



EXPLANATORY NOTES

Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

Chapter 41

£13.57

NORTHERN IRELAND TROUBLES (LEGACY AND RECONCILIATION) ACT 2023

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (c. 41) which received Royal Assent on 18 September 2023.

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

Table of Contents

Subject	Page of these Notes
Overview of the Act	5
Policy background	7
Legal background	9
Territorial extent and application	10
Commentary on provisions of the Act	11
Part 1: The Troubles	11
Section 1: Meaning of “the Troubles” and other key expressions	11
Part 2: The Independent Commission for Reconciliation and Information Recovery (ICRIR)	11
The ICRIR, the Commissioners and ICRIR officers	11
Section 2: The Independent Commission for Reconciliation and Information Recovery	11
Section 3: ICRIR officers	12
Section 4: Actions of the ICRIR: safeguards	12
Section 5: Full disclosure to the ICRIR	12
Section 6: Operational powers of ICRIR officers	13
Admissibility of information provided to the ICRIR	13
Section 7: Admissibility of material in criminal proceedings	13
Section 8: Admissibility of material in civil proceedings	14
Reviews of deaths and other harmful conduct	15
Section 9: Requests for reviews of deaths	15
Section 10: Requests for reviews of other harmful conduct forming part of the Troubles	15
Section 11: Requests for reviews: general provision	16
Section 12: Reviews in connection with requests for immunity from prosecution	16
Section 13: Conduct of reviews	16
Section 14: Supply of information	17
Section 15: Production of reports on the findings of reviews	18
Section 16: Consultation on reports	18
Section 17: Issuing and publication of reports	19
Section 18: Reports: general provision	19
Immunity from prosecution	20
Section 19: Immunity from prosecution	20
Section 20: Requests for immunity: procedural matters	21
Section 21: Determining a request for immunity	21
Section 22: The immunity requests panel	22
Section 23: Personal statements by persons affected by deaths etc	22
Section 24: Publication of personal statements	23
Information for prosecutors	24
Section 25: Information for prosecutors	24

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Section 26: Subsequent convictions: revocation of immunity	24
Section 27: False statements: offence	25
The historical record of deaths	25
Section 28: Production of the historical record	25
Section 29: Publication of the historical record	25
Information	26
Section 30: Disclosure of information: general power and prohibitions	26
Section 31: The ICRIR's use of information obtained by it	26
Section 32: Identifying information that is subject to additional safeguards	26
Section 33: Guidance and protocols relating to information	26
Section 34: Regulations about the holding and handling of information	27
Biometric material	28
Section 35: Biometric material	28
Section 36: Review of the performance of the ICRIR's functions	28
Section 37: Conclusion of the work of the ICRIR	28
Part 3: Investigations, legal proceedings etc. and release of prisoners	29
Criminal investigations and proceedings	29
Section 38: No criminal investigations except through ICRIR reviews	29
Section 39: Grant of immunity: prohibition of criminal enforcement action	29
Section 40: No grant of immunity: restrictions on criminal enforcement action	29
Section 41: Other Troubles-related offences: prohibition of criminal enforcement action	30
Section 42: General provision and saving for ongoing pre-commencement action	30
Civil proceedings, inquests and police complaints	30
Section 43: Tort, delict and fatal accident actions	30
Section 44: Inquests, investigations and inquiries	31
Section 45: Police complaints	32
Section 46: Interim custody orders: validity	32
Section 47: Interim custody orders: prohibition of proceeding and compensation	33
Section 48: Prisoner release	33
Part 4: Memorialising the Troubles	34
Section 49: Oral history	34
Section 50: The memorialisation strategy	34
Section 51: Response to the memorialisation strategy	35
Section 52: Academic research	35
Section 53: Annual reports	36
Section 54: Carrying out the Troubles related work programme	36
Section 55: The advisory forum	37
Section 56: Designated persons and funding	37
Section 57: Interpretation of this Part	37
Part 5: Final Provisions	38
Section 58: Consequential provision	38
Section 59: Regulations	38
Section 60: Interpretation	38
Section 61: Application to the Crown	39
Section 62: Extent	39
Section 63: Commencement	39
Section 64: Short title	39
Schedules	40
Schedule 1: The ICRIR, the Commissioners and ICRIR officers	40
Schedule 2: Operational powers of ICRIR officers	40
Schedule 3: Family members	41

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Schedule 4: Supply of information: enforcement	41
Schedule 5: No immunity in certain circumstances	41
Schedule 6: Permitted disclosures of information	42
Schedule 7: Offences relating to disclosure of information	44
Schedule 8: Identification of sensitive, prejudicial or protected international information	44
Schedule 9: Determination of whether the prohibition on civil actions applies	45
Schedule 10: Civil actions to which the 2008 Mediation Directive applies	45
Schedule 11: Investigations, inquests and inquiries in England and Wales and Scotland	46
Schedule 12: Prisoner release	47
Schedule 13: Amendments	47
Commencement	47
Related documents	48
Annex A – Territorial extent and application	49
Annex B – Hansard References	50

Overview of the Act

1 The Act seeks to address the legacy of the Troubles. It will:

- Establish a new independent body, the Independent Commission for Reconciliation and Information Recovery (ICRIR). When requested to do so, this body will conduct investigations into deaths and very serious injuries which resulted from conduct forming part of the Troubles. In each case, the body will compile and publish a report of its findings. The ICRIR may also open an investigation into a death or very serious injury if an individual comes forward seeking immunity (see below) in relation to that specific death or injury, if it does not already have a live investigation ongoing. State bodies and agencies will be under a duty to give the ICRIR full disclosure of all relevant material that is reasonably required for it to fulfil its functions. The ICRIR will also produce a historical record of all remaining deaths (those in relation to which a request is not made) that occurred during the Troubles.
- Require designated persons to carry out a programme of memorialisation work, including an oral history initiative. The aim is to provide a central place for people of all backgrounds to share their experiences and perspectives relating to the Troubles. The designated persons will also produce an evidence-based report within one year which will make a set of concrete recommendations for structures and initiatives to memorialise the Troubles.
- Introduce a conditional immunity scheme, allowing those who cooperate with the ICRIR to receive immunity from prosecution for offences resulting in or connected with Troubles-related deaths and serious injuries. The ICRIR will be under a duty to grant immunity where certain conditions are met. In the event immunity is not granted to an individual, the ICRIR can continue its investigation and if the evidence permits, produce a file for prosecution which will be submitted to the relevant prosecutor. Individuals will be able to apply for immunity for conduct related to any relevant case where a decision to prosecute is yet to be made by prosecutors. Any cases where a decision to prosecute has been made will continue and it will not be possible for individuals to seek immunity.
- Bar criminal investigations into Troubles related incidents by any organisation other than the ICRIR, and bar prosecutions for Troubles-related offences not involving death or serious injury, or which are not connected to offences involving death or serious injury.
- Bar civil claims arising from conduct forming part of the Troubles and events between 1 January 1966 and 10 April 1998, where a claim has yet to be filed by the date of the Bill's introduction. Those before the Bill's introduction will continue.
- Prohibit civil and criminal proceedings (relating to the quashing of convictions) and payment of compensation for miscarriages of justice which are based on interim custody orders made by junior Ministers having been unlawful.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

- Stop inquests which have not concluded by the 1 May 2024, but can be referred by families or coroners to the ICRIR for investigation.

Policy background

- 2 More than 3,500 people were killed during the Troubles, including over 1,000 members of the security forces. Of those killed, it is estimated that 58% were the responsibility of republican paramilitaries, 30% of loyalist paramilitaries, and 10% of the security forces.¹ Many of these cases remain unsolved - as of May 2022, the Police Service of Northern Ireland currently has a caseload of over 900 cases involving nearly 1,200 deaths. During a Northern Ireland Affairs Committee evidence session in September 2020, the Chief Constable of the Police Service of Northern Ireland said that to go through the current Legacy Investigation Branch caseload, “which is not all the 3,500 deaths, would take over 20 years from a standing start now on the current resource base.”²

Previous attempts to address the Past in Northern Ireland

- 3 In 2009, The Consultative Group on the Past chaired by Lord Eames and Denis Bradley made [31 proposals](#).³ The proposals included: an Independent Legacy Commission to tackle securing reconciliation, justice and information; a new Review and Investigation Unit to deal with historical cases; no new public inquiries; a reconciliation forum; an annual day of reflection; and funding to tackle sectarianism. A £12,000 payment to be made to the relatives of the people killed during the Troubles was also proposed. This elicited strong reactions from political parties and wider civil society, and the report was not taken forward.
- 4 In 2014, the [Stormont House Agreement](#)⁴ on legacy reform was negotiated by the UK and Irish Governments and the Northern Ireland parties. The Stormont House Agreement was, with the exception of the Ulster Unionist Party, supported by all of the major Northern Ireland parties and the Irish Government. It agreed on a number of basic principles including reconciliation, rule of law and a victims’ centred approach and proposed the establishment of several bodies to take this forward.
- 5 Between May 2018 and October 2018, the Government invited extensive stakeholder feedback on [a draft bill](#)⁵ giving effect to the Stormont House Agreement, as part of a public consultation entitled ‘Addressing the legacy of the past - moving Northern Ireland forward.’ The consultation attracted over 17,000 responses and [a summary of the responses](#)⁶ was published in July 2019.
- 6 The Northern Ireland Troubles (Legacy and Reconciliation) Act builds on the principles and other aspects of the Stormont House Agreement principles, such as a focus on information recovery and memorialising the Troubles. In doing so, it seeks to address practical

¹ [CAIN Web Service](#) summarising: An Index of Deaths from the Conflict in Ireland 1969-1993, Malcolm Sutton.

² Oral evidence: Addressing the Legacy of Northern Ireland's Past: The UK Government's New Proposals, HC 329, 2 September 2020 <https://committees.parliament.uk/oralevidence/800/html/>

³ Report of the Consultative Group on the Past, 23 January 2009 https://cain.ulster.ac.uk/victims/docs/consultative_group/cgp_230109_report.pdf

⁴ Stormont House Agreement <https://www.gov.uk/government/publications/the-stormont-house-agreement>

⁵ [Draft Northern Ireland \(Stormont House Agreement\) Bill](#)

⁶ [Addressing the Legacy of Northern Ireland's Past, Analysis of the consultation responses, July 2019](#)

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

implementation issues with the Stormont House Agreement which have been identified since the consultation, including managing the operational difficulties of investigating such a high number of complex, historical cases.

Legal background

7 The Act amends or repeals the following legislation:

- Section 3 of the Prosecution of Offences Act 1985
- Sections 75 and 76 of the Northern Ireland Act 1998
- Part 6 of Schedule 1 to the Freedom of Information Act 2000
- Section 31 of the Justice (Northern Ireland) Act 2002
- Section 58 of the Investigatory Powers Act 2016
- Schedule 18 to the Data Protection Act 2018
- Part 3 of the Prescription and Limitation (Scotland) Act 1973
- Part 1 of the Limitation Act 1980
- Foreign Limitation Periods Act 1984
- Foreign Limitation Period (Northern Ireland) Order 1985
- Part 5 of the Limitation (Northern Ireland) Order 1989
- Section 190 of the Merchant Shipping Act 1995
- Part 7 of the Police (Northern Ireland) Act 1998
- Part 2 of the Police Reform Act 2002
- Chapter 2 of Part I of the Police, Public Order and Criminal Justice (Scotland) Act 2006
- Northern Ireland (Sentences) Act 1998
- Coroners and Justice Act 2009
- Coroners Act (Northern Ireland) 1998
- Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.
- Section 379 of the Sentencing Act 2020
- Articles 3 and 4 of the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013
- Article 4 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Territorial extent and application

- 8 Section 62 sets out the territorial extent of the Act, or the jurisdictions where the Act will form part of the law. The extent of an Act can be different from its application. Application indicates where an Act produces a practical effect. The Act extends to the whole of the United Kingdom, subject to section 55(2)-(4).
- 9 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of the Act

Part 1: The Troubles

Section 1: Meaning of “the Troubles” and other key expressions

- 10 This section provides definitions and explanations as to what is meant by “the Troubles” and other key expressions for the purposes of the Act.
- 11 Subsections (1) to (6) provide that the Act is applicable to conduct and events taking place within the defined specific and limited time period of the Troubles. Subsection (7) provides that the Act is applicable to such conduct taking place anywhere in the world.

Part 2: The Independent Commission for Reconciliation and Information Recovery (ICRIR)

The ICRIR, the Commissioners and ICRIR officers

Section 2: The Independent Commission for Reconciliation and Information Recovery

- 12 This section provides for the formation of the Independent Commission for Reconciliation and Information Recovery (ICRIR) (subsection (1)) as a body corporate (subsection (2)), consisting of a Chief Commissioner, a Commissioner for Investigations and up to five additional Commissioners (subsection (3)).
- 13 Subsection (4) states that the principal objective of the ICRIR in exercising its functions is to promote reconciliation.
- 14 Subsection (5) lists the functions of the ICRIR. These are to:
 - a. Carry out reviews (which may include criminal investigations) into any deaths that resulted from conduct forming part of the Troubles;
 - b. Carry out reviews (which again may include a criminal investigation) of other harmful conduct forming part of the Troubles (defined in section 1);
 - c. Produce reports on the findings of each of these reviews;
 - d. Determine whether to grant immunity from prosecution for serious or connected Troubles-related offences other than Troubles-related sexual offences;
 - e. Refer deaths that were caused by conduct forming part of the Troubles, and other harmful conduct forming part of the Troubles, to prosecutors;
 - f. Produce a historical record of deaths that resulted from conduct forming part of the Troubles.
- 15 Subsection (6) provides that in exercising its functions, the ICRIR must have regard to the general interests of persons affected by Troubles-related deaths and serious injuries.
- 16 At least three months before the start of each financial year, the ICRIR must produce and publish a work plan for that year (subsection (7)). That work plan must deal with matters as set out under subsection (8). A copy must be provided to the Secretary of State.
- 17 Subsection (9) requires the ICRIR, no later than six months after the end of each financial year to produce and publish an annual report on prescribed matters (set out in subsection 10) such as finance and administration, and any other matters the ICRIR consider appropriate. A copy must be provided to the Secretary of State.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

- 18 Subsection (11) grants the Secretary of State the ability to provide funding or other resources to, or in respect of, the ICRIR so that it may carry out its work.
- 19 Subsection (12) introduces Schedule 1 of the Act, which contains further detail about the ICRIR, its Commissioners and its officers.

Section 3: ICRIR officers

- 20 This section provides that people may be employed or seconded to serve as ICRIR officers as defined in subsection (4).
- 21 Subsection (3) provides that in employing or seconding people the ICRIR must, as far as it is practicable, ensure that ICRIR officers collectively hold relevant experience of conducting criminal investigations either in Northern Ireland or elsewhere.
- 22 Subsection (4) states that, for the purpose of this Act, an ICRIR officer means the Commissioner for Investigations and persons employed or seconded under this section.

Section 4: Actions of the ICRIR: safeguards

- 23 This section provides that the ICRIR must not do anything which would prejudice or risk the national security of the United Kingdom; which would risk having or would have a prejudicial effect on actual or prospective criminal proceedings; or which would risk putting, or would put, the life or safety of any person.
- 24 Subsection (4) sets out how subsection (1) applies as regards grants of immunity from prosecution by the ICRIR and disclosures of information.

Section 5: Full disclosure to the ICRIR

- 25 This section deals with the disclosure of information, documents and other material by relevant authorities to the ICRIR for the purposes of, or in connection with, the ICRIR's review or immunity function. "Relevant authority" is defined in section 60 of the Act.
- 26 Subsection (1) provides that relevant authorities are required to make available any information, documents or other material when reasonably required by the Commissioner for Investigations for the purposes of, or in connection with, the ICRIR's review or immunity function.
- 27 Subsection (2) provides that relevant authorities may also make available any material which they consider may be needed by the ICRIR for the purposes of, or in connection with, its review or immunity function.
- 28 Subsections (3) and (4) provide that the relevant authority and the Commissioner for Investigations are to agree the manner in which material is made available under the section, but that the Commissioner for Investigations may specify the way in which information required under subsection (1) is to be made available.
- 29 Subsection (5) provides that agreements under subsection (3) may provide, and requirements under subsection (4) may require, that the relevant authority is to give the actual material, give a copy of it, or allow access to it.
- 30 Subsection (6) provides that requirements under subsection (4) must be consistent with any regulations made by the Secretary of State under section 34 about the holding and handling of information.
- 31 Subsection (7) provides that the Commissioner for Investigations may require the reasonable assistance of persons stipulated under this subsection with regards to the effective use of material made available by the person under this section.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

32 Subsection (8) provides that when making material available under this section, the relevant authority is exempt from any potential breach of confidence or any other restriction on the disclosure of information.

33 Subsection (9) clarifies that a “copy” could include a photograph or similar representation.

Section 6: Operational powers of ICRIR officers

34 This section sets out the operational powers of ICRIR officers. Section 3 subsection (4) of this Act defines an ICRIR officer as being the Commissioner for Investigations as well as persons employed or seconded under that section.

35 Subsection (1) provides the Commissioner for Investigations with the same powers and privileges of a constable. These powers and privileges are a combination of the powers and privileges available at common law and statute, which includes the Police and Criminal Evidence Act 1984 in England and Wales, and the Police and Criminal Evidence (Northern Ireland) Order 1989 in Northern Ireland. In Scotland these powers and privileges are derived from a mixture of common law and statute including the Criminal Procedure (Scotland) Act 1995.

36 Subsection (2) provides that the Commissioner for Investigations may designate any other ICRIR officer as a person having the powers and privileges of a constable, if the Commissioner for Investigations is satisfied that the officer in question is: capable of effectively exercising those powers and privileges; has received adequate training in respect of the exercise of those powers and privileges; and is otherwise a suitable person to exercise those powers and privileges.

37 Subsection (3) provides that the powers and privileges of a constable are only exercisable by the Commissioner for Investigations and any other designated ICRIR officer for the purposes of, or in connection with, any function of the ICRIR (other than the function of producing the historical record).

38 Subsection (4) introduces Schedule 2, which makes further provision about the operational powers of ICRIR officers.

Admissibility of information provided to the ICRIR

Section 7: Admissibility of material in criminal proceedings

39 This section creates restrictions on the use of material against a person in criminal proceedings, where that material was obtained by or provided to the ICRIR by that person. It does not affect the use of material in proceedings brought against any other person.

40 Subsection (2) relates to “compelled material”, which is defined in subsection (10) as anything that has been obtained by the ICRIR through the exercise of the ICRIR’s powers under section 14 (power to issue a notice requiring the provision of information etc.). By virtue of this subsection, compelled material cannot be used in evidence in criminal proceedings against the person who was compelled to provide it.

41 Subsections (3) relates to material provided to the ICRIR by an applicant for immunity from prosecution in connection with that application. Neither this material, nor anything else obtained directly or indirectly as a result of such material, may be used in evidence in criminal proceedings against the applicant.

42 Subsection (4) creates two limited but important exceptions to the restrictions under subsections (2) and (3). The first would allow compelled material to be used against the person providing it in a prosecution for the new offence at paragraph 8(1)(a) of Schedule 4 of

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distorting or otherwise altering that material. The second ensures that these restrictions would not prevent a prosecution for the new offence of providing a false statement as part of an immunity application (see section 27).

- 43 Subsection (5) relates to material not covered by subsections (2) and (3). It provides that material obtained from, or provided by, a person for the purposes of, or in connection with, any of the ICRIR's functions may not be used in evidence against that person unless one of the two exceptions created by subsections (5) or (6) apply.
- 44 Subsection (6) creates an exception from the restriction created by subsection (5), in cases where the material was provided to, or obtained by, an ICRIR officer designated under section 6(1) or (2) (the Commissioner for Investigations and any other ICRIR officer designated as having the powers and privileges of a constable). An example would include information provided by a suspect in response to questions put as part of a formal interview under caution.
- 45 Subsection (7) creates a further exception from the restriction created by subsection (5), which applies in cases where the criminal proceedings relate to the ICRIR's exercise of its functions, any other conduct by the ICRIR, or the conduct of current and former ICRIR staff and others in a similar position. This exception would, for example, ensure that subsection (5) did not inhibit the prosecution of a person who was found to have deliberately made false statements on an application form in order to secure employment with the ICRIR.
- 46 Subsection (8) clarifies that the exceptions created by subsections (4, (6)) and (7), where they apply, do not affect the application of any other legislation or rule of law relating to their admissibility in criminal proceedings.
- 47 Subsection (9) clarifies the effects of the restrictions on admissibility created by this section, subsection (10) clarifies the scope of the restrictions (in terms of the material covered), and subsection (11) creates relevant definitions including "compelled material".

Section 8: Admissibility of material in civil proceedings

- 48 This section provides for the inadmissibility in certain proceedings of "protected material", defined for the purposes of this Act in subsection (5) as material obtained or produced by the ICRIR in the exercise of its functions.
- 49 Subsection (1) provides that protected material (or evidence relating to it) is inadmissible in civil or coronial proceedings, and certain inquiries in Scotland.
- 50 Subsection (2) provides that the restriction created by subsection (1) does not apply to proceedings related to the operation of the ICRIR and its officers, or to judicial review proceedings or equivalent in Scotland relating to the exercise of functions or the conduct of a person other than the ICRIR.
- 51 Subsection (3) clarifies that the admissibility restrictions apply whether the material is in the form in which it was provided or in some other form, and whether the material is in the possession of the ICRIR itself or another person.
- 52 Subsection (4) provides that protected material obtained by the ICRIR from a relevant authority under section 5 is excluded from the admissibility restriction created by this section.
- 53 Subsection (5) creates relevant definitions, including the definition of "civil proceedings", which does not include family proceedings in each of the UK's three jurisdictions.

Reviews of deaths and other harmful conduct

Section 9: Requests for reviews of deaths

- 54 This section specifies who may make a request of the ICRIR to take forward a review into a death resulting from the Troubles.
- 55 Subsection (1) provides that a close family member of the deceased can make a request for a review (the meaning of “close family member” is given in Part 1 of Schedule 3). Subsection (2) provides that if the deceased has no close family members, any family member can make a request if it is appropriate for them to do so. Subsection (7) provides that it is for the Commissioner for Investigations to decide whether such a request is appropriate.
- 56 Subsection (3) provides that the Secretary of State for Northern Ireland may request a review of any death caused by conduct forming part of the Troubles. Under subsection (4), the Attorney General for Northern Ireland has a similar power in relation to deaths caused directly by such conduct. Subsection (5) states that the Advocate General for Northern Ireland may make such requests if certain national security interests apply.
- 57 Subsection (6) lists additional office holders who may request a review of a death caused directly by conduct forming part of the Troubles:
- a. a coroner in Northern Ireland who was responsible for an inquest into that death which has been closed as a result of the operation of other provisions in the Act;
 - b. a senior coroner in England and Wales who who was responsible for conducting an investigation into that death which has been discontinued under other provisions of the Act;
 - c. the Chief Coroner of England and Wales, if the Chief Coroner is prohibited by paragraph 2 (4) of Schedule 1A to the Coroners and Justice Act 2009 from directing a senior coroner to conduct an investigation into the death;
 - d. a sheriff in Scotland who was responsible for conducting an inquiry into that death which has been discontinued under other provisions of the Act;
 - e. the procurator fiscal in Scotland who was responsible for conducting an investigation into that death which has been discontinued under other provisions of the Act;
 - f. the Lord Advocate, if the Lord Advocate is prohibited by paragraph 3(a) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. Act 2016 from exercising functions so as to cause an inquiry to be held into the death.
- 58 Subsection (8) provides that requests must be made within the first five years of the ICRIR’s period of operation (which begins on the day section 2(5) is brought into force).
- 59 Subsection (9) defines a death caused directly by conduct forming part of the Troubles as one wholly caused by physical injuries or physical illness, or both, that resulted directly from an act of violence or force, which was conduct forming part of the Troubles.
- 60 Subsection (10) defines terms used in this section.

Section 10: Requests for reviews of other harmful conduct forming part of the Troubles

- 61 This section provides for requests for reviews into other harmful conduct forming part of the Troubles (conduct causing a person to suffer harm of any kind, excluding death).

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

- 62 Subsection (1) provides that a person who suffered serious physical or mental harm caused by conduct forming part of the Troubles may request the ICRIR to take forward a review into that conduct. “Serious physical or mental harm” is defined in section 1(6).
- 63 Subsection (2) provides that the Secretary of State may request a review of other harmful conduct forming part of the Troubles regardless of whether it caused serious physical or mental harm to any person.
- 64 Subsection (3) provides that requests must be made within the first five years of the ICRIR’s period of operation.

Section 11: Requests for reviews: general provision

- 65 This section makes general provision about requests for reviews and how the ICRIR is to deal with such requests.
- 66 Subsection (1) provides that the person making a request may include particular questions about the death, or other harmful conduct, to which the review will relate.
- 67 Subsection (2) provides that the Commissioner for Investigations is to decide the form and manner in which requests for reviews are to be made and in what circumstances requests may be amended or withdrawn. Subsection (3) gives the Commissioner for Investigations a power to reject a request where it has not been made in the required form or manner. Subsections (4) and (5) deal with the situation where a request is made which relates to a death or other harmful conduct in respect of which a separate review is ongoing, and allow the Commissioner for Investigations to reject the new request or, to treat the person(s) making it as if they had joined in the request which had resulted in the ongoing review.
- 68 Subsections (6) to (8) give the Commissioner for Investigations the power to deal with requests which relate to a death or other harmful conduct in respect of which a review has already been carried out. In deciding how to deal with such requests (which may include rejecting them), the Commissioner for Investigations must take into account the review which has already been carried out and must not do anything which duplicates any aspect of that review, unless the ICRIR considers duplication is necessary.

Section 12: Reviews in connection with requests for immunity from prosecution

- 69 This section provides that the ICRIR may carry out a review of a death or other harmful conduct forming part of the Troubles, if a person requests immunity from prosecution from the ICRIR, and if it appears to the Commissioner for Investigation that relevant conduct by the person requesting immunity caused, relates to, or is otherwise connected with the death or physical or mental harm concerned. “Relevant conduct” in this section means conduct by the person requesting immunity that is relevant to their request.

Section 13: Conduct of reviews

- 70 This section sets out the functions and responsibilities of the Commissioner for Investigations in relation to the conduct of ICRIR reviews, over which the Commissioner for Investigations has operational control (see subsections (2) and (3)). Subsection (1) provides that the Commissioner must comply with obligations under the Human Rights Act 1998 when exercising functions under the section – note that this does not limit the Commissioner’s duty to comply with the same obligations when exercising other functions (see subsection (11)).
- 71 Subsection (4) imposes a duty on the Commissioner for Investigations to ensure that each review is carried out, subject to the exceptions provided for in subsection (10).

- 72 Subsection (5) requires that the Commissioner for Investigation ensures that every review looks into all the circumstances of the death or other harm conduct to which it related, regardless of whether a criminal investigation forms part of that review.
- 73 Subsection (6) requires the Commissioner for Investigation to decide in each case how and when a review is to be carried out, including by deciding whether different reviews should be carried out in conjunction with each other (for example where a particular incident resulted in multiple deaths). The Commissioner is also required to decide on the steps necessary in carrying out the review (for example, any investigative measures that may be required). In particular, the Commissioner must decide in each case whether a criminal investigation is required as part of the review (see subsection (7)).
- 74 Subsection (8) provides that, when deciding what steps are necessary in carrying out the review, the Commissioner must take into account any investigation previously carried out by any other person into the death or other harmful conduct to which the review relates (for example a previous police or coronial investigation). The Commissioner must also ensure that the ICRIR does not do anything which duplicates any aspect of a previous investigation save where necessary. Under subsection (9), when deciding what steps are necessary, the Commissioner for Investigation is to have regard to certain matters in particular, so far as they are relevant. These matters are: any particular questions which the person requesting the review may have asked, whether the review is likely to lead only to the production of a final report, any related request for immunity from prosecution, and the likelihood that information obtained through the review will be passed to a prosecutor.
- 75 Subsection (12) gives meaning to certain terms used in the section.

Section 14: Supply of information

- 76 This section gives the Commissioner for Investigations powers to require persons by notice to provide information and other material in connection with the ICRIR's review function.
- 77 Subsection (2) provides that the Commissioner for Investigations may, by notice, require a person to attend at a time and place stated in the notice, in order to provide information, documents or any other thing in the person's custody or under the person's control. The meaning of being "under a person's control" is given in subsection (8).
- 78 Subsection (3) provides that the Commissioner for Investigations may, by notice, require a person to provide information, documents or any other thing in the person's custody or under the person's control within a reasonable time period.
- 79 Subsection (4) provides that the notice must explain the potential consequences of not complying and how the person can make a claim that they are unable to comply with the notice. Under subsection (5) any such claim is to be determined by the Commissioner for Investigations, who may revoke or vary the notice on the grounds that the person is unable to comply or that circumstances mean that it would be unreasonable to require them to comply.
- 80 Subsection (6) provides that when deciding to revoke or vary a notice on the basis that it is unreasonable to require a person to comply with the notice, the Commissioner for Investigations must consider the public interest in the information in question being obtained and its likely importance.
- 81 Subsection (7) provides that, where relevant authority claims (a) that requiring a particular person to comply with a notice would amount to a breach of the ICRIR's duties under section 4(1)(a) or (b) (duty not to prejudice national security or the life or safety of individuals), but (b) those duties would not be breached if the same notice were to be complied with by a different person nominated by that authority, the Commissioner for Investigation is to determine the

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claim and may vary the notice so as to require the nominated person to comply with it, or may revoke the notice.

- 82 Subsection (9) gives effect to Schedule 4 which makes provision about enforcement of notices under this section.

Section 15: Production of reports on the findings of reviews

- 83 This section applies where a review has been carried out by the ICRIR and requires the Chief Commissioner to produce a final report on the findings of the review (subsection (1)).
- 84 Subsection (3) stipulates that where questions were included in the request for a review, the final report must include the ICRIR's responses to those questions, if and to the extent it has been practicable to respond to them when carrying out the review. Where it has not been practicable for the ICRIR to respond to a question, the Chief Commissioner must include a statement to that effect in the final report.
- 85 Under subsection (4), the final report must include a statement of the manner in which the review was carried out.

Section 16: Consultation on reports

- 86 This section imposes obligations on the Chief Commissioner to consult various individuals before a report containing the findings of a review can be finalised. Subsection (1) imposes an obligation on the Chief Commissioner to share a copy of a draft of the report with the person who requested it (where applicable), and to allow that person to make representations during the applicable response period (this is a period of 30 days beginning with the date on which the draft is shared, extendable by the Chief Commissioner if there is good reason – see the relevant definition in subsection (11)).
- 87 Subsection (2) applies where the review is of a death, following a request under section 9 or where the review was initiated by the ICRIR under section 12(2) and requires the Chief Commissioner to share the draft report with any relevant family members of the person to whose death the review relates; any relevant family members of any other persons killed in the relevant event; any person who suffered serious physical or mental harm in the relevant event or, where such a person has subsequently died, any relevant family members of the person. "Relevant family member" has the meaning given by Part 2 of Schedule 3 (see subsection (11)). Where a draft report is shared with a person under this subsection, they are to be allowed to make representations about the report during the applicable response period.
- 88 Subsection (3) makes similar provision to subsection (2), but in relation to reviews of other harmful conduct carried out following a request under section 10, or where the review was initiated by the ICRIR under section 12(3).
- 89 Subsections (4) and (5) impose, respectively, consultation requirements in respect of any review, where the Chief Commissioner is proposing to include in the final report material criticising a living individual or a public authority. These terms are defined in subsection (11). Where these duties arise, the Chief Commissioner is required to share a copy of the relevant critical material with the individual or public authority concerned, and to allow that individual or public authority to make representations within the applicable response period.
- 90 Subsection (6) provides that the Chief Commissioner must not produce the final report until after any applicable response period has ended or, where two or more persons are consulted and the applicable response periods end on different days, after all of those periods have ended.

- 91 Under subsection (7), the Chief Commissioner may exclude material included in the draft of the report from the final report if they consider it would not be in the public interest for that material to appear in the final report. If the Chief Commissioner considered that the draft report contained material which fell to be excluded under this subsection, that would not prevent the Chief Commissioner from making consequential changes to the draft, for example if there was a way of rephrasing the material in a way which did not offend the public interest.
- 92 In deciding whether to exclude material under subsection (7), the Chief Commissioner must take account of any representations made in accordance with the provisions of this section (defined as the “consultation provisions” in subsection (11)).
- 93 Subsection (9) provides that where the Chief Commissioner has consulted a person under this section, this Chief Commissioner is not required to provide that person with a revised draft. Subsection (10) clarifies that where the Chief Commissioner is required to share a draft of the final report with two or more persons under this section, they need not all be provided with exactly the same draft.
- 94 Subsection (11) defines, among others, the terms “applicable response period”, “relevant family member”, “material criticising an individual” and “relevant event”.

Section 17: Issuing and publication of reports

- 95 This section makes provision for when the Chief Commissioner produces a final report on the findings of a review in accordance with section 15.
- 96 In the case of a review carried out following a request made under section 9 or 10, the Chief Commissioner is required to give the final version of the report to the person who made the request, and must also publish the final report (see subsection (2)).
- 97 Where a review has been carried out following a decision by the ICIR under section 12 (a review in connection with a request for immunity from prosecution), the ICIR is not required to publish the final report but may do so (see subsection (3)). When deciding whether to publish the final report in such a case, the Chief Commissioner must take into account the views of relevant family members and those who suffered serious physical or mental harm in the same incident. The meaning of “relevant family members” is given in Part 2 of Schedule 3. Under subsection (5) the ICIR must take reasonable steps to identify and obtain the views of these individuals.
- 98 Under subsection (6), if the Chief Commissioner decides not to publish the final report in a case to which subsection(3) applies, the Chief Commissioner must still publish the statement of the manner in which the review was carried out that is included in the final report in accordance with section 15(3).
- 99 Subsection (7) provides that it is for the Chief Commissioner to decide the manner in which the report or any statement is to be published.
- 100 Under subsection (8), the Chief Commissioner may give the designated persons under Part 4 summaries of any final reports which are not published.
- 101 Subsection (9) defines “relevant event” and “relevant family member”.

Section 18: Reports: general provision

- 102 This section contains general provisions in relation to reports. Subsection (1) requires the Chief Commissioner to produce and issue a report under sections 15 to 17 as soon as is practicable after the review has been carried out.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

- 103 Subsections (2) to (4) make special provision for “excepted reviews”. These are reviews which have resulted in a referral to prosecutors under section 25 (see subsection (3)). Subsection (2) provides that the duty under subsection (1) does not apply to producing under section 15 and giving and publishing under section 17(2) and (3), the final report on the findings of an excepted review, or publishing under section 17(6) the statement of the manner in which an excepted review was carried out. Instead, in such cases, the final report must not be produced and published (or the statement published) unless and until any related ongoing prosecution process has concluded (see subsection (4)).
- 104 Subsection (5) provides that sections 16 and 17 and this section do not require the Chief Commissioner to (a) give a copy of a draft of the report, material which it is proposed to include in a final report, or a final report, to any person, or (b) to publish a final report, unless the Chief Commissioner can do so in accordance with sections 4(1) and 29(2).
- 105 Subsection (6) points to paragraph 8 of Schedule 6 which makes provision about (a) other material that must be included in the report, and, (b) circumstances in which a new report must be produced.
- 106 Subsection (7) applies paragraph 3(2)(d) and (e) of Schedule 5, which set out the circumstances in which a prosecution is to be treated as continuing, for the purposes of this section. Subsection (8) defines further terms used in the section.

Immunity from prosecution

Section 19: Immunity from prosecution

- 107 This section sets out the conditions which need to be met for the ICRIR to grant immunity from prosecution, and how a grant of immunity should be formulated where those conditions are met. Subsection (1) imposes a duty on the ICRIR to grant immunity from prosecution in a case where each of conditions A to C are met.
- 108 Subsections (2), (3) and (5) establishes conditions A to C respectively:
- a. The person has requested immunity from prosecution.
 - b. The immunity requests panel (see section 22) is satisfied that the person has provided an account which is true to the best of their knowledge and belief and which describes conduct by that person which forms part of the Troubles.
 - c. The panel is satisfied that the person’s conduct, as described by them in their account, would tend to expose that person to a criminal investigation for suspected involvement in, or to prosecution for, one or more particular serious or connected Troubles-related offences identified by the panel. (For the purposes of determining whether this condition is met, subsection (6) requires the panel to disregard the effect of the restrictions on criminal investigations and prosecutions created elsewhere in the Act in relation to such offences, and also the effect of other law which might otherwise prevent a prosecution, for example abuse of process).
- 109 Subsection (4) provides that the account of the person applying for immunity may consist of or include information provided previously (whether directly to the ICRIR or otherwise) as long as the panel is satisfied that the information is true to the best of the person’s knowledge and belief.
- 110 Subsections (7) to (12) require the immunity requests panel to decide how to formulate the grant of immunity. Under subsection (7) the panel has three options, but whichever it chooses the grant of immunity must be broad enough in scope to cover all the serious or connected Troubles-related offences which the panel considers the person’s conduct, as described in their

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account, would tend to expose that person to investigation/and or prosecution for (so called “identified possible offences”). An award of general immunity - defined in subsections (9) and (10) - is likely to be appropriate in most cases, but the panel has the flexibility to grant specific immunity - defined in subsection (8) in instances where - for example - an individual may have had a lesser role in a death or serious injury, or where the factual position is straightforward. Immunity (whether general or specific) can only be granted in respect of conduct disclosed by an individual as part of their application. It will not extend to all Troubles-related conduct that an individual may have been involved in but which has not been disclosed.

111 Subsection (13) sets out that the ICIR must in writing notify the individual of the outcome of their application for immunity, and must, where the duty to grant immunity applies because each of the conditions A to C are satisfied, grant immunity in accordance with subsections (7) and to (12). Subsection (14) establishes that immunity can not be revoked except by a court under section 26. Subsection (17) provides that this section is subject to schedule 5, which sets out the circumstances in which immunity from prosecution must not be granted.

Section 20: Requests for immunity: procedural matters

112 This section makes provision relating to the process for requesting immunity from prosecution and for dealing with such requests.

113 Under subsection (1), a request for immunity is not valid if it is made after the end of the fifth year of the ICIR’s period of operation (this begins on the day section 2(5) comes into force – see section 60). This restriction does not apply if, at the time the request is made, there is an ongoing review relating to conduct by the requestor which is relevant to their request for immunity.

114 Subsection (2) gives the Secretary of State the power to make rules on the procedures for making and dealing with requests for immunity (such rules are to be made by statutory instrument subject to the made negative procedure – see subsection (6)). Subsection (3) provides that it is for the Chief Commissioner to determine the procedures for making and dealing with requests for immunity, subject to any rules made under subsection (2).

115 Subsection (4) provides that a request for immunity is not valid if it is not made in accordance with any applicable procedure contained in rules made by the Secretary of State under subsection (2) or which has been determined by the Chief Commissioner under subsection (3).

116 Subsection (5) provides that it is for the Chief Commissioner to decide whether a request is valid.

117 Subsections (7) to (11) deal with the situation where the Chief Commissioner is unable to exercise some or all of the immunity functions, for example because of illness. Under subsection (7), the Chief Commissioner may nominate another person to temporarily exercise certain functions relating to the immunity process, including functions of the Chief Commissioner as a member of the immunity requests panel. The Secretary of State may make the nomination instead, if the Chief Commissioner is unable to do so (see subsection (8)).

118 Subsection (9) provides that certain persons cannot be nominated under subsection (7). Subsection (10) ensures the Act applies to the exercise of functions appointed by a person under subsection (7) in the same way it would apply as if the functions were being exercised by the Chief Commissioner. Subsection (11) defines “immunity functions” and “panel functions” for the purposes of these provisions.

Section 21: Determining a request for immunity

119 This section applies where a person makes a request for immunity from prosecution under section 19, and makes provision relating to the determination of that request.

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- 120 Subsection(2) requires the ICRIR to take reasonable steps to obtain information which the Commissioner for Investigations knows or believes is relevant to the question of the truth of P's account.
- 121 Under subsection (3) the panel, when forming a view on the truth of the applicant's account, have to take into account previous information given by the individual, and any other relevant information the ICRIR has received. Subsection (3) places a duty on the panel to take into account all relevant information when forming a view on the truth of the account of the person requesting immunity. This includes information obtained pursuant to the duty under subsection (2), as well as information already in the possession of the ICRIR. The latter includes information obtained by the ICRIR through a review, and information obtained through another type of investigation previously carried out by any other person (see subsection (4)).
- 122 Subsection (5) clarifies that the immunity requests panel is not prevented from forming a view on the truth of the applicant's account in cases where the ICRIR could have initiated a review under section 12 in relation to the applicant's request but decided not to do so.
- 123 Subsection (6) places a duty on the Chief Commissioner to issue guidance about when Conditions B and C set out in subsections 19(3) to (5) are met. Under subsection (7) this may include guidance about ascertaining whether an account of a person's conduct is true to the best of that person's knowledge and belief (in relation to Condition B), whether conduct is possible criminal conduct, and whether information is an account of possible criminal conduct (relevant to Condition C).
- 124 Subsection (8) creates a similar duty on the Chief Commissioner to issue guidance about how a grant of immunity from prosecution should be formulated (decisions made by the immunity requests panel under section 19(7)).
- 125 Subsection (9) provides that the immunity requests panel must take account of guidance issued by the Chief Commissioner under subsection (6) or (8) when exercising functions to which that guidance relates.

Section 22: The immunity requests panel

- 126 This section makes provision relating to the immunity requests panel, which has the function of determining requests for immunity from prosecution. Subsection (1) deals with the composition of the panel, which must consist of the Chief Commissioner and two ICRIR officers nominated by the Chief Commissioner. Under subsection (2), the chair of the panel is to be the Chief Commissioner.
- 127 Under subsection (3), the Chief Commissioner has powers to remove an ICRIR officer panel member, and, in relation to ICRIR officer panel members who are not removed but who are unable to act, nominate a different ICRIR officer as a temporary replacement.
- 128 Under subsection (5), only ICRIR officers with appropriate legal qualifications and experience may be appointed to the panel (The Chief Commissioner will themselves be a current or former holder of high judicial office under Schedule 1). To ensure the ICRIR includes officers with the appropriate qualifications and experience, subsection (6) places a duty on the body to ensure it employs or seconds as officers at least two persons who meet these requirements. Subsection (7) provides that functions conferred on the immunity requests panel are to be treated as functions of the ICRIR, exercisable by the immunity requests panel on behalf of, and in the name of, the body.

Section 23: Personal statements by persons affected by deaths etc

- 129 This section requires the Chief Commissioner to give individuals affected by a Troubles-related death or other harmful conduct the opportunity to provide personal statements to the ICRIR about the ways in which and degree to which they have been affected.

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- 130 Subsection (1) sets out when this duty applies -where the ICRIR is carrying out a review following a request, and where a person has requested immunity from prosecution (whether or not a review has been initiated in relation to that request).
- 131 Under subsection (2), the Chief Commissioner must give eligible persons the opportunity to provide a personal statement. Subsections (5) to (8) deal with who is eligible to provide a statement. Those eligible are each close family member of the deceased (where the duty arises in relation to a death) or each close family member of the injured person (where the duty arises in relation to other harmful conduct) who are known to the ICRIR. If there are no known close family members, each other family member of the deceased or injured person known to the ICRIR must be given the opportunity if the Chief Commissioner considers it appropriate. "Close family member" has the meaning given in Part 1 of Schedule 3.
- 132 Under subsection (3), a person who provides a personal statement must be given the opportunity to supplement it, if they wish.
- 133 Subsection (4) gives meaning to the term "personal statement", for the purposes of the section, including by providing that such a statement may relate to the effects of the relevant Troubles-related events on the person who provided it, as well the effect on "other relevant persons". This term is defined in subsections (6) and (9), and includes family members of a deceased person to whom a review relates, family members of another person killed in the relevant event, persons who suffered serious or mental harm in the relevant event but who have subsequently died, and family members of such persons.

Section 24: Publication of personal statements

- 134 This section requires the Chief Commissioner to publish a personal statement provided under section 22 and makes related provision.
- 135 Subsections (1) and (2) provide that where an eligible person provides a personal statement in accordance with section 23, and that person notifies the Chief Commissioner of their wish that the statement should be published, the Chief Commissioner must publish the statement.
- 136 Under subsection (3), the duty to publish a personal statement does not apply if publication of it would breach the ICRIR's duties under section 4(1) (safeguards relating to prejudice to national security, risk of harm to individuals, or prejudice to criminal proceedings) or under section 30(2) (restrictions on disclosure of certain information). The duty also does not apply if the Chief Commissioner considers publication would be contrary to the public interest. Where subsection (3) operates to prevent publication, subsection (4) requires the Chief Commissioner to produce an edited version of the personal statement which can be published instead, where this is possible. The edited version must not be published without the agreement of the person who provided the original personal statement (subsection (5)). Subsection (6) clarifies that the Chief Commissioner will not be in breach of his obligations under the section if an edited version of a personal statement is not published because the person who provided the original statement will not agree to publication in the edited form.
- 137 Subsection (7) provides that the publication duties created by the section do not apply if, and for as long as, section 18(2) to (4) has the effect of suspending the duty to publish any related final report.
- 138 Subsection (8) requires the Chief Commissioner to give the person who submitted the personal statement the reasons for any decision to publish an edited version of the statement instead of the original, or any decision to publish neither the original statement nor an edited version (because it is not possible to produce an edited version).
- 139 Subsections (9) and (10) give meaning to certain terms used in this section.

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Information for prosecutors

Section 25: Information for prosecutors

- 140 This section applies where a review has been carried out by the ICRIR and gives the Commissioner for Investigations a power to refer a case to prosecutors and governs how that discretion should be exercised.
- 141 Subsection (2) applies where the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of Northern Ireland by an individual whose identity is known to the Commissioner. “Relevant conduct” has the meaning given by subsection (7), and is the conduct which caused the death, or the other harmful conduct, to which the review relates, as well as any other conduct that relates to, or is otherwise connected to it. Where subsection (2) applies the Commissioner for Investigations may refer the conduct to the Director of Public Prosecutions for Northern Ireland and, if conduct is referred, must notify the prosecutor of the offence(s) concerned.
- 142 Subsection (3) makes similar provision but in relation to conduct constituting an offence under the law of England and Wales, where a referral lies to the Director of Public Prosecutions (for England and Wales). Subsection (4) makes similar provision for offences under Scots law (where a referral is to be made to the Lord Advocate), but is subject to the power of direction under subsection (5).
- 143 Under subsection (5), the Lord Advocate has the power to direct that a referral (and notification) be made under subsection (4), and the Commissioner for Investigation must comply with such a direction unless the person concerned has been granted immunity from prosecution under section 19 for the offence concerned.
- 144 Subsection (6) requires that when referring a case to a prosecutor, the Commissioner for Investigations must; provide such information and material relating to the relevant conduct as the Commissioner considers appropriate and, if requested to do so by the prosecutor, must supply such further information or material as it is practicable to obtain.

Section 26: Subsequent convictions: revocation of immunity

- 145 This section makes provision for the revocation of a grant of immunity from prosecution where a person is convicted of certain criminal offences.
- 146 Under subsection (1), a criminal court sentencing a person convicted of an offence under section 27 (false statements) must, where the offence was committed in the course of that person requesting immunity from prosecution under section 19, revoke any grant of immunity from prosecution made as a result of that request.
- 147 Subsection (2) applies where a person who has been granted immunity from prosecution is subsequently convicted of a terrorist offence or an offence with a terrorist connection, committed after immunity was granted. In those circumstances the sentencing court must revoke every grant of immunity given to the person before the offence was committed. Subsection (3) explains what a “terrorist offence” and an “offence with a terrorist connection” means in each of the three UK criminal jurisdictions for the purposes of this section.
- 148 Subsection (4) clarifies the application of subsection (2) in cases where the relevant terrorist offence or offence with a terrorist connection is committed over a period of time, and a grant of immunity from prosecution is given at any time during that period. Subsection (5) makes clear that revocation of immunity under this section is immediate, and also clarifies that revocation of a grant of immunity does not prevent a person from making a further request. (Part 2 of Schedule 5 deals with requests that overlap with revoked immunities, and precludes a person

being granted immunity from prosecution for offences which were within the scope of a previously revoked grant of immunity).

Section 27: False statements: offence

- 149 This section creates a new criminal offence of making a false statement to the ICRIR in connection with any of its functions under sections 19 to 22 (functions relating to grants of immunity from prosecution).
- 150 Subsection (1) creates the offence of making a false statement. Subsection (2) explains that for the purposes of the offence, a person makes a false statement either by making a statement which that person knows to be false (in a material respect), or by recklessly making a statement which is false (in a material respect).
- 151 Subsection (3) sets out the penalties in each of the three UK jurisdictions which apply if a person is convicted of the new offence. Where a person is convicted on indictment they are liable to imprisonment for up to 2 years and/or an unlimited fine. For summary conviction the maximum penalties vary depending on the jurisdiction.
- 152 Under subsection (4), a prosecution for the new offence may only be brought in Northern Ireland by or with the consent of the Director of Public Prosecutions for Northern Ireland. Equivalent provision is made in respect of prosecutions in England and Wales.

The historical record of deaths

Section 28: Production of the historical record

- 153 This section makes provision for a record of deaths that resulted from conduct forming part of the Troubles. The ICRIR has the function of producing the historical record (see section 2(5)(f)) and this section sets out how the body is to discharge that function.
- 154 Subsection (1) states that the record must be a single document giving an account of the circumstances of all relevant deaths. These are deaths defined in subsection (8) as deaths that resulted from conduct forming part of the Troubles, except for those that have been the subject of reviews carried out by the ICRIR under section 13. Subsection (2) places a duty on the ICRIR to take all reasonable steps to identify all deaths caused by conduct forming part of the Troubles, and to identify and obtain information about relevant deaths which is publicly available, and any other information about such deaths which is likely to be useful for the purposes of producing the historical record. Subsection (7) provides that the ICRIR may in particular take into account cost when deciding whether it is reasonable to take a particular step for the purposes of subsection (2).
- 155 Subsection (3) permits the ICRIR to contact people to ask for information in connection with the historical record, but subsection (4) prohibits the ICRIR from requesting information from certain people with a family or personal connection to the deceased person or the relevant events. This prohibition does not apply if the person is being asked in a professional capacity (subsection (5)).
- 156 Subsection (6) provides that a person may provide information if requested to do so by the ICRIR under this section, but only if the provision of the information would not breach obligations of confidence or other legal restrictions on the disclosure of the information.

Section 29: Publication of the historical record

- 157 Subsection (1) places a duty on the ICRIR to publish the historic record. Subsection (2) provides that it is for the ICRIR to decide the manner in which the historical record is to be published and subsection (3) states that the ICRIR is not required to publish the historical record unless (and until) it can do so in accordance with sections 4(1) and 30(2).

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Information

Section 30: Disclosure of information: general power and prohibitions

158 This section provides that the ICRIR may disclose any information it holds to any other person subject to certain prohibitions. The prohibitions are listed in subsections (4) to (9) as follows:

- a. Prohibition A applies where the Commissioner for Investigations has identified that the information is sensitive information (as defined in section 60).
- b. Prohibition B applies where a relevant authority has informed the Commissioner for Investigations that the information is sensitive information.
- c. Prohibition C applies where the Secretary of State has informed the Commissioner for Investigations that the information is protected international information (as defined in section 60).
- d. Prohibition D applies where the disclosure of the information would contravene the ICRIR's duties under section 4(1).
- e. Prohibition E applies where the disclosure of the information would be in breach of the data protection legislation. "The data protection legislation" has the meaning given by section 3(9) of the Data Protection Act 2018.
- f. Prohibition F applies where the disclosure of the information would be in breach of certain provisions of the Investigatory Powers Act 2016.

159 Subsection (3) provides that prohibitions A to D do not apply if the disclosure of information is permitted by Schedule 6 to the Act (which is introduced by subsection 10).

160 Subsection (11) introduces Schedule 7, which creates offences relating to disclosure of information.

Section 31: The ICRIR's use of information obtained by it

161 Subsection (1) sets out that information obtained by the ICRIR under section 5 or through the exercise of police powers (as defined in subsection (6)) may only be used for the purpose of, or in connection with, exercising any function of the ICRIR except that of producing the historical record.

162 Subsection (2) sets out that information obtained by the ICRIR under section 14 may only be used for the purpose of, or in connection with, the exercise of the review function.

163 Subsection (3) makes clear that subsections (1) and (2) do not authorise the ICRIR to supply information to any other person.

164 Subsection (4) stipulates that subsections (1) and (2) do not apply to information once it has been: a) contained in a final report produced in accordance with section 15; or b) published by the ICRIR in accordance with the provisions of this Act.

Section 32: Identifying information that is subject to additional safeguards

165 This section introduces Schedule 8 to the Act, which makes provision about the identification of, sensitive, or prejudicial, or protected international information.

Section 33: Guidance and protocols relating to information

166 Subsection (1) provides that the Secretary of State may give guidance to the ICRIR, the Chief Constable of the Police Service of Northern Ireland, chief officers of police forces in Great Britain, the Police Ombudsman for Northern Ireland, the Director General of the Independent

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Office for Police Conduct, The Police Investigations and Review Commissioner, Northern Ireland departments and Scottish ministers about the identification of sensitive information. Subsection (2) provides that recipients of such guidance must have regard to it when identifying information in accordance with Schedule 8.

- 167 The authorities listed include all the policing bodies across the United Kingdom that may be required to assist the ICRIR to make effective use of material provided (as per section 5). For instance, if a relevant policing authority needed to explain a reference on a document on their file system to the ICRIR, the ICRIR could request the relevant Chief Constable provide such assistance and the Chief Constable could not refuse this request.
- 168 The Government does not believe it is necessary to widen this requirement to include the National Crime Agency, as we do not believe they will hold a significant enough amount of potentially relevant material for the ICRIR.
- 169 Subsection (3) provides that the Secretary of State may also give guidance to the ICRIR regarding the exercise of its functions in accordance with section 4(1)(a). Subsection (4) sets out that the ICRIR must have regard to such guidance when exercising the functions to which the guidance relates.
- 170 Subsection (5) provides that an information disclosure protocol may be agreed between the ICRIR and one or more relevant authorities, or persons listed in paragraph 3(2) of Schedule 5. A definition of “information disclosure protocol” is provided at subsection (6). “Relevant authority” has the meaning given in section 60.

Section 34: Regulations about the holding and handling of information

- 171 This section confers a regulation-making power on the Secretary of State to make provision regarding the holding and handling of information by the ICRIR.
- 172 Subsection (2) allows the Secretary of State in the regulations to:
- a. make provision about notifications to be given by the ICRIR the information it holds;
 - b. make provision about measures for holding and handling information securely;
 - c. regulate how the ICRIR may destroy or transfer information once it ceases to be held;
 - d. make provision about guidance or consultation;
 - e. confer functions on the Secretary of State any other person (as well as on the ICRIR);
 - f. create criminal offences.
- 173 Subsection (3) clarifies that this can include provision about information which has been identified as sensitive, prejudicial or protected international information. Subsection (4) provides that any criminal offence created in regulations under this section may only apply to the conduct of a person who is or at some point has been: a Commissioner of the ICRIR; an officer of the ICRIR; or an ICRIR contractor. It also states that any such offence may not impose a penalty greater than that imposed for an offence under Schedule 7 (offences relating to disclosure of information) of this Act.
- 174 Subsection (5) deals with the Parliamentary procedure applicable to regulations made under this section (negative).

Biometric material

Section 35: Biometric material

- 175 This section confers a regulation-making power on the Secretary of State to make provision in relation to DNA profiles derived from DNA samples, and fingerprints, taken before 31 October 2013 (defined for the purposes of the section as “biometric material” in subsection (4)).
- 176 Subsection (1) allows the Secretary of State to designate (in regulations) a collection of biometric material for the purposes of the section (“designated collections”). Regulations may provide for biometric material in such collections not to be destroyed, if destruction of the material would otherwise have been required under any of the provisions of law listed in subsection (4) (“destruction provisions”). Biometric material which has not been destroyed by virtue of regulations made under this subsection is defined in subsection (4) as “preserved material”. Regulations under this subsection may also provide for preserved material to be retained, to be used for the purposes of, or in connection with, the exercise of the ICRIR’s functions (except the production of the historical record), and to be destroyed.
- 177 Subsection (2) applies where regulations made under subsection (1) provide for the retention of preserved material, and obliges the Secretary of State to include as part of those regulations requirements for the ICRIR to carry out periodic reviews of the need to retain that material. Further, where provision is made for the retention of preserved material, regulations must require that preserved material is to be destroyed no later than a reasonable period after the conclusion of the ICRIR’s work.
- 178 Subsection (3) provides that regulations made under this section are subject to the negative Parliamentary procedure.
- 179 Subsection (4) contains definitions used in the section.

Section 36: Review of the performance of the ICRIR’s functions

- 180 This section provides that the Secretary of State must carry out a review of the ICRIR’s performance of its function set out in section 2(5). The review must be carried out by the end of the ICRIR’s third year of operations, and the Secretary of State must lay a copy of the review before Parliament.

Section 37: Conclusion of the work of the ICRIR

- 181 This section makes provisions for the conclusion of the work of the ICRIR. Subsection (1) allows the Secretary of State to make secondary legislation winding up the ICRIR, if satisfied that there is no longer a need for the body to exercise its functions. Regulations made by the Secretary of State under subsection (1) may deal with the transfer of property, rights and liabilities (subsection (2)), and may repeal or otherwise amend provisions in Part 2 of the Act (subsection (3)) with some exceptions.
- 182 Subsection (4) clarifies that consequential amendments included (by virtue of section 59(9)(b)) in regulations made under subsection (1) may include amendments to parts 4 and 5 of the Act or any legislation, whenever passed or made.
- 183 Subsection (5) states that the Secretary of State must consult the required consultees (defined in subsection (8) as the ICRIR and any other person the Secretary of State considers it appropriate to consult) when deciding whether to exercise the power to make regulations conferred by this section and before making regulations under this section. Subsection (6) provides that any regulations under this section are subject to the affirmative procedure in Parliament.
- 184 Subsection (7) provides that any draft instruments containing regulations under this section are not to be considered a hybrid instrument for the purpose of parliamentary procedure.

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Part 3: Investigations, legal proceedings etc. and release of prisoners

Criminal investigations and proceedings

Section 38: No criminal investigations except through ICRIR reviews

185 This section makes provision which prohibits authorities other than the ICRIR from investigating Troubles-related criminal offences. Under subsection (1), no criminal investigations into any Troubles related offence may be initiated or continued, on and after the day on which the section enters into force (this is the 1 May 2024 – see section 63(3)). This prohibition does not prevent the ICRIR exercising its functions (subsection (2)).

186 Under subsection (3) the chief officer of each police force in the UK is placed under a duty to notify the Secretary of State of any criminal investigations of Troubles-related offences their forces are carrying out on the day before the section comes into force.

187 Subsection (4) provides that the prohibition has effect subject to section 42(3), which makes saving provision for investigations which relate to criminal prosecutions started before 1 May 2024.

Section 39: Grant of immunity: prohibition of criminal enforcement action

188 This section applies where a person has been granted immunity from prosecution by the ICRIR for a serious or connected Troubles-related offence (these terms are defined in section 1(5)) Under subsection (2), no criminal enforcement action may be taken against such a person for the offence (for as long as that immunity is held). Criminal enforcement action has the meaning given by section 42(2) and includes, for example, prosecuting the person for the offence.

Section 40: No grant of immunity: restrictions on criminal enforcement action

189 This section regulates the criminal enforcement action which may be taken against a person in respect of a serious or connected Troubles-related offence, where that person does not hold immunity from prosecution for that offence (granted by the ICRIR under section 19).

190 Under subsection (2), criminal enforcement action may be taken against a person if in respect of a serious or connected Troubles-related offence if:

- a. the Commissioner for Investigations has referred conduct by that person to a prosecutor under section 25;
- b. the offence is the offence or one of the offences notified to the prosecutor at the time of the referral, or another offence constituted by the conduct which was referred; and
- c. the criminal enforcement action is taken in connection with the referral.

191 Subsection (3) applies to ensure that an ICRIR officer, or other person acting in connection with the ICRIR's functions, is not prohibited from using any powers they may have to arrest or otherwise detain the person in respect of the offence (in practice, such powers are likely to be used before a referral is made under section 25). Subsection (4) makes similar provision so as to allow an ICRIR officer (or other person acting in connection with the ICRIR's functions) to exercise any power they may have to charge the person with the offence, and to allow a prosecutor to conduct criminal proceedings arising from that charge. Again, these are steps which, depending on the jurisdiction and the particular circumstances, might sometimes be taken in advance of a referral under section 25.

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192 Subsections (5) and (6) clarify the relationship between subsections (2) to (4) in cases where, relying on either subsection (3) or (4), criminal enforcement action is taken in respect of a person for an offence, and a related referral under section 25 is then made, engaging subsection (2).

193 Subsection (7) clarifies that this section does not itself confer enforcement powers (e.g., powers of arrest), it merely authorises a person to use powers which they already hold. Subsection (8) provides that the restrictions created by the section have effect subject to the savings provision for pre-commencement cases under section 42(4).

Section 41: Other Troubles-related offences: prohibition of criminal enforcement action

194 This section makes provision in relation to Troubles-related offences which are not serious or connected offences, within the meaning of section 1 of the Act Under subsection (2), no criminal enforcement action may be taken against a person in respect of such offences. This prohibition is also subject to the saving provision created by section 42(4).

Section 42: General provision and saving for ongoing pre-commencement action

195 This section contains general and saving provisions relating to Troubles-related criminal investigations and prosecutions. Subsection (1) sets out that any legislation or other law has no effect insofar as it authorises or requires a person to do anything that is prohibited by sections 38 to 41

196 Subsection (2) gives meaning to the term, “criminal enforcement action” for the purposes of sections 39 to 41. Criminal enforcement action is taken against a person for an offence if: they are prosecuted for it, other criminal proceedings are brought or continued against the person in relation to the offence, or the person is arrested or otherwise detained in connection with the offence.

197 Subsection (3) is a saving provision, and provides that section 38 does not prevent a criminal investigation being carried out other than the ICRIR if a public prosecution of a person for the offence has already begun prior to commencement (1 May 2024) and the investigation is being carried out for the purposes of that prosecution.

198 Subsection (4) is another saving provision: sections 40 and 41 do not prevent criminal enforcement action from being taken against a person in respect of an offence where a public prosecution was started before commencement (1 May 2024), and where the criminal enforcement action related to that prosecution (for example, the enforcement of a sentence).

199 Subsection (5) clarifies that the saving provisions in subsections (3) and (4) do not prevent further transitory, transitional or saving provision from being included in regulations under section 63(5) in connection with the coming into force of sections 38, 40 or 31.

200 Subsection (6) defines the term “public prosecution” as a prosecution other than a private prosecution, and provides that a public prosecution is to be treated as begun when the decision to prosecute is made.

Civil proceedings, inquests and police complaints

Section 43: Tort, delict and fatal accident actions

201 This section prohibits relevant Troubles-related civil actions from being brought after the section comes into force (Subsection (2)) and from being continued in respect of those claims which were brought on or after the Act’s first reading as a Bill in the House of Commons (Subsection (1)). The section comes into force 2 months after the Act was passed (see section

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63(2)(a)); and the date of the Act's first reading as a Bill in the House of Commons was 17 May 2022.

202 Subsections (3) to (6) define "relevant Troubles-related civil action". They provide that such actions must (a) relate to an action to determine a claim arising out of Troubles-related conduct (defined in section 1); (b) be founded on a cause of action under tort, delict, fatal accident legislation or equivalent foreign law grounds; and (c) have the time limit for bringing the action given in the limitation legislation listed in subsection (6).

203 Subsection (7) provides that the prohibition does not apply to an action where the court of first instance has given a final judgement on the matter in dispute before the section comes into force.

204 Subsection (8) provides that where the prohibitions created by subsections (1) and (2) prevent an action from being brought or continued, no related proceedings (other than costs proceedings) may be continued or begun once the section has come into force.

205 Subsection (9) provides that this section does not apply if, or to the extent that, the relevant Troubles-related civil action is an action to which section 47(1) applies (prohibition of civil claims alleging invalidity of interim custody orders).

206 Subsection (10) defines what is meant in relation to "costs proceedings", "fatal accidents legislation", "other jurisdiction", "related proceedings", and "trial".

207 Subsection (11) gives effect to Schedule 9 which makes provision about the process for determining whether the prohibition applies.

208 Subsection (12) gives effect to Schedule 10 which disapplies the prohibition in relation to certain cross-border claims to which Directive 2008/52/EC (the Mediation Directive) to the extent its effect is preserved by the EU Withdrawal Agreement.

Section 44: Inquests, investigations and inquiries

209 This section, together with Schedule 11, makes provision in relation to Troubles-related inquests and coronial investigations in England & Wales and Northern Ireland and equivalent processes in Scotland.

210 Subsection (1) inserts three new sections after section 16 of the Coroners Act (Northern Ireland) 1959.

211 New section 16A applies to all inquests in Northern Ireland into deaths resulting directly from the Troubles which began before 1 May 2024, with the exception of cases where, on that date, the only part of the inquest which remains to be carried out is the final determination, verdict or findings, or something subsequent to that (such as the making of a report). In respect of inquests to which the section applies, the coroner with conduct is prohibited from continuing the inquest after 1 May 2024 (subsection (2)) and must, as soon as is practicable, bring the inquest to a close (including by discharging the jury, where applicable) (subsection (3)). Subsection (4) makes clear that the provision in section 14(1) of the 1959 Act which requires a coroner to conduct an inquest is subject to these new provisions.

212 New section 16B applies so as to prohibit the commencement of new Troubles-related inquests after 1 May 2024 (the date on which section 44 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force). This applies both to decisions by coroners as well as to the use of the power of the Attorney General or Advocate General for Northern Ireland under section 14 of the 1959 Act to direct that an inquest take place.

213 New section 16C defines terms used in new sections 16A and B.

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Section 45: Police complaints

214 Subsection (1) inserts a new section 50A into Part 8 of the Police (Northern Ireland) Act 1998 (“the 1998 Act”) (police complaints and disciplinary proceedings).

- New section 50A applies to police complaints relating to conduct forming part of the Troubles, and provides that, on and after 1 May 2024 (the day the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force), Part 8 no longer apply to such complaints, whether made before, after, or on that date. “Conduct forming part of the Troubles” has the meaning given in section 1 (see subsection (3) of that section).
- Subsection (2) provides that on and after 1 May 2024, the Chief Constable, the Board, the Director or the Department of Justice is to cease to deal with any complaint referred before that day under section 52(7) of the 1998 Act insofar as the complaint relates to conduct forming part of the Troubles.
- Subsection (3) provides that the Police Ombudsman is not to begin any formal investigation and must cease any existing investigations that relate to conduct forming part of the Troubles.
- Subsection (4) clarifies that the section does not prevent the Ombudsman from carrying out a criminal investigation of a Troubles-related offence after 1 May 2024, if it is for the purposes of a public prosecution begun before that date.

215 Subsections (2) and (3) make equivalent provision in respect of police misconduct regimes in England & Wales and in Scotland, by, respectively, amending section 28 of the Police Reform Act 2002 (application of complaints and misconduct provisions to matters occurring before 1 April 2004) and inserting a new section 47A (complaint or investigation relating to Northern Ireland Troubles) into the Police, Public Order and Criminal Justice (Scotland) Act 2006.

Section 46: Interim custody orders: validity

216 This section and section 47 make provision in relation to “interim custody orders”. These were orders made under Article 4 of the Detention of Terrorists (Northern Ireland) Order 1972 or a similar power under paragraph 11 of Schedule 1 the Northern Ireland (Emergency Provisions) Act 1973 (referred to as the “order-making functions” in this section). In *R v Adams* [2020] UKSC 19, the Supreme Court found that an interim custody order made under Article 4 of the 1972 Order was invalid because the power to make the order had not been exercised by the Secretary of State personally.

217 Subsection (2) reverses the decision of the Supreme Court in *R v Adams* by providing that the relevant order-making functions are to be treated as always having been exercisable by authorised Ministers of the Crown as well as by the Secretary of State. Subsections (3) and (4) clarify certain of the effects of subsection (2) by providing, respectively, that an interim custody order is not to be regarded as ever having been unlawful, and that the detention of a person under the authority of such an order regarded is not to be regarded as ever having been unlawful, just because an authorised Minister of the Crown exercised any of the order-making functions in relation to the order. Subsection (5) clarifies that the effect of subsection (2) is not limited by subsections (3) and (4).

218 Subsection (6) provides that this section and section 47 only apply where the exercise of the order-making functions was conduct forming part of the Troubles, reflecting the scope of the Act. (Under section 1(2), conduct forming part of the Troubles includes any conduct during the

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period 1 January 1966 – 10 April 1998 which was conduct connected with preventing, investigating, or otherwise dealing with the consequences of, any other event or conduct relating to Northern Ireland affairs.). Subsection (6) also provides that any exercise of an of the order-making functions is to be assumed to have been conduct forming part of the Troubles unless the contrary is shown. Subsection (7) defines key terms used in this section and in section 47, including “order-making functions”, “authorised Minister of the Crown” and “interim custody order”.

Section 47: Interim custody orders: prohibition of proceeding and compensation

- 219 This section makes provision in relation to legal proceedings and claims for compensation which are connected with the validity of an interim custody order.
- 220 Subsection (1) applies to prohibit civil actions from being continued or brought if, or to the extent that, the claim to be determined in the action involves an allegation that a person was detained under the authority of an interim custody order and that order was unlawful because an authorised Minister of the Crown exercised any of the order-making functions in relation to it. The prohibition applies from the day on which the section comes into force (two months’ after the date on which the Act is passed – see section 63(2)(a)).
- 221 Subsection (2) applies to criminal proceedings relating to the quashing of a conviction (for example, criminal appeals), providing that such proceeding may not be continued or brought if, or to the extent that, the grounds for seeking to have the conviction quashed involve an allegation that a person was detained under the authority of an interim custody order which was unlawful because an authorised Minister of the Crown had exercised any of the order-making functions relating to that order. Again, this prohibition applies from the day on which section 47 comes into force.
- 222 Subsection (3) creates an exception to the prohibition under subsection (2) for “pre-commencement proceedings”. These are proceedings relating to the quashing of a conviction for which leave was given, or which follow from a referral by the Criminal Cases Review Commission made, before the commencement of the prohibition. Paragraph (b) of subsection (3) clarifies that where the exception applies, section 46 does not prevent the court from quashing the conviction on the ground that the interim custody order was unlawful.
- 223 Subsection (4) makes provision in relation to claims for compensation for miscarriage of justice under the statutory scheme established by section 133 of the Criminal Justice Act 1988, where these relate to an interim custody order. Under this subsection, the payment of compensation under that scheme is prohibited in respect of a conviction that has been reversed solely on the ground that an interim custody order was unlawful because an authorised Minister of the Crown exercised any of the order-making functions in relation to that order.
- 224 Subsection (5) provides that the power under section 58(2) to make regulations containing provision consequential on sections 46 or 47 may include provision which amends this Act (including this section). It also provides for the use of the made affirmative procedure for such regulations (if they are not made in accordance with the draft affirmative procedure under section 58(5), or the made negative procedure under section 58(6)).
- 225 Subsection (6) defines the terms “commencement day”, “compensation for miscarriage of justice”, and “pre-commencement proceedings”. The definitions set out in section 46(7) also apply to this section.

Section 48: Prisoner release

- 226 This section gives effect to Schedule 12, which makes provisions relating to prisoner release under the Northern Ireland (Sentences) Act 1998.

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Part 4: Memorialising the Troubles

Section 49: Oral history

- 227 This section makes provision for an oral history initiative relating to the Troubles, taking forward measures proposed in the Stormont House Agreement.
- 228 Subsection (1) requires relevant persons designated by the Secretary of State under section 56 (the “designated persons”) to, within one year (beginning with a date specified in regulations made by the Secretary of State under section 56), secure the carrying out of study of existing Troubles-related oral history collections in Northern Ireland. The designated persons are required to secure the creation, collection and preservation of Troubles-related oral history records, especially those relating to groups or communities that have been found to be historically under-represented in that study. Subsection (1) also requires the designated persons to secure that public engagement with Troubles-related oral history records is encouraged and facilitated, including by making such records more publicly accessible. They must also secure that a catalogue of such publicly accessible records is available online.
- 229 Subsection (2) requires the designated persons, in complying with subsection (1), to secure that appropriate assistance is provided to existing organisations engaged in creating, collecting or preserving Troubles-related oral history records.
- 230 Subsection (3) states that, when complying with subsection (1)(c), the designated persons must secure the arrangement of events and services - for example, public exhibitions.
- 231 Subsection (4) states that the designated persons may, when carrying out the functions under subsection (1) in relation to oral history records, carry out those functions in relation to events which took place both before and after the period of the Troubles - for example, in order to include the oral histories of children discussing their experiences after the Troubles had ended.
- 232 Subsection (5) states that, for the purposes of this section, a group or community in Northern Ireland is under-represented’ in current collections if the oral history records in current collections do not appropriately reflect the prevalence of that group or community in Northern Ireland society during the period of the Troubles.
- 233 Subsection (6) defines terms used in this section, including “current collection”; “oral history record about events and conduct before or after the period of the Troubles”; “Troubles-related oral history record”; and “publicly accessible”.
- 234 Subsection (7) provides that, for the purposes of the work set out in this section, oral history records can include those contributed by a person in the UK, Ireland or elsewhere.

Section 50: The memorialisation strategy

- 235 This section makes provision for a ‘memorialisation strategy’ - a report exploring existing and potential new ways of memorialising the Troubles in Northern Ireland.
- 236 Subsection (1) requires designated persons (see section 56) to ensure a study is carried out evaluating memorialisation activities that are currently taking place. The designated persons must also ensure that recommendations are made about the carrying out of new memorialisation activities, and must ensure that a report is produced and published which includes the findings of the study and the recommendations. This report must be produced and published within one year (beginning with a date specified in regulations made by the Secretary of State under subsection 56) and presented to the Secretary of State.

237 Subsection (2) sets the scope of the study provided for in subsection (1)(a), by defining relevant memorialisation activities as activities carried out in Northern Ireland for the purpose of making, commemorating, or providing information or education about events and conduct in Northern Ireland relating to the Troubles.

238 Subsection (3) gives the designated persons discretion in determining the extent to which memorialising activities that relate to events taking place before or after the Troubles should be considered when carrying out the study and making recommendations.

239 Subsection (4) states that the process by which the study is carried out and the recommendations are made must provide for consideration to be given to the following matters:

- a. how relevant memorialisation activities currently, or will in the future, promote reconciliation in Northern Ireland;
- b. how relevant memorialisation activities currently are, or will in the future be, relevant to people living in Northern Ireland;
- c. appropriate non-UK memorialisation activities (these are defined in subsection (8)).

240 Subsection (5) specifies that, in particular, consideration must be given to whether establishing a new museum, memorial or similar project should be recommended.

241 Subsection (6) and subsection (7) requires the designated persons to ensure that interested persons (including organisations) or members of the public are able to contribute to the process by which the memorialisation strategy is produced, for example by facilitating a public consultation.

Section 51: Response to the memorialisation strategy

242 Subsections (1) and (2) require the Secretary of State to consider and formally respond to each of the recommendations for new memorialisation activities in Northern Ireland that are made in the memorialisation strategy provided for in section 50. These responses must be published by the Secretary of State within one year of receiving the strategy, and following consultation with organisations that the Secretary of State considers to have expertise in carrying out or promoting activities that are intended to encourage reconciliation and anti-sectarianism, as well as with Northern Ireland departments that the Secretary of State considers appropriate.

243 Subsection (3) defines the meaning of “recommendations” for the purposes of the section.

Section 52: Academic research

244 This section makes provision for an academic ‘themes and patterns’ research initiative relating to the Troubles, taking forward measures proposed in the Stormont House Agreement.

245 Subsection (1) requires that the designated persons (see section 56) must secure that terms of reference are set out for an academic research initiative relating to the Troubles. These terms must be set within one year (beginning with a date specified in regulations made by the Secretary of State under subsection 56). The designated persons must also secure that the academic research initiative is carried out in accordance with those terms of reference, and that a report on the outcome of the academic research is produced and published, with a copy given to the Secretary of State, before the end of the seventh year of the period of operation of the ICRIR.

246 Subsection (2) requires the designated persons to seek to work with a UK Research and Innovation (UKRI) council, for example the Arts and Humanities Research Council, in complying with the duties under subsection (1). This may involve the UKRI delivering parts of this work on behalf of the designated persons, or in partnership with the designated persons.

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- 247 Subsection (3) requires that the academic research provided for in subsection (1) be carried out independently and in such a way as to secure public confidence in the endeavour.
- 248 Subsection (4) provides that the terms of reference may allow researchers to consider relevant events and conduct that took place before or after the Troubles as part of the academic research, and may make provision about the criteria for identifying the kinds of events and conduct before or after the Troubles into which academic research is to be carried out.
- 249 Subsection (5) provides that provision must be made in the terms of reference for researchers to take account of ICRIR family reports.
- 250 Subsection (6) provides that the terms of reference for the academic research must require the production of an analysis or analyses of overarching themes and patterns relating to the Troubles. While a list of specific themes to be studied is not included, under paragraph (b) of the subsection the terms of reference may include provision about criteria for identifying the kinds of themes or subject areas to be taken into account. The terms of reference must require that the thematic research include an analysis of women and girls' experiences during the Troubles.
- 251 Subsections (7) and (8) require that the terms of reference provide for a statistical analysis of all ICRIR reports relating to a death, as well as the historical record (see sections 2(5)(f), 28 and 29). This analysis must set out, to the extent possible, the number of deaths recorded in those reports and that record, an overview of the biographical attributes of the deceased, and an overview of the circumstances of the deaths.
- 252 Subsection (9) defines various terms used in this section, such as 'proscribed organisation' and 'ICRIR reports'.

Section 53: Annual reports

- 253 Section 53 makes provision for annual reports to be produced and published by the designated persons (see section 50) on progress made in carrying out the Troubles-related work-programme. The Troubles-related work programme is defined in section 57 and means the functions imposed on the designated person under sections 49, 50 and 52 (see section 56).

Section 54: Carrying out the Troubles related work programme

- 254 Section 54 makes provision relating to the carrying out of the Troubles-related work programme by designated persons. The Troubles-related work programme is defined in section 57 and means the functions imposed on those persons under sections 49, 50 and 52 - 'oral history', 'memorialisation strategy' and 'academic research' respectively.
- 255 Subsection (1) requires the designated persons to consider the need to ensure there is cross-community support for the way in which the work programme is carried out, and that a variety of views of the Troubles is taken into account in carrying out that programme. The designated persons must also have regard to the need to ensure that the programme is carried out in a way that promotes reconciliation, anti-sectarianism, and non-recurrence of political and sectarian violence in Northern Ireland.
- 256 Subsection (2) requires the designated persons to consider the views of the advisory forum, as provided for in section 55, when carrying out the Troubles-related work programme.
- 257 Subsection (3) states that designated persons may make arrangements ('operational arrangements') about the way in which each of them will exercise their functions to secure that the Troubles-related work programme is carried out.
- 258 Subsection (4) provides that designated persons must publish any current operational arrangements as soon as practicable after they are made or amended.

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Section 55: The advisory forum

- 259 This section makes provision for an advisory forum to oversee and make recommendations to the designated persons when carrying out the Troubles-related work programme. Subsection (1) and (2) require the designated persons to use best endeavours to establish an advisory forum, having regard to the following:
- a. the need to ensure that the membership of the advisory forum includes persons who represent the views of victims and survivors of events and conduct forming part of the Troubles;
 - b. the need to ensure that the membership of the advisory forum is balanced as respects those members who are associated with the different communities in Northern Ireland.
- 260 Subsection (3) states that the duties imposed on designated persons by subsections (1) and (2) do not apply if a suitable advisory forum is already established before the day specified in regulations made by the Secretary of State for the purposes of commencing the Troubles-related work programme.
- 261 Subsection (4) requires that any arrangements establishing the advisory forum, including the details of its membership, are published by the designated persons as soon as possible.

Section 56: Designated persons and funding

- 262 This section concerns the designation of organisations to carry out work in this Part (the Troubles-related work programme) by the Secretary of State (the “designated persons”).
- 263 Subsection (1) gives the Secretary of State the power to make regulations designating a person to carry out the Troubles-related work programme. A person may only be designated under this section if the Secretary of State is satisfied that the person would make a significant contribution to the performance of the functions under sections 49, 50 and 52. Regulations made under this subsection are subject to the negative procedure in Parliament (see subsection (4)).
- 264 Under subsection (2), when deciding whether to designate a person the Secretary of State must have regard to whether the person has appropriate support by different communities in Northern Ireland and whether the person will act independently of political or other influences. The Secretary of State must also consult with organisations that the Secretary of State considers to have expertise in carrying out or promoting reconciliation and anti-sectarianism.
- 265 Under subsection (3), the regulations designating persons (under subsection (1)) may provide that a designated person is only required to perform a particular function or aspect of a function - for example, one organisation might be designated to carry out the oral history initiative in section 49, but not the memorialisation strategy in section 50. Regulations may also provide that a power of direction is not to be exercised in relation to designated organisations or their staff, in carrying out functions under this part.
- 266 Subsection (5) gives the Secretary of State the power to make payments or provide other resources to, or in respect of, the designated persons.

Section 57: Interpretation of this Part

- 267 This section defines terms and expressions used in this Part of the Act, including “initial period”, “designated persons”, and “Troubles-related work programme”. Subsection 1 also provides that the “specified day” (the date on which the Troubles-related work programme is to begin) is to be contained in regulations made by the Secretary of State for the purposes of

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

commencing the Troubles-related work programme (i.e. the commencement regulations for this Part).

Part 5: Final Provisions

Section 58: Consequential provision

- 268 Subsection (1) gives effect to Schedule 13, which makes amendments to existing primary and secondary legislation. Subsection (2) provides the appropriate national authority, defined in subsection (3) as the Secretary of State, the Department of Justice in Northern Ireland or the Scottish Ministers, with the power to, by regulations, make provisions in consequence of this Act.
- 269 Subsection (4) provides that regulations under subsection (2) may amend legislation, whenever passed or made (legislation is defined in section 60 as including both primary and subordinate legislation; these terms are further defined in that section). Regulations made under subsection (2) are subject to either the affirmative or negative Parliamentary procedure, depending on whether they amend primary legislation (see subsections (5) and (6)).
- 270 Subsection (7) provides that the power for the Department of Justice in Northern Ireland or the Scottish Ministers to make regulations under subsection (2) is subject to section 59(10) or (11).
- 271 Subsection (8) allows the Secretary of State to make regulations to replace any reference in this Act to the commencement of a provision of the Act with a reference to the actual date on which the provision comes into force. In addition, a reference in the Act to the date of the Act's first reading (as a Bill) in the House of Commons may be replaced with the actual date of first reading. A similar power is also provided in respect of references to "specified day" in Part 4 of the Act. This will enable a person reading the Act to have a clear idea of whether the provision is currently in force.

Section 59: Regulations

- 272 This section makes provisions relating to regulations made under this Act. Subsection (1) states that any regulations made by the Secretary of State are to be made by statutory instrument.
- 273 Subsection (2) provides that any regulations made by the Department of Justice in Northern Ireland are to be made by statutory rule.
- 274 Subsections (3) and (4) set out, respectively, the conditions for making regulations by "affirmative procedure" and "negative procedure", depending on whether the regulations are made by the Secretary of State or by the devolved administrations. Subsections (5) to (8) relate to the "made affirmative procedure", which, under section 47(5)(b), may be used instead for regulations which make provision which is consequential on that section or on section 46.
- 275 Subsection (9) provides that regulations under this Act may make different provisions for different purposes or cases; incidental, supplementary or consequential provision; and may include transitional or transitory provision or savings.
- 276 Subsection (10) clarifies that regulations made by the Department of Justice in Northern Ireland may only make transferred provision, or make reserved provision with the consent of the Secretary of State. Subsection (11) clarifies that regulations made by the Scottish Ministers may only make provision that would be within the legislative competence of the Scottish Parliament, if it were contained in an Act of the Scottish Parliament.

Section 60: Interpretation

- 277 This section provides definition and explanation of various terms used in this Act.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Section 61: Application to the Crown

278 This section confirms that this Act binds the Crown.

Section 62: Extent

279 Subsection (1) sets out the territorial extent of the Act. It extends to England and Wales, Scotland and Northern Ireland, except as specified in subsections (2) to (5).

Section 63: Commencement

280 This section makes provisions about the coming into force of the provisions of the Act.

Section 64: Short title

281 This section sets out the short title of the Act.

Schedules

Schedule 1: The ICIR, the Commissioners and ICIR officers

- 282 Part 1 of Schedule 1 makes provision about the ICIR, including its legal status; its powers; the regulation of its proceedings; the delegation of its functions and exercise of its functions by Commissioners; and the sealing and proving of documents by the ICIR.
- 283 Part 2 of Schedule 1 makes provision about the Commissioners of the ICIR, including the number of Commissioners; how Commissioners are to be appointed; who is excluded from being a Commissioner; the length of term for Commissioner appointments; that Commissioners may be required to disclose conflicts of interest; and the resignation and removal of Commissioners.
- 284 Part 3 of Schedule 1 provides for the Chief Commissioner to delegate their functions to other Commissioners or ICIR officers.
- 285 Part 4 of Schedule 1 allows for the Commissioner for Investigations to delegate their functions (with an exception) to other Commissioners or ICIR officers. It also provides that the Commissioner for Investigations is not to be regarded as in police service for the purposes of certain trade union legislation.
- 286 Part 5 of Schedule 1 makes provision about ICIR Officers, including their number and terms of employment; the secondment of ICIR officers; who is excluded from being an ICIR Officer as a result of holding public office; the application to ICIR officers of legislation dealing with the rehabilitation of offenders; the liability of the ICIR for unlawful conduct by its officers; and that ICIR officers are not to be regarded as in police service for the purposes of certain trade union legislation.

Schedule 2: Operational powers of ICIR officers

- 287 Schedule 2 makes provision regarding the designation of ICIR officers as persons having the powers and privileges of a constable under section 6. It provides that a designated ICIR officer has, in each of the jurisdictions of the United Kingdom and its adjacent waters, the same powers and privileges as a constable in that jurisdiction. This is subject to the following:
- a. section 6(3).
 - b. a designated ICIR officer may only exercise the powers and privileges of Scottish constable where: i) a Scottish general authorisation (as defined) is in force, and the powers and privileges are exercised in accordance with that authorisation; and ii) a Scottish operational authorisation (as defined) is in force in relation to a particular operation, and the powers and privileges are exercised in connection with that operation and in accordance with the authorisation.
 - c. The powers of designated ICIR officers can also be restricted by limitations written into the designation itself (on the powers themselves, the purposes for which they may be exercised, or the duration of the designation).
- 288 Any person who assaults, resists, obstructs or impedes a designated ICIR officer in the execution of that ICIR officer's duty, or a person assisting a designated ICIR officer in the execution of that ICIR officer's duty is guilty of an offence.

Schedule 3: Family members

289 This schedule make provision as to who is to be considered a close family member and relevant family member of a victim in relation to requests for reviews into a death. As set out in this schedule, a close family member is a spouse, a civil partner, a co-habitee, a child, a step-child, a parent, a step-parent, a brother or sister, a half-brother or half-sister, or a step-brother or step-sister.

Schedule 4: Supply of information: enforcement

290 Part 1 of Schedule 4 makes provision about the enforcement of notices under section 14.

291 Paragraph 1 provides that the ICRIR may require a person to pay a penalty of up to £5,000 if the ICRIR is satisfied, on the balance of probabilities, that the person has failed to comply with a notice under section 11. No such penalty can be imposed if the person shows there was a reasonable excuse for the failure to comply with the notice.

292 Paragraph 2 provides that if the ICRIR decides to require a person to pay a penalty they must give the person a penalty notice, and that the penalty notice must be in the form specified in sub-paragraph (2).

293 Paragraph 3 gives the recipient of a penalty notice the right to object to it by giving notice to the ICRIR. The ICRIR must consider the notice of objection and notify the recipient of the ICRIR's decision in writing within 70 days of the penalty notice, or longer if agreed between the ICRIR and the recipient. The notification of the ICRIR's decision in respect of the objection must be consistent with sub-paragraph (6).

294 Paragraph 4 gives the recipient of a penalty notice the right to appeal to the county court (sheriff in Scotland) against a penalty notice which has not been cancelled in response to their objection under paragraph 3.

295 Paragraph 5 provides how the recoverability of a penalty is to be treated depending on whether the person is in the jurisdiction of England and Wales, Scotland or Northern Ireland, and that the ICRIR must pay any penalty payments received into the Consolidated Fund.

296 Part 2 of Schedule 4 makes it a criminal offence to distort evidence provided to the Commissioner for Investigations, or to otherwise prevent evidence from being given. It also makes it a criminal offence for a person to intentionally suppress, alter or destroy a document that the person thinks is a document that the Commissioner for Investigations would wish to be provided with. Proceedings for the criminal offences can only be instituted with the consent of the relevant Director of Public Prosecutions in either England and Wales or Northern Ireland.

Schedule 5: No immunity in certain circumstances

297 This schedule deals with offences for which a person cannot be granted immunity from prosecution.

298 Part 1 deals with sexual offences and cases where the person seeking immunity from prosecution is subject to an ongoing prosecution or has a relevant pre-existing criminal conviction. Immunity under section 19 may not be granted for sexual offences or inchoate offences relating to sexual offences (paragraph 2). Sexual offences are defined in paragraph 2(2), and under paragraph 2(4) the Secretary of State has a power to make regulations containing further provision about the meaning of sexual offence.

299 Paragraph 3 prevents immunity from prosecution being granted for an identified possible offence if the person requesting immunity already a conviction for that offence, or is currently being prosecuted for that offence. Further, a person cannot be granted immunity from prosecution for an identified possible offence if that grant would risk having, or would have, a prejudicial effect on the ongoing prosecution of that person for another offence (even one which is not Troubles-related). Paragraphs 4 and 5 clarify, respectively, the application of section 19 in cases where this Schedule prohibits the grant of immunity for all the identified possible offences, or only some of those offences (see section 19(5) for the meaning of “the identified possible offences”).

300 Part 2 deals with cases where a person’s immunity from prosecution is revoked by a court under section 26. It applies to additional requests for immunity by the same person made after such a revocation, and to requests which were still under consideration at the time of such a revocation. In these cases, the immunity requests panel is prohibited from granting immunity for any identified possible offence which was within the scope of the revoked immunity.

Schedule 6: Permitted disclosures of information

Part 1 - Disclosures that are permitted

301 Part 1 of Schedule 5 sets out which disclosures of information are permitted.

Disclosure of any information to the Secretary of State

302 Paragraph 2 sets out that the ICRIR is permitted to disclose any information to the Secretary of State.

Disclosure of sensitive information to certain recipients

303 Paragraph 3 sets out that disclosures of sensitive information to certain individuals are permitted so long as the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure and the disclosure is then made after the relevant 10 day period. The individuals are the Director of Public Prosecutions for Northern Ireland, the Director of Public Prosecutions, the Lord Advocate, a member of the Police Service of Northern Ireland, a member of the police force in Great Britain, certain coroners; and finally, in some cases, a Sheriff in Scotland. Paragraph 3(3) defines ‘the relevant 10 day period’ as 10 working days from when the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure. Paragraph 3(4) defines “working day”.

Disclosure of sensitive information notified in advance to the Secretary of State

304 Paragraph 4(1) sets out that the ICRIR may disclose sensitive information so long as the Commissioner for Investigations notifies the Secretary of State that they intend to make the disclosure, and the Secretary of State notifies the Commissioner for Investigation that the disclosure is permitted during the relevant decision period. It is established at paragraph 4(3) that the Secretary of State may only prohibit the disclosure if, in their view, it could harm national security interests.

305 Further, paragraph 4(4) sets out that in such cases the Secretary of State is required to provide the reasons for prohibiting disclosure, so long as these do not themselves risk harming national security interests. A definition for the ‘relevant decision period’ is provided at paragraph 6.

Disclosure of protected international information notified in advance to the Secretary of State

306 Paragraph 5 applies a similar regime to that set out in paragraph 4 as regards proposed disclosures of protected international information. Further, paragraph 4(2) sets out that the Secretary of State may only prohibit such a disclosure if, in their view, the disclosure could harm international relations.

The “relevant decision period”

307 Paragraph 6(1) defines the “relevant decision period” for the purposes of paragraphs 4 and 5. This is defined as 60 days from when the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure or any reasonable longer period specified by the Secretary of State within that 60 day period. Paragraph 6(2) adds that if there is an appeal and the court orders the Secretary of State to remake a decision, ‘relevant decision period’ means the period for remaking the decision laid down by the court.

Part 2 - Appeals against decisions not to permit disclosures

Application of this Part

308 Paragraph 7 outlines that Part 2 of Schedule 6 applies where the Secretary of State decides to prohibit the disclosure of sensitive information in a final report.

Affected report to include statement of Secretary of State’s decision

309 Paragraph 8 sets out that in this scenario there must be a statement included in the report to outline that the Secretary of State has decided not to permit the disclosure. The statement should also set out the Secretary of State’s reasons for prohibiting the disclosure, if they have been provided. It adds that if an initial appeal is made and the Secretary of State remakes the decision in line with the direction from the court, a new report must be issued by the ICRIR.

Initial appeals

310 Paragraph 9 defines ‘initial appeals’ as appeals to the relevant court against the Secretary of State’s decision not to permit a proposed disclosure. It sets out that in these appeals, the court must apply principles applicable on an application for a judicial review ((or, in Scotland, an application to the supervisory jurisdiction of the Court of Session), and gives the court the power to quash the Secretary of State’s original decision. It directs that if the court does so, it must order the Secretary of State to remake the decision within 60 days or any reasonable longer period that the court specifies. If the court does not quash the decision, it must dismiss the appeal.

Bringing an initial appeal

311 Paragraph 10 outlines that an initial appeal may only be brought by the person who requested the review to which the affected relates, or a person who would be eligible to request a review. It sets out that an initial appeal must be brought within the period of 28 days beginning with the day on which the affected report is published.

Further appeal against an initial appeal

312 Paragraph 11 sets out the process for bringing a ‘further appeal’ against any determination made in the initial appeal. It outlines that this may only happen with leave from the court, and that the court may only grant leave if it would raise some important point of practice or principle - or if there is another compelling reason for the further appeal to be heard.

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Application of the Justice and Security Act 2013

313 Paragraph 12 describes how initial and further appeals are to be treated as section 6 proceedings within the meaning of the Justice and Security Act 2013, for the purposes of sections 8 to 14 of the same Act.

Interpretation

314 Paragraph 13 defined various terms used in Part 2 of the Schedule.

Schedule 7: Offences relating to disclosure of information

Current and former Commissioners, ICRIR officers and ICRIR contractors

315 This Schedule sets out the offences committed if information is disclosed in breach of a relevant prohibition on disclosure.

316 Paragraph 1 sets out that an offence is committed if (i) a current or former ICRIR Commissioner, ICRIR officer or ICRIR contractor discloses information which they obtained in their capacity as such, and (ii) the disclosure would have been in breach of a relevant prohibition on disclosure had it been made by the ICRIR. It is set out in paragraph 1(2) that for these purposes it does not matter whether the disclosure occurred within or outside of the United Kingdom. Paragraph 1(3) establishes that communication of information between persons holding relevant positions does not constitute disclosure. Paragraph 1(4) establishes that it is a defence for a person to prove that, at the time of the disclosure, they had no reasonable cause to believe that the disclosure would have been in breach of a relevant prohibition on disclosure had it been made by the ICRIR.

Penalties

317 Paragraph 2 sets out that a person guilty of an offence under this Schedule is liable to imprisonment, a fine, or both, in line with the limits established in paragraph 2(a) to (d).

Interpretation

318 Paragraph 3 provides a number of definitions of ‘relevant prohibition on disclosure.’

Schedule 8: Identification of sensitive, prejudicial or protected international information

Part 1 - The ICRIR: Identification of sensitive or prejudicial information

319 Paragraph 1 sets out that the Commissioner for Investigations must, from time to time, identify any information held by the ICRIR which, in their opinion, is sensitive or prejudicial information. This is not required where a relevant authority has notified the Commissioner for Investigations that the authority has identified the information as such as per paragraphs 2 or 3.

Part 2 - Relevant authorities: Identification of sensitive or prejudicial information

Information made available by a relevant authority

320 Paragraph 2 explains that a relevant authority must identify any information it is making available to the ICRIR that is either sensitive or prejudicial information, by notifying the Commissioner for Investigations.

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Information made available by other persons

321 Paragraph 3 explains that where a person other than a relevant authority proposes to provide, or has provided, information to the ICRIR, a relevant authority may identify any of the information that it thinks is either sensitive or prejudicial information. If an authority does so identify sensitive or prejudicial information, it must then notify the Commissioner for Investigations.

Notifications under this Schedule

322 Paragraph 4 clarifies that when a notification is made under paragraph 2 or paragraph 3, it must be made clear through a statement whether the relevant authority believes the information is sensitive information, prejudicial information, or both.

Part 3 - Secretary of State: Identification of protected international information

323 Paragraph 5 outlines that the Secretary of State may make the Commissioner for Investigations aware of any information held by the ICRIR, or information which anyone is proposing to make available to the ICRIR, which is in the Secretary of State's opinion, protected international information.

Schedule 9: Determination of whether the prohibition on civil actions applies

324 This schedule makes provision about how the courts will determine whether prohibition on civil actions under section 43 applies.

325 Paragraph 2 entitles the Secretary of State to notice of any Troubles-related civil action that it appears may contravene the prohibition. It also confers a power on the Secretary of State (or a person nominated by them) to be joined as a party to the action and take part in proceedings to determine the question of whether the prohibition applies.

326 Paragraph 3 sets out how the court must determine whether the prohibition on civil actions applies where sufficient evidence has been adduced to raise an issue as to whether the prohibition applies. Sub-paragraph (3) provides that the court must assume that the action contravenes the prohibition until it is proved that the action does not and sub-paragraph (4) provides that the court must dismiss the action where the action contravenes the prohibition. However, sub-paragraphs (5) and (6) preserve the discretion of the court to award costs where the action is dismissed. Sub-paragraphs (7) and (8) provide that the court must determine the question of whether the prohibition is contravened before considering other questions unless the court considers there are exceptional reasons not to do so. Sub-paragraph (8)(a)(ii) also permits the court to consider questions of limitation at the same time it considers whether the prohibition is contravened.

327 Paragraph 4 clarifies that the prohibition on civil actions does not prevent any legal proceedings relating to a determination by a court that a civil action contravenes the prohibition (for instance, an appeal seeking to overturn a decision that the prohibition applies to an action).

Schedule 10: Civil actions to which the 2008 Mediation Directive applies

328 Paragraph 1(1) provides that the prohibition on civil actions under section 43 does not apply to certain actions which have been subject to cross-border mediation to which Directive 2008/52/EC (the Mediation Directive) applies by virtue of Article 69(1)(b) of the EU Withdrawal Agreement.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

329 Paragraph 1(2) provides that in such cases the prohibition on civil actions has effect as if it instead required that an action which involved prior cross-border mediation (a) may not be continued unless it was brought on or after the later of the day of the Act's first reading and the end of the period of eight weeks after the mediation ends; and (b) may not be brought on or after the day on which section 29 ends unless it is brought before the end of the period of eight weeks after the mediation ends.

Schedule 11: Investigations, inquests and inquiries in England and Wales and Scotland

Part 1 - England and Wales: Investigations and Inquests

Coroners and Justice Act 2009

330 Paragraph 1(1) inserts new section 11A and new schedule 1A into the Coroner and Justice Act 2009. Paragraph 1(1) of new Schedule 1A provides for existing inquests and coronial investigations into troubles related deaths in England and Wales to end on 1 May 2024 unless the only part of the investigation that remains to be carried out is the coroner or any jury making the determination and any findings required by section 10 of the 2009 Act, or some step subsequent to that.

331 New Schedule 1A paragraph 2(1) to 2(4) relates to new investigations and inquests into Troubles-related deaths. On and after the day which paragraph 1(2) of Schedule 10 to this Act comes into force (on the 1 May 2024) the duty under section 1(1) of the 2009 Act is not to begin to apply to a senior coroner in respect of a Troubles-related death. Schedule 1A Paragraph 3(3) prevents a senior coroner from making a request to another senior coroner to conduct an investigation; no senior coroner should agree to such a request. Schedule 1A paragraph 3(4) prevents the Chief Coroner from giving a direction to a senior coroner to conduct an investigation into a Troubles-related death.

332 New Schedule 1A paragraph 4 defines a death that "resulted directly from the Troubles", "conduct forming part of the Troubles", "inquest", and "investigation".

Coroners Act 1988

333 Paragraph 2 amends section 13 of the Coroners Act 1988 by inserting a new subsection (5) to prevent the section from applying to a Troubles-related death.

Part 2 - Scotland: Inquiries and Investigations

Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016

334 Paragraph 3 inserts new section 7 and new Schedule A1 into the Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016. New Schedule A1 makes provision about inquiries and investigations into Troubles-related deaths.

335 New Schedule A1, paragraph 1 applies to an inquiry into a Troubles-related death that was initiated before 1 May 2024 unless the only part of the investigation that remains to be carried out is the sheriff making the determination required by section 26 of the 2016 Act, or some step subsequent to that. On and after this date the sheriff must not progress the conduct of the inquiry and, as soon as is practical, the sheriff must discontinue the inquiry.

New inquiries and investigations

336 New Schedule A1, paragraph 2 provides that on or after the day on which these provisions come into force the Lord Advocate must not cause an inquiry to be held into any Troubles-related death, nor must the procurator fiscal give notice to the sheriff that an inquiry

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into a Troubles-related death is to be held. Further inquiry proceedings must not be held in accordance with section 30(2) in relation to a Troubles related death.

337 New Schedule A1, paragraph 3 contains definitions used in the Schedule.

Schedule 12: Prisoner release

338 Paragraph 1(1) makes amendments to the Northern Ireland (Sentences) Act 1998 (“the Sentences Act”). Under paragraph 1(2), these amendments do not apply in relation to any application for a declaration under section 3(1) of the Sentences Act (declaration that prisoner is eligible for early release) which is made before force on 1 May 2024 (the date on which the Schedule comes into force - see section 63(2)(b)).

339 Paragraph 2 makes amendments relating to the meaning of “qualifying offence” for the purposes of provisions relating to eligibility for early release under the Act. The first effect of these amendments is that an offence is not a qualifying offence, and the prisoner is not therefore eligible for early release, if the prisoner was convicted of the offence following a prosecution which began after the date on which section 19(1) of this Act (duty to grant immunity from prosecution where certain conditions are met) came into force.

340 The existing early release scheme in the Sentences Act applies to persons convicted of “scheduled offences” between 8 August 1973 and 10 April 1998. “Scheduled offences” are those specified in the Northern Ireland (Emergency Powers) Act 1973 (“the 1973 Act”) and subsequent Northern Ireland Emergency Powers Acts. Paragraph 2 also extends the early release scheme by amending the meaning of “qualifying offence” to include an offence committed on or after 1 January 1966 and before 8 August 1973, where the offence (a) arose out of conduct forming part of the Troubles, and (b) is certified as an offence which would have been a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1973, had it been committed in Northern Ireland on 8 August 1973.

341 Paragraph 3 makes provision equivalent to paragraph 2, in relation to provisions of the Sentences Act which deal with sentences passed outside Northern Ireland (prisoners sentenced in other UK jurisdictions are, if transferred to prisons in Northern Ireland, eligible in principle for release under the early release scheme).

Schedule 13: Amendments

342 This Schedule amends existing legislation.

Commencement

343 Section 63 sets out how the different provisions will be commenced.

344 Part 1, section 47(5), and Part 5 (except section 58(1) and Schedule 13) came into force on the day the Act was passed.

345 Sections 43, 46 and 47 (exception for subsection (5)), and Part 2 of Schedule 13 and section 58(1) so far as it relates to that Part of that Schedule, come into force at the end of the period of two months after the Act is passed (with day one being the day on which the Act is passed).

346 Part 3, except for sections 43, 46 and 47, comes into force on 1 May 2024.

347 Otherwise, this Act comes into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.

348 Otherwise, this Act comes into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Related documents

349 The following documents are relevant to the Northern Ireland (Legacy and Reconciliation) Act, and can be read at the stated locations:

- Report of the Consultative Group on the Past, 23 January 2009:
https://cain.ulster.ac.uk/victims/docs/consultative_group/cgp_230109_report.pdf
[ons/good-law\]](#)
- Stormont House Agreement:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/390672/Stormont_House_Agreement.pdf
- Draft Stormont House Agreement Bill:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/706283/Draft_Northern_Ireland_Stormont_House_Agreement_Bill.pdf
- A summary of the responses to ‘Addressing the legacy of the past - moving Northern Ireland forward’ July 2019:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814805/Addressing_the_Legacy_of_the_Past_-_Analysis_of_the_consultation_responses.pdf
- Northern Ireland Affairs Committee report ‘Addressing the Legacy of Northern Ireland’s Past: the Government’s New Proposals (Interim Report)’ October 2020:
<https://publications.parliament.uk/pa/cm5801/cmselect/cmniaf/329/32902.htm>
- Addressing the Legacy of Northern Ireland’s Past: UK Government Response to NIAC Inquiry interim report January 2021:
<https://publications.parliament.uk/pa/cm5801/cmselect/cmniaf/1153/115302.htm>
- Command Paper ‘Addressing the legacy of Northern Ireland’s past’ July 2021:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1002140/CP_498_Addressing_the_Legacy_of_Northern_Ireland's_Past.pdf

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Annex A – Territorial extent and application

	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
1	N/A	N/A	N/A	N/A
2-40	Yes	Yes	Yes	Yes
41-42	No	No	No	Yes
43	No	No	Yes	No
44	Yes	Yes	Yes	Yes
45-57	No	No	No	Yes
58-64	Yes	Yes	Yes	Yes

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Annex B – Hansard References

350 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	17 May 2022	
Second Reading	24 May 2022	<u>Vol 715 Col 175</u>
Committee Stage	From 29 June 2022	<u>Vol 717 Col 336</u> <u>Vol 717 Col 606</u>
Report Stage	4 July 2022	<u>Vol 717 Col 661</u>
Third Reading	4 July 2022	<u>Vol 717 Col 683</u>
<i>House of Lords</i>		
Introduction	5 July 2022	<u>Vol 823</u>
Second Reading	23 November 2022	<u>Vol 825 Col 1389</u>
Committee Stage	From 24 January 2023	<u>Vol 827 Col 112</u> <u>Vol 827 Col 573</u> <u>Vol 829 Col 332</u> <u>Vol 829 Col 1949</u>
Report Stage	From 21 June 2023	<u>Vol 831 Col 256</u> <u>Vol 831 Col 480</u>
Third Reading	4 July 2023	<u>Vol 831 Col 1140</u>
Consideration of Lords amendments	18 July 2023	<u>Vol 736 Col 824</u>
Consideration of Commons amendments	5 September	<u>Vol 832 Col 333</u>
Consideration of Lords message	6 September	<u>Vol 737 Col 435</u>

These Explanatory Notes relate to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 which received Royal Assent on 18 September 2023 (c. 41).

Consideration of Commons amendments	12 September	<u>Vol 832 Col 904</u>
Royal Assent	18 September 2023	<u>Vol 832: Column 1319</u>

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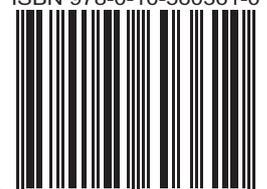
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