



**Northern Ireland
Assembly**

Committee for Justice

**REPORT ON THE LEGISLATIVE CONSENT MOTION –
SENTENCING (PRE-CONSOLIDATION AMENDMENTS) BILL**

NIA 21/17-22

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Powers and Membership

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Justice and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant subordinate legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister of Justice.

The Committee has 9 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee during the current mandate has been as follows:

Mr Paul Givan (Chairman)
Ms Linda Dillon (Deputy Chairperson)
Mr Doug Beattie
Ms Jemma Dolan¹
Mr Gordon Dunne
Mr Paul Frew
Mr Patsy McGlone
Ms Emma Rogan^{2, 3}
Ms Rachel Woods

¹ With effect from 16 March 2020, Ms Jemma Dolan replaced Mr Pat Sheehan

² With effect from 17 February 2020, Ms Martina Anderson replaced Mr Raymond McCartney

³ With effect from 9 March 2020, Ms Emma Rogan replaced Ms Martina Anderson

Background

1. The [Sentencing \(Pre-consolidation Amendments\) Bill](#) was introduced in the House of Lords on 21 January 2020. The Bill will amend existing legislation in order to facilitate the enactment and operation of the Law Commission's proposed Sentencing Code ("the Code") which will consolidate the law on sentencing procedure in England and Wales. The aim of the Code is to ensure that the law relating to sentencing procedure is readily comprehensible and operates within a clear framework as efficiently as possible. The pre-consolidation amendments are required for the Code to operate as intended, and are limited mainly to correcting minor errors or technical changes, e.g. changing language for consistency.
2. The Code reenacts existing law and does not alter its substance or effect. Neither the Bill nor the Code introduce any new sentencing law.
3. The Bill and the Code introduce a "clean sweep" approach which will remove historic and redundant layers of sentencing procedural legislation. This will allow for all offenders convicted after the Code comes into force to be sentenced according to the most up-to-date law, irrespective of when the offence was committed.
4. The majority of the Bill's provisions apply to England and Wales only. A small number of provisions relate to the transfer of community orders between UK jurisdictions, three of which extend to Northern Ireland. The Department of Justice has advised that the Minister of Justice considers it appropriate these amendments are made via the Bill, subject to the approval of the Assembly by way of a Legislative Consent Motion (LCM). This is because the amendments are largely technical in nature and aim to facilitate law consolidation in England and Wales. Given the anticipated Executive legislative programme, it is unlikely that an Assembly Bill could bring forward the provisions in the near future, which would prevent the new arrangements working seamlessly across jurisdictions. In addition, the Department believes that it is preferable to legislate in one Bill so that eventual users can refer to a single Act.

Purpose of the Legislative Consent Motion

5. The Legislative Consent Motion (LCM) will extend the following provisions to Northern Ireland:

5.1 Transfer of Community Orders to Scotland or Northern Ireland

When re-sentencing for a breach of a community order that has been transferred to Northern Ireland from England and Wales,

courts in Northern Ireland are currently bound by upper limits on unpaid work hours or curfew requirements that were in place in England and Wales at the time the offender was first convicted. The provisions of the Bill will mean that courts here would instead give consideration to the limits which apply in England and Wales on the day of re-sentencing.

5.2 Transfer of Youth Rehabilitation Orders to Northern Ireland

The existing limits on Northern Ireland Courts to alter the terms of curfew requirements for Youth Rehabilitation Orders transferred from England and Wales will be amended in the same way as Community Orders at paragraph 5.1 above.

5.3 Transfer of Suspended Sentence Orders to Scotland and Northern Ireland

This will clarify in law the existing process of determining how probation officers in Northern Ireland supervising offenders serving transferred suspended sentences would refer matters to the courts in Northern Ireland and, if necessary, back to the courts in England and Wales.

Committee consideration of the Legislative Consent Motion

6. At the meeting on 2 April 2020 the Committee for Justice considered and agreed handling arrangements for a range of work items in light of the exceptional circumstances resulting from the Covid-19 pandemic. The Committee agreed to consider this item as a written briefing in the first instance; depending on the situation and the timing of the LCM, consideration would be given to an oral briefing at a later stage if necessary.
7. Written papers were issued to Members on 7 April 2020 for consideration. Members indicated that no further written information was required at that time to assist consideration of the LCM. Subsequently, at the meeting on 23 April 2020, the Committee also agreed that an oral briefing from Department of Justice officials on the proposed LCM would not be required.
8. The Legislative Consent Memorandum was laid by the Department of Justice on 27 April 2020.

9. At the meeting on 30 April 2020 the Committee agreed that it was content with the Department of Justice proposal to extend provisions in the Sentencing (Pre-Consolidation Amendments) Bill relating to the transfer of community orders, youth rehabilitation orders and suspended sentence orders imposed by the courts in England and Wales to Northern Ireland by way of a Legislative Consent Motion.

Conclusion

10. **Following consideration of the Legislative Consent Memorandum laid on 27 April 2020, the Committee for Justice agreed to support the Minister of Justice in seeking the Assembly’s endorsement of the Legislative Consent Motion:**

“That this Assembly endorses the principle of the extension to Northern Ireland of the relevant provisions of the Sentencing (Pre-Consolidation Amendments) Bill, introduced in the House of Lords on 21 January 2020, relating to the transfer of community orders, youth rehabilitation orders and suspended sentence orders imposed by the courts in England and Wales to Northern Ireland, so far as these matters fall within the legislative competence of the Assembly.”

Appendices

Appendix 1 – Department of Justice Briefing Paper

Department of Justice, 13 March 2020 – Briefing paper: The Sentencing (Pre-Consolidation Amendments) Bill

Appendix 2 – Minutes of Proceedings

[23 April 2020](#)

[30 April 2020](#)

[14 May 2020](#)

Appendix 3 – Legislative Consent Memorandum

Department of Justice, 27 April 2020 – Legislative Consent Memorandum