



# Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016

## 2016 CHAPTER 13

PROSPECTIVE

### *The Independent Reporting Commission*

#### **1 The Commission**

- (1) In this Act “the Commission” means the Independent Reporting Commission established by the agreement relating to paramilitary activity and having functions which include those of the kinds described in paragraph 5.1 of Section A of the Fresh Start Agreement.
- (2) The Commission has the legal capacities of a body corporate.
- (3) The Secretary of State may provide the Commission with such moneys, premises, facilities, services and staff as the Secretary of State considers appropriate.
- (4) The First Minister and the deputy First Minister acting jointly have the power to nominate two persons for appointment as members of the Commission in accordance with the agreement relating to paramilitary activity.

#### **2 Exercise of functions**

- (1) The Commission's objective is to promote progress towards ending paramilitary activity connected with Northern Ireland.
- (2) The Commission must exercise its functions in the way which it considers is most appropriate for meeting its objective.
- (3) In exercising its functions, the Commission must not do anything which might—
  - (a) prejudice the national security interests of the United Kingdom or Ireland,
  - (b) put at risk the life or safety of any person,

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- (c) have a prejudicial effect on the prevention, investigation or detection of crime, or
  - (d) have a prejudicial effect on any actual or prospective legal proceedings.
- (4) In subsection (3) “prospective legal proceedings”, in relation to the exercise of a function, means legal proceedings which in the view of the Commission are likely to be brought within a reasonable period of the function being exercised.
- (5) The Secretary of State must issue guidance about the exercise of the Commission's functions in relation to information the disclosure of which might—
- (a) prejudice the national security interests of the United Kingdom, or
  - (b) put at risk the life or safety of any person.
- (6) The Commission must have regard to the guidance in exercising its functions.
- (7) The Secretary of State may amend or replace the guidance issued.
- (8) The Secretary of State must publish the current guidance issued.

### **3 Legal privileges etc**

- (1) Except in so far as in any particular case any privilege or immunity is waived by the Commission, the Commission has immunity from suit and legal process.
- (2) Except in so far as in any particular case the Commission waives it, the Commission has the like inviolability of official archives and premises as in accordance with the 1961 Convention Articles is accorded in respect of the official archives and premises of a diplomatic mission.
- (3) The Secretary of State may by regulations—
- (a) confer on the Commission, in such cases, to such extent and with such modifications as the regulations may specify, any of the privileges and immunities set out in Part 1 of Schedule 1 to the International Organisations Act 1968 which are not conferred by subsections (1) and (2);
  - (b) confer on members and staff of the Commission and members of their families who form part of their households, in such cases, to such extent and with such modifications as the regulations may specify, any of the privileges and immunities set out in Parts 2, 3 and 5 of Schedule 1 to the International Organisations Act 1968;
  - (c) make provision about the waiver of privileges and immunities conferred by regulations under paragraph (a) or (b).
- (4) In this section—
- (a) “the 1961 Convention Articles” means the Articles (being certain Articles of the Vienna Convention on Diplomatic Relations signed in 1961) which are set out in Schedule 1 to the Diplomatic Privileges Act 1964;
  - (b) the reference to staff of the Commission includes agents of, and persons carrying out work for or giving advice to, the Commission.

### **4 Interpretation and supplementary provision**

- (1) In this Act—

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“agreement relating to paramilitary activity” means an agreement made between Her Majesty's Government in the United Kingdom and the Government of Ireland in pursuance of paragraph 5.1 of Section A of the Fresh Start Agreement;

“the Commission” has the meaning given in section 1(1);

“enactment” includes—

- (a) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (b) an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978);

“Fresh Start Agreement” means A Fresh Start: the Stormont Agreement and Implementation Plan, dated 17 November 2015.

- (2) The Secretary of State may, by regulations, make such provision as the Secretary of State considers appropriate for giving full effect to the agreement relating to paramilitary activity.
- (3) Regulations under subsection (2) may in particular—
  - (a) amend, repeal or revoke an enactment;
  - (b) confer functions on the Secretary of State or any other person.

## **5 Conclusion of the Commission's work**

- (1) The Secretary of State may, by regulations, make provision for winding up the Commission.
- (2) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the First Minister and deputy First Minister in Northern Ireland,
  - (b) the relevant Minister in the Government of Ireland, and
  - (c) any other person the Secretary of State considers appropriate.
- (3) Regulations under subsection (1) may in particular—
  - (a) amend, repeal or revoke an enactment, including an enactment contained in any of sections 1, 2 and 4;
  - (b) confer functions on the Secretary of State or any other person;
  - (c) make provision about the destruction of information or records held by the Commission.
- (4) In this section “relevant Minister in the Government of Ireland” means—
  - (a) the Minister for Justice and Equality in that Government, or
  - (b) such other Minister in that Government which the Secretary of State considers appropriate.

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