

EXPLANATORY MEMORANDUM TO
THE CRIMINAL JUSTICE ACT 1988 (REVIEWS OF SENTENCING) ORDER
(NORTHERN IRELAND) 2019

S.R. 2019 No. 131

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under section 35(4) of the Criminal Justice Act 1988 (the “1988” Act) and is subject to negative resolution procedure.

2. Purpose of the instrument

- 2.1 The Statutory Rule will ensure that sentences imposed in the Crown Court for offences specified in the Order can be referred to the Court of Appeal by the Director of Public Prosecutions for Northern Ireland (“the DPP”) if the sentence passed appears to the DPP to be unduly lenient.

3. Background

- 3.1 Part 4 of the Criminal Justice Act 1988, as amended by the Justice (Northern Ireland) Act 2002, empowers the DPP, with the leave of the Court of Appeal, to refer certain cases to that Court where the DPP considers that the sentences imposed were unduly lenient.
- 3.2 The power can be exercised in respect of all cases which can be tried only on indictment, and to certain other cases which can be tried either on indictment or summarily (“the either way” offences).
- 3.3 The second group, the either way offences, are brought within the scope of Part 4 of the 1988 Act by Orders made under section 35(4) of the 1988 Act. This Order extends the range of offences in respect of which that power may be exercised by the DPP in Northern Ireland to include offences tried in the Crown Court which are linked to terrorism and organised crime groups.
- 3.4 The specified offences were identified by the Department of Justice in response to a recommendation made by the Fresh Start Panel which had been appointed in December 2015 by the Northern Ireland Executive to produce a report with recommendations on a strategy to disband paramilitary groups. The Report¹, published in June 2016, made 43 recommendations, including recommendation A15:
‘The Department of Justice should ensure that an appropriate mechanism is in place to enable the Director of Public Prosecutions to refer sentences he believes to be unduly lenient, particularly to include offences linked to terrorism and organised crime groups’
- 3.5 The Executive accepted the Report and the recommendations and published an action plan which set out how it intended to take forward and implement the recommendations.

¹ [The Fresh Start Panel Report on the Disbandment of Paramilitary Groups in Northern Ireland 2016](#)

- 3.6 In response to recommendation A15, the Department undertook a review of the unduly lenient sentence provisions and the offences currently outside the scope of the provisions to identify relevant offences linked to terrorism, organised crime and paramilitarism.
- 3.7 A list of relevant offences was drawn up and proposals to bring these within the scope of the unduly lenient sentence provisions were published for public consultation.

4. Consultation

- 4.1 Unduly Lenient Sentences: A Response to the Fresh Start Panel's Recommendation on Offences Linked to Terrorism and Organised Crime Groups² was published for consultation in August 2018 and closed in October 2018. Consultees were asked to consider whether the offences listed in the consultation properly reflected the types of offending behaviour envisaged by the Fresh Start Panel. Respondents supported the inclusion of identified offences.

5. Equality Impact

- 5.1 No equality issues arise.

6. Regulatory Impact

- 6.1 There will be no financial impact on businesses, charities or voluntary bodies.

7. Financial Implications

- 7.1 Minimal.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 No s.24 issues.

9. EU Implications

- 9.1 None

10. Parity or Replicatory Measure

- 10.1 The Statutory Rule applies to Northern Ireland only.

11. Additional Information

- 11.1 It is intended that the Statutory Rule will come into operation on 1st August 2019.

² [Unduly Lenient Sentences: DOJNI](#)