EXPLANATORY MEMORANDUM TO

The Criminal Justice (Sentencing) (Licence Conditions) (Northern Ireland) (Amendment) Rules 2021

S.R. 2021 No. 183

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 Article 24(1)(b) of the Criminal Justice (Northern Ireland) Order 2008 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Criminal Justice (Sentencing) (Licence Conditions) (Northern Ireland) Rules 2009 (the "2009 Rules") prescribe the standard and other conditions which may be contained in a licence issued under the provisions of the Criminal Justice (Northern Ireland) Order 2008. The Probation Board for Northern Ireland currently retains sole responsibility for supervising offenders released into the community under such licence.

2.2. These Rules amend the 2009 Rules to assign supervisory responsibility for licensees to a "supervising officer". The term "supervising officer" is defined as "a probation officer or such other person or organisation for the time being responsible for supervising specific offenders on licence in accordance with arrangements made by the Department of Justice". This amendment gives the Department of Justice discretion to assign supervisory responsibility to other persons or organisations where it is considered that they are better placed to give effect to the purpose of a licence.

3. Background

3.1. The current legislative framework prevents the Department from designating other suitable organisations to assume the lead role in the supervision of specific cadres of offdnder who present complex risks to the public.

3.2. Amending the Criminal Justice (Sentencing) (Licence Conditions) (NI) Rules 2009 to remove the explicit references to probation within the standard licence conditions that must be set in all licences will provide the Department with the flexibility to assign supervisory responsibility to other persons or organisations where it is conisdered they are better placed to give effect to the purpose of a lcience; namely the protection of the public, reducing reoffending and supporting the rehabilitation of the offender.

4. Consultation

4.1. Consultation was undertaken with the Probation Board for Northern Ireland, the Police Service of Northern Ireland, and Northern Ireland Prison Service to ensure due consideration was given to existing public protection arrangements and the operational functions of each organisation.

5. Equality Impact

5.1. Conisderation was given to compliance with section 75 of the Northern Ireland Act 1998. The Deaprtment considers that this matter will not have a differential impact on any of the section 75 categories and, on this basis, the measure was screened out.

6. Regulatory Impact

6.1. This measure supports the operational delivery of the Criminal Justice (Northern Ireland) Order 2008. A regulatory impact assessment was not considered necessary.

7. Financial Implications

7.1. No financial implications associated with this measure.

8. Section 24 of the Northern Ireland Act 1998

8.1. The proposed legislation is considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. This measure does not replicate, nor is there a requirement to maintain parity with, legislation in other administrations.

11. Additional Information

11.1. Not applicable.