**Consultation Questionnaire**

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| **Unduly Lenient Sentences:**  **Response to the Fresh Start Panel Report Recommendation on Offences linked to Terrorism and Organised Crime Groups** | |

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| **RESPONDING TO THE CONSULTATION** |
| The Department of Justice (DOJ) is seeking views on the issues raised in the consultation document.  This form has been provided for you to use when responding to the consultation.  Responses should be emailed to – CPB@justice-ni.x.gsi.gov.uk  or posted to:  Department of Justice  Criminal Policy Branch  Massey House  Stormont Estate  Belfast  BT4 3SX  **The closing date for receipt of responses is** **5pm on 2 October 2018** |

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| **Confidentiality and Access to Information Legislation** |

The Department intends to publish responses to the consultation and a summary response report on our website.  Any contact details or information that will identify a respondent as a private individual will be removed prior to publication.  All information will be handled in accordance with the General Data Protection Regulation (GDPR). Your information will not be shared outside the Department.

**What rights do you have?**

* You have the right to obtain confirmation that your data is being [processed, and access to your personal data](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-of-access/);
* You are entitled to have personal data [rectified if it is inaccurate or incomplete](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-rectification/);
* You have a right to have personal data erased and to prevent processing, [in specific circumstances](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-erasure/) ;
* You have the right to ‘block’ or suppress processing of personal data, [in specific circumstances](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-restrict-processing/);
* You have the right to data portability, [in specific circumstances](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-data-portability/);
* You have the right to object to the processing, [in specific circumstances](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/the-right-to-object/);
* You have rights in relation to[automated decision making and profiling](https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/individuals-rights/rights-related-to-automated-decision-making-and-profiling/).

Respondents should also be aware that the Department’s obligations under the Freedom of Freedom of Information Act 2000 (FOIA) may require that any responses not subject to specific exemptions under the Act be communicated to third parties on request.

If you have any concerns about how your personal data has been handled please contact the **Departmental Data Protection Officer**:

Tel: 028 9037 8617

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

For further information about confidentiality of responses please contact the Information Commissioner’s Office.

**Northern Ireland Information Commissioner's Office  
3rd Floor  
14 Cromac Place  
Belfast  
BT7 2JB**

**Tel:** 028 9027 8757 or 0303 123 1114  
**Email:** [ni@ico.org.uk](mailto:ni@ico.org.uk)

Website: [www.ico.org.uk/](http://www.ico.org.uk/)

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| **SECTION 1: ABOUT YOU** | |
| **Consultee Details** | |
| **Question (a):**  I am responding as... *(Please tick one option only)*  [ ] A member of the Public  [ ] On behalf of an organisation  [ ] Other.........................................................(*Please specify*)  All information will be handled in accordance with the General Data Protection Regulation (GDPR). | |
| Name: |  |
| Job Title: (*if applicable*) |  |
| Organisation: (*if applicable*) |  |
| Address: |  |
| City/Town: |  |
| Postcode: |  |
| Email Address: |  |

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| **SECTION 2: YOUR VIEWS** |
| This consultation seeks views on the Department’s response to the recommendation from the Fresh Start Panel that sentences for offences linked to terrorism and organised crime groups should be capable of referral to the Court of Appeal on the grounds of undue leniency.  The Department of Justice has identified relevant hybrid offences and is proposing that these are brought within the scope of the Unduly Lenient Sentence Provisions. The offences identified are attached to this document and can also be found at Annex E of the consultation document.  The DOJ would welcome your views on this proposal. In particular:  (i) Does the list of identified offences properly reflect the types of offending behaviour that were envisaged by the recommendation in the Fresh Start Panel Report?  (ii) Should we exclude the hybrid offences which have a maximum penalty of two years and under, given that sentences of this level are less likely to be referred as unduly lenient? (Offences with a maximum penalty of two years and under are highlighted.)  **Please provide comments below**: |
| **SECTION 2: YOUR VIEWS (continued)** |
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| **Thank you for completing this questionnaire and providing input to this consultation** |

**PROPOSED LIST OF OFFENCES TO BE BROUGHT WITHIN THE SCOPE OF THE ULS PROVISIONS – HIGHLIGHTED OFFENCES RELATE TO THOSE WITH A MAXIMUM PENALTY OF TWO YEARS AND UNDER**

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| **OFFENCES AGAINST THE PERSON ACT 1861** |
| s.47 Assault at Common Law  s.47 Assault occasioning actual bodily harm |
| **MEDICINES ACT 1968** |
| s.67 Possessing medicinal product with intent to supply |
| **PROTECTION OF PERSONS AND PROPERTY ACT (NI)1969** |
| s.1 Threats to expel or to compel conduct |
| **THEFT ACT (NI) 1969 - BURGLARY** |
| s.9(1)(a) & (b):  Attempted Burglary/Burglary with intent to steal  Burglary (dwelling)  Attempted Burglary/Burglary (non-dwelling) |
| **THEFT ACT (NI) 1969 - FRAUD** |
| s.17 False accounting  s.23(A) Dishonestly retaining wrongful monetary credit  s.15(1) Obtaining money transfer by deception  s.16 Obtaining pecuniary advantage by deception  s.18 False statement by director or officer  s.19(1) Destroying or concealing will/security w/I to gain  s.15(1) –*Repealed by Fraud Act 2006*  s.16 – *Repealed by Fraud Act 2006* |
| **THEFT ACT (NI) 1969 - THEFT** |
| s.1 Theft  s.21 Handling/receiving stolen goods  s.23(4) Handling property stolen/obtained by blackmail in ROI  s.24 Going equipped for theft |
| **IMMIGRATION ACT 1971** |
| s.24A Obtaining leave by deception  ss.25, 25A, 25B Assisting illegal entry/assisting asylum seeker for gain/assisting deported or excluded entrant  s.26A Making, using false or altered registration card/possessing same  s.26B Possession of immigration stamp |
| **MISUSE OF DRUGS ACT 1971** |
| s.5(2) Attempted possession/possession of Class A/B/C controlled drug (2 yrs for Class C drug)  s.8 Occupier of premises permitting production of Class A Drug  s.23(4) Obstructing Powers of Search for Drugs |
| **CRIMINAL LAW AMENDMENT (NI) ORDER 1977** |
| Art 3 Bomb Hoaxes |
| **CRIMINAL DAMAGE (NI) ORDER 1977** |
| Art 2(1)(3) Arson  Art 3(1) Attempted Criminal Damage/Criminal Damage  Art 4(a) Threats to Damage Property  Art 5 Possessing things with intent to damage |
| **FORGERY & COUNTERFEITING ACT 1981** |
| s.1 Forgery  s.2 Copying false instrument/s  s.3 Using false instrument/s  s.5(2)(4) Possessing false instrument or machine for making such  s.5(1)(3) Possessing w/i to pass off  s.14(2) counterfeiting notes or coins  s.15(2) Passing counterfeit currency  s.16(2) Possessing counterfeit currency  s.17(2)(3) Having things to make or imitate coins or notes  ss. 14(1), 15(1), 16(1), s.17(1) Above counterfeiting offences w/i to pass off |
| **PUBLIC ORDER (NI) ORDER 1987** |
| Art 9 Stirring up fear in or hatred (of group by religion, colour race, sexual orientation, nationality, ethnic origin etc)  Art 22 Carrying offensive weapon in public place |
| **COPYRIGHT DESIGNS AND PATENTS ACT 1988** |
| s.107 Making, distributing, infringing copy  s.107(2)(A) Communicating copyright work to public  s.198(1) Making distributing illicit recording of performance  s.198(1A) Infringing performer’s making available right |
| **TRADE MARKS ACT 1994** |
| s.92 Selling goods bearing an unauthorised trade mark |
| **CRIMINAL JUSTICE (NI) ORDER 1996** |
| Art 47 Intimidation – witness/juror |
| **POLICE (NI) ACT 1998** |
| s.66 Assaulting/obstructing/impeding/resisting police |
| **DATA PROTECTION ACT 1998** |
| s.55 Unlawful obtaining of personal data |
| **POSTAL SERVICES ACT 2000** |
| s.83 Postal operator opening/delaying mail  s.85 Sending injurious/indecent thing by post |
| **PROCEEDS OF CRIME ACT 2002** |
| s.327 Concealing Criminal Property  s.328 Entering into arrangement to acquire criminal property  s.329 Using/possessing Criminal Property  s.329 Acquiring Criminal Property  ss. 330, 331, 332 Person in business failing to disclose identity of money-launderer  s.333A Tipping off to prejudice money laundering investigation  s.342 Prejudicing money laundering investigation |
| **FIREARMS (NI) ORDER 2004** |
| Art 3(1)(b) Possession of sawn off shotgun/converted firearm without certificate  Art 45(1)(f) Dealing in electric, noxious material weapons  Art 61(1) Carrying firearm/imitation firearm in public  Art 64 Possession of Firearms/Ammunition in suspicious circumstances.  Possession etc of a prohibited weapon (electric, noxious material weapons) |
| **IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006** |
| s.21 Employing adult subject to immigration control |
| **FRAUD ACT 2006** |
| s.1 Fraud  s.2 Fraud by false representation  s.3 Fraud by failing to disclose information under legal duty  s.4 Fraud by abuse of position to safeguard financial interests  s.6 Possession of articles for use in fraud  s.7 Making/supplying article for use in fraud  s.9 Participating in fraudulent non-company business  s.11 Obtaining services by dishonest act not intending to pay |
| **IDENTITY DOCUMENTS ACT 2010** |
| s.6 Possession of false identity documents |
| **JUSTICE ACT NI 2011** |
| s.93 Possession of offensive weapon with intent to commit an indictable offence |
| **HUMAN TRAFFICKING AND EXPLOITATION (CRIMINAL JUSTICE AND SUPPORT FOR VICTIMS) ACT (NI) 2015** |
| s.4 Committing offence with intent to commit the following offences: slavery, servitude, forced or compulsory labour, human trafficking within to or from a country; kidnapping with intend |
| **PSYCHOACTIVE SUBSTANCES ACT 2016** |
| S.4 Producing a psychoactive substance  s.5 Supplying or offering psychoactive substance  s.7 Possession of psychoactive substance with intent to supply  s.8 Importing or exporting a psychoactive substance  s.9 Possession of a psychoactive substance in a custodial institution |

**TERRORISM OFFENCES**

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| **AVIATION SECURITY ACT 1982** |
| s.4 possessing explosive, firearm on aircraft |
| **TERRORISM ACT 2000** |
| s.11 Belongs or professes to belong to a proscribed organisation  s.12 Inviting, arranging, encouraging non-financial support for proscribed organisation  s.15 Fund raising  s.16 Use and possession  s.17 Funding arrangements  s.18 Money laundering  s.19 Failing to disclose suspicion acquired in the course of business  s.21A Failing to disclose suspicion acquired in the course of regulated sector business  s.21D Tipping off in course of regulated sector business  s.38B Failure to disclose information about acts of terrorism  s.39 Disclosing or interfering with terrorist investigation material  s.54 Acts of training  s.57 Possession for terrorist purposes  s.58 Collection of information  s.58A Eliciting, publishing or communicating information about members of the armed forces etc  s.103 Terrorist information  Sch. 4 para 37 Breach of a High Court restraint order  (Where proceedings have been instituted or investigations commenced for offences under sections 15 – 18, the court can make a restraint order) |
| **ANTI-TERRORISM, CRIME AND SECURITY ACT 2001** |
| s.113 Use of noxious substances and things to cause harm and intimidate  s.114 hoax placing, sending of noxious substances or things |
| **TERRORISM ACT 2006** |
| s.1 Encouragement of terrorism  s.2 Dissemination of terrorist publications  s.6 Training of terrorism  s.8 Attendance at a place used for terrorist training |
| **COUNTER TERRORISM ACT 2008** |
| s.54 Offences re convicted terrorist notification requirement |
| **TERRORISM PREVENTION AND INVESTIGATIVE MEASURES ACT 2011** |
| s.23 Breach of a TPIM Order |
| **COUNTER-TERRORISM ACT 2015** |
| s.10 Breach of a temporary exclusion order |