**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 BranchMassey HouseStormont EstateBelfastBT4 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

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

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 stealBurglary (dwelling)Attempted Burglary/Burglary (non-dwelling) |
| **THEFT ACT (NI) 1969 - FRAUD** |
| s.17 False accountings.23(A) Dishonestly retaining wrongful monetary credits.15(1) Obtaining money transfer by deceptions.16 Obtaining pecuniary advantage by deceptions.18 False statement by director or officers.19(1) Destroying or concealing will/security w/I to gains.15(1) –*Repealed by Fraud Act 2006*s.16 – *Repealed by Fraud Act 2006*  |
| **THEFT ACT (NI) 1969 - THEFT** |
| s.1 Thefts.21 Handling/receiving stolen goodss.23(4) Handling property stolen/obtained by blackmail in ROIs.24 Going equipped for theft |
| **IMMIGRATION ACT 1971** |
| s.24A Obtaining leave by deceptionss.25, 25A, 25B Assisting illegal entry/assisting asylum seeker for gain/assisting deported or excluded entrants.26A Making, using false or altered registration card/possessing sames.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 Drugs.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) ArsonArt 3(1) Attempted Criminal Damage/Criminal DamageArt 4(a) Threats to Damage PropertyArt 5 Possessing things with intent to damage |
| **FORGERY & COUNTERFEITING ACT 1981** |
| s.1 Forgerys.2 Copying false instrument/ss.3 Using false instrument/ss.5(2)(4) Possessing false instrument or machine for making such s.5(1)(3) Possessing w/i to pass offs.14(2) counterfeiting notes or coinss.15(2) Passing counterfeit currencys.16(2) Possessing counterfeit currencys.17(2)(3) Having things to make or imitate coins or notesss. 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 copys.107(2)(A) Communicating copyright work to publics.198(1) Making distributing illicit recording of performances.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 mails.85 Sending injurious/indecent thing by post |
| **PROCEEDS OF CRIME ACT 2002** |
| s.327 Concealing Criminal Propertys.328 Entering into arrangement to acquire criminal propertys.329 Using/possessing Criminal Propertys.329 Acquiring Criminal Propertyss. 330, 331, 332 Person in business failing to disclose identity of money-launderers.333A Tipping off to prejudice money laundering investigations.342 Prejudicing money laundering investigation |
| **FIREARMS (NI) ORDER 2004** |
| Art 3(1)(b) Possession of sawn off shotgun/converted firearm without certificateArt 45(1)(f) Dealing in electric, noxious material weaponsArt 61(1) Carrying firearm/imitation firearm in publicArt 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 Frauds.2 Fraud by false representations.3 Fraud by failing to disclose information under legal dutys.4 Fraud by abuse of position to safeguard financial interestss.6 Possession of articles for use in frauds.7 Making/supplying article for use in frauds.9 Participating in fraudulent non-company businesss.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 substances.5 Supplying or offering psychoactive substances.7 Possession of psychoactive substance with intent to supplys.8 Importing or exporting a psychoactive substances.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 organisations.12 Inviting, arranging, encouraging non-financial support for proscribed organisations.15 Fund raisings.16 Use and possessions.17 Funding arrangementss.18 Money launderings.19 Failing to disclose suspicion acquired in the course of businesss.21A Failing to disclose suspicion acquired in the course of regulated sector businesss.21D Tipping off in course of regulated sector businesss.38B Failure to disclose information about acts of terrorisms.39 Disclosing or interfering with terrorist investigation materials.54 Acts of trainings.57 Possession for terrorist purposess.58 Collection of informations.58A Eliciting, publishing or communicating information about members of the armed forces etcs.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 intimidates.114 hoax placing, sending of noxious substances or things |
| **TERRORISM ACT 2006** |
| s.1 Encouragement of terrorisms.2 Dissemination of terrorist publicationss.6 Training of terrorisms.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 |