms (NI) Order 2004) due to the seriousness of the offence and a maximum sentence of 10 years.

The offence is included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

The 1981 and 1969 offences are being proposed as equivalent historical offences.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

## **Offence Detail – Weapons continued**

- Possession of a firearm or ammunition in suspicious circumstances (Article 64 – Firearms (NI) Order 2004)
- Possession of firearm in suspicious circumstances (S19A – Firearms Act (NI) 1969)
- Possession of firearm or ammunition in suspicious circumstances (Article 23 – Firearms (NI) Order 1981)

### Rationale

The PSNI requested the addition of Article 64 of the Firearms (NI) Order 2004) due to the seriousness of the offence and a maximum sentence of 10 years.

The offence is included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

The 1981 and 1969 offences are being proposed as equivalent historical offences.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

## **Offence Detail – Weapons continued**

- Conversion of weapons (Article 67 – Firearms (NI) Order 2004)
- Conversion of weapons (Article 5 – Firearms (NI) Order 1981)
- Conversion of weapons (S3 – Firearms Act (NI) 1969)

### Rationale

The PSNI requested the addition of Article 67 of the Firearms (NI) Order 2004) due to the seriousness of the offence and a maximum sentence of 7 years.

The offence is included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

The 1981 and 1969 offences are being proposed as equivalent historical offences.

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

## **Offence Detail – Weapons continued**

- Person under 18 years possessing crossbow (Article 5 – Crossbows (NI) Order 1988)
- Person under 18 years possessing parts of a crossbow (Article 5 – Crossbows (NI) Order 1988)

### Rationale

Proposed addition of these offences due to seriousness.

These offences are included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates).

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Using someone to mind a weapon (para 1(1) of Sch 2 – Violent Crime Reduction Act 2006)
- Possession of offensive weapon with intent to commit an offence (S93 – Justice Act (NI) 2011)
- Selling offensive weapon (S141 – Criminal Justice Act 1988)
- Carrying of offensive weapon in public place (Article 22 – Public Order (NI) Order 1987)

#### Rationale

The PSNI requested the addition of these offences due to seriousness.

The offence of using someone to mind a weapon (para 1(1) of Sch 2 – Violent Crime Reduction Act 2006) has a maximum sentence of 10 years.

The other three offences have a maximum sentence of 4 years.

All but one offence (using someone to mind a weapon) included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates).

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

### **Offence Detail – Weapons continued**

- Offence of having article with blade or point in public place (S139 – Criminal Justice Act 1988)
- Offence of having article with blade or point (or offensive weapon) on school premises (S139A – Criminal Justice Act 1988)

#### Rationale

The PSNI requested the addition of these offences due to seriousness and a maximum sentence of 4 years.

These offences are included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates).

Prohibited weapons (including knives, firearms and other bladed articles) have also been recommended for inclusion by the UK Biometrics Commissioner.

## **F. Offence Detail - Public Order**

- Riot or riotous assembly (Common law)

### Rationale

Proposed addition of this offence due to the seriousness of the offence which carries a maximum sentence of life imprisonment.

The PSNI advise that these offences are frequently used in investigations into paramilitary criminality.

This offence also deemed to be serious as per the Criminal Justice (NI) Order 2008, the Legal Aid for Crown Court (Costs) Rules (NI) 2005 and the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

Riot is legally defined as a disturbance involving 3 or more persons, who assist each other in carrying out acts of violence, which alarms or terrifies at least one person.

## **Offence Detail - Public Order continued**

- Affray (causing terror) (common law)
- Unlawful Assembly (common law)

### Rationale

Proposed addition of these offences due to the seriousness of the offence and maximum unlimited sentence.

The PSNI advise that these offences are frequently used in investigations into paramilitary criminality.

These offences also deemed to be serious as per the Criminal Justice (NI) Order 2008, the Legal Aid for Crown Court (Costs) Rules (NI) 2005 and the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

## **G. Offence Detail – Drugs**

- Producing a Psychoactive substance (S4 -Psychoactive Substances Act 2016)
- Producing a Psychoactive substance (S4 -Psychoactive Substances Act 2016)
- Supplying, or offering to supply, a psychoactive substance (S5 -Psychoactive Substances Act 2016)
- Possession of a Psychoactive Substance with Intent to Supply (S7 - Psychoactive Substances Act 2016)
- Importing or exporting a psychoactive substance (S8 - Psychoactive Substances Act 2016)

### Rationale

Proposed addition of these offences due to seriousness and the risk of harm to public safety and financial links to organised crime gangs.

These offences are already deemed to be serious offences in the Serious Crime Act 2007.

## **H. Offence Detail - Abuse of trust**

- Ill treatment of patients (Article 121 – Mental Health (Northern Ireland) Order 1986)
- Ill treatment or neglect (Section 267 -Mental Health Capacity Act (NI) 2016)
- Ill-treatment or neglect: care worker offence (Adult Protection Bill (20xx) (36))

### Rationale

Proposed addition of these offences due to seriousness. The 1986 offence has a maximum sentence of 2 years whilst the 2016 offence has a maximum sentence of 5 years.

The Adult Protection Bill offence will also have a maximum sentence of 5 years.

There has been an increase in media reporting of these types of crime which are unacceptable in society.

The 1986 Order offence appears on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

## **I. Offence Detail – Safeguarding**

- Persons disqualified from working with children: offences (S 35(1) - Criminal Justice and Court Services Act 2000)
- Disqualified Person Working with children (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)
- Offering or procuring work for an individual who is disqualified from working with children (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)
- Failing to remove a person disqualified from working with children from regulated work (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)
- Engaging etc. in regulated activity from which barred (Article 11 - Safeguarding Vulnerable Groups (NI) Order 2007)

### Rationale

Proposed addition of these offences due to the risk of the abuse of vulnerable children.

Offences relating to the 2003 and 2007 Orders are already deemed to be serious offences as they are contained on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

## **J. Offence Detail - Harassment / Intimidation**

- Intimidation, Etc., Of Witnesses, Jurors and Others (Article 47 -Criminal Justice (Northern Ireland) Order 1996)
- Intimidating of witnesses (Article 39 -Criminal Justice and Police Act 2001)
- Harming witnesses (Article 40 - Criminal Justice and Police Act 2001)

### Rationale

The PSNI proposed the addition of these offences as they relate to the principle of interfering unlawfully in the justice process. Each offence has a maximum sentence of 5 years.

The 1996 Order offence is deemed to be a serious offence as per the Legal Aid for Crown Court (Costs) Rules (NI) 2005.

## **Offence Detail - Harassment / Intimidation continued**

- Use of words or behaviour or display of written material to incite hatred (Article 9 -Public Order (Northern Ireland) Order 1987)
- Publishing or distributing written material to incite hatred (Article 10 - Public Order (Northern Ireland) Order 1987)
- Possession of material intended to stir up hatred / arouse fear (Article 13 - Public Order (Northern Ireland) Order 1987)

### Rationale

The PSNI proposed the addition of these offence due to seriousness. Each offence has a maximum sentence of 7 years.

These offences are contained in the serious offence list in Schedule 3 of the Legal Aid for Crown Court Proceedings (Costs) Rules (NI) 2005 and the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

## **Offence Detail - Harassment / Intimidation continued**

- Putting people in fear of violence (Article 6 - Protection from Harassment (Northern Ireland) Order 1997)
- Intimidation (S1 - Protection of The Person and Property Act (Northern Ireland) 1969)

### Rationale

The PSNI proposed the addition of these offences due to the violent aspect involved in the commission of these offences.

The 1969 offence has a maximum sentence of 5 years whilst the 1997 offence has a maximum sentence of 7 years.

These offences are already deemed to be serious offences as they are on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

### **Offence Detail - Harassment / Intimidation continued**

- Blackmail offences (S20 – Theft Act (NI) 1969)

#### Rationale

The PSNI assessment is that the offence of blackmail is equally as serious as the existing qualifying offence of burglary (S9 – Theft Act (NI) 1969) with serious negative impact on victims.

The offence carries a maximum sentence of 14 years.

Offences already deemed to be serious offences in the Serious Crime Act 2007 and the Legal Aid for Crown Court (Costs) Rules (NI) 2005.

### **Offence Detail - Harassment / Intimidation continued**

- Domestic Abuse Offence (S1 -Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021)

#### Rationale

This is a new offence and has been proposed due to seriousness and the maximum sentence of 14 years.

Offence already deemed to be serious as contained on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

### **Offence Detail - Harassment / Intimidation continued**

- Stalking (Section 1 Protection from Stalking Act (Northern Ireland) 2022)
- Threatening or abusive behaviour (Section 2 Protection from Stalking Act (Northern Ireland) 2022)

#### Rationale

These are new offences and have been proposed due to seriousness with a maximum sentence of 10 years for the stalking offence and a maximum sentence of 5 years for the threatening or abusive behaviour offence.



## **4. Impact Assessments**

### **Equality**

4.1. Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality between all the Section 75 groups. The Department has carried out an Equality Impact Assessment (EQIA) screening exercise prior to the launch of this consultation. The purpose of this screening was to identify those policies that are likely to have an impact on equality of opportunity and/or good relations impacts associated with updating the Codes.

4.2. The Equality Screening of the impact of the proposals in this consultation is available from the Department's website at <https://www.justice-ni.gov.uk/consultations/consultation-contents-list-qualifying-offences-specified-under-article-53a-police-and-criminal-evidence-northern-ireland-order-1989>. At this point, we do not consider that a full EQIA is required. Following the conclusion of this consultation, we will review the screening exercise to assess the consultation responses to make sure the initial assessment of the proposals remains accurate.

### **Data Protection**

4.3. The Department have carried out a Data Protection Impact Assessment (DPIA) regarding the proposals in this consultation. The DPIA is available from the Department's website at <https://www.justice-ni.gov.uk/consultations/consultation-contents-list-qualifying-offences-specified-under-article-53a-police-and-criminal-evidence-northern-ireland-order-1989>.

### **Rural Communities**

4.4. The Department considered a Rural Needs Impact Assessment as part of the implementation of these proposed regulations. It identified that there would be no significant adverse or differential impact on people living in rural communities compared with those in an urban setting.

## 5. Responding to this consultation

5.1. This consultation is open to everyone and is particularly relevant to anyone who is involved in or interested in the taking and retention of DNA samples and profiles and fingerprints. The DoJ would welcome answers to the following questions:

*A. Do you agree with the proposed changes to the list of devolved qualifying offences? If you don't agree please provide reasons for your answer providing evidence where possible.*

*B. Are there any other offences you think should be included in the list of devolved qualifying offences? If you are suggesting the addition of an offence, you must provide reasons for the addition including evidence to support your suggestion.*

5.2. The consultation will run for a 14 week period from 1 May 2025. All responses should be submitted **by midnight** 6 August 2025. The Department asks that responses to this consultation are made through the Citizen Space portal:

<https://consultations.nidirect.gov.uk/doj/qualifying-offences-article-53a-pace-ni>

5.3. The Department requests that you do not provide any personally identifiable information (for example, names, dates, and locations) in your answers.

### Enquiries

5.4. Please submit any enquiries by email: [PACEConsultation@justice-ni.gov.uk](mailto:PACEConsultation@justice-ni.gov.uk)

5.5. If you have any concerns about the way this consultation process has been handled, you should send them to: [Governance.Unit@justice-ni.gov.uk](mailto:Governance.Unit@justice-ni.gov.uk)

### Alternative Formats

5.6. An electronic version of this document is available from the Department's website: <https://www.justice-ni.gov.uk/consultations/consultation-contents-list-qualifying-offences-specified-under-article-53a-police-and-criminal-evidence-northern-ireland-order-1989>

5.7. If it would assist you to access the document in an alternative format or language other than English, please contact [PACEConsultation@justice-ni.gov.uk](mailto:PACEConsultation@justice-ni.gov.uk) for assistance.

## **6. Next steps**

6.1. The consultation period will end on 6 August 2025. We will consider the responses to this consultation and modify the draft devolved qualifying offence list if appropriate.

6.2. A qualifying offences amendment order will be laid in the Northern Ireland Assembly following the negative resolution procedure to update Article 53A of PACE NI.

6.3. The addition and commencement of excepted or reserved offences will require a consultation and legislation to be taken forward by the Home Office.

## **7. Privacy, Confidentiality and Access to Consultation Responses**

7.1. For this consultation, all responses may be published except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity may be published. Email addresses and telephone numbers will be removed from responses; but apart from this, they will be published in full. For more information about how personal data is handled please see the DoJ consultation privacy notice. The DoJ Consultation Privacy Notice is attached at Annex A.

7.2. Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) (EU) 2016/679.

7.3. If you want the information that you provide to be treated as confidential it would be helpful if you could explain why you regard the information you have provided as confidential. This will form part of the consideration if the Department should receive a request for the information under the FOIA or EIR.

## **Privacy Notice – Consultations (DoJ)**

Data Controller Name: Department of Justice (DoJ)

Address: Knockview Buildings, Stormont, BELFAST, BT4 3SG

Email: [PACEConsultation@justice-ni.gov.uk](mailto:PACEConsultation@justice-ni.gov.uk)

Data Protection Officer Name: DoJ Data Protection Officer

Telephone: (028) 90378617

Email: [DataProtectionOfficer@justice-ni.gov.uk](mailto:DataProtectionOfficer@justice-ni.gov.uk)

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the [Data Protection Act \(DPA\)](#) and the [EU General Data Protection Regulation](#) (GDPR). The Department of Justice (DoJ) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

### **Purpose for processing**

We will process personal data provided in response to consultations for informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We may publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents but will include the names of organisations responding.

If you have indicated that you would be interested in contributing to further Department work on the subject matter covered by the consultation, then we might process your contact details to get in touch with you.

### **Lawful basis for processing**

The lawful basis we are relying on to process your personal data is Article 6(1) (e) of the GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We will only process any special category personal data you provide, which reveals racial or ethnic origin, political opinions, religious belief, health, disability or sexual life/orientation when it is necessary for reasons of substantial public interest under Article 9(2) (g) of the GDPR, in the exercise of the function of the Department, and to monitor equality.

## How will your information be used and shared?

We process the information internally for the above stated purpose. For the time that we are processing this data, it will be held on a secure IT system and access to it will be controlled. We do not intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance with the provisions of the data protection laws.

## How long will we keep your information?

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule [DoJ Retention & Disposal Schedule](#).

## What are your rights?

- You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#)
- You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)
- You have a right to have personal data erased and to prevent processing, [in specific circumstances](#)
- You have the right to 'block' or suppress processing of personal data, [in specific circumstances](#)
- You have the right to data portability, [in specific circumstances](#)
- **You have rights in relation to [automated decision making and profiling](#)**

## How to complain if you are not happy with how we process your personal information

If you wish to request access, object, or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):

### Information Commissioner's Office

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

<https://ico.org.uk/global/contact-us/>