



# Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

## 2023 CHAPTER 41

### PART 2

#### THE INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY

##### *Information*

#### **30 Disclosure of information: general power and prohibitions**

- (1) The ICRIR may disclose any information held by the ICRIR to any other person.
- (2) A disclosure of information by the ICRIR (under this section or any other power or duty) must not be made if any of prohibitions A to F applies to the disclosure or information concerned.
- (3) But prohibitions A to D do not apply to a disclosure of information if it is permitted by Schedule 6.
- (4) *Prohibition A*: the Commissioner for Investigations has identified the information as sensitive information (see paragraph 1 of Schedule 8).
- (5) *Prohibition B*: a relevant authority has notified the Commissioner for Investigations that the information has been identified as sensitive information (see paragraph 2 or 3 of Schedule 8).
- (6) *Prohibition C*: the Secretary of State has notified the Commissioner for Investigations that the information has been identified as protected international information (see paragraph 5 of Schedule 8).
- (7) *Prohibition D*: the ICRIR would otherwise contravene the duty imposed by section 4(1) by making the disclosure.

- (8) *Prohibition E*: the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the power or duty which authorises or requires the disclosure).

Here “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

- (9) *Prohibition F*: the disclosure is prohibited by Parts 1 to 7, and Chapter 1 of Part 9, of the Investigatory Powers Act 2016.
- (10) Schedule 6 sets out which disclosures are permitted for the purposes of this section and makes provision about decisions to prohibit disclosures of sensitive information in final reports by the ICRIR.
- (11) Schedule 7 sets out offences relating to disclosure of information.

### **31 The ICRIR’s use of information obtained by it**

- (1) Information that has been obtained by the ICRIR—
- (a) under section 5, or
  - (b) through the exercise of police powers,
- may be used by the ICRIR for the purposes of, or in connection with, the exercise of any function of the ICRIR except the function of producing the historical record.
- (2) Information that has been obtained by the ICRIR under section 14 may be used by the ICRIR only for the purposes of, or in connection with, the exercise of the review function.
- (3) Subsections (1) and (2) do not authorise the ICRIR to disclose information to any other person.
- (4) Subsections (1) and (2) do not apply to any information once it has been—
- (a) contained in a final report produced in accordance with section 15, or
  - (b) published by the ICRIR (otherwise than in a final report) in accordance with the provisions of this Act.
- (5) This section does not limit the application of section 4.
- (6) In this section “police powers” means powers and privileges of a constable which the Commissioner for Investigations, or any other ICRIR officer, has by virtue of a designation under section 6.

### **32 Identifying information that is subject to additional safeguards**

Schedule 8 makes provision about the identification of sensitive, prejudicial or protected international information.

### **33 Guidance and protocols relating to information**

- (1) The Secretary of State may give guidance about the identification of sensitive information to—
- (a) the ICRIR;
  - (b) the Chief Constable of the PSNI;

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- (c) chief officers of police forces in Great Britain;
  - (d) the Police Ombudsman for Northern Ireland;
  - (e) the Director General of the Independent Office for Police Conduct;
  - (f) the Police Investigations and Review Commissioner;
  - (g) Northern Ireland departments;
  - (h) the Scottish Ministers.
- (2) If a person is given guidance under subsection (1), the person must have regard to it in identifying information as sensitive information in accordance with Schedule 8.
- (3) The Secretary of State may give guidance to the ICIR about the exercise of its functions in accordance with section 4(1)(a).
- (4) The ICIR must have regard to any guidance given under subsection (3) in exercising the functions to which the guidance relates.
- (5) An information disclosure protocol may be agreed between—
- (a) the Commissioner for Investigations, and
  - (b) one or more of—
    - (i) the relevant authorities, and
    - (ii) the persons listed in paragraph 3(2) of Schedule 6.
- (6) An “information disclosure protocol” is a document dealing with a framework for the disclosure of information by, or to, the ICIR.

### **34 Regulations about the holding and handling of information**

- (1) The Secretary of State may, by regulations, make provision about the holding and handling of information by the ICIR.
- (2) The regulations may (in particular)—
- (a) make provision about notifications to be given by the ICIR in respect of information held by the ICIR;
  - (b) make provision about measures for holding and handling information securely (including physical, electronic, organisational or systemic measures);
  - (c) in relation to information which is to cease to be held by the ICIR, make provision about the destruction or transfer of the information;
  - (d) make provision about guidance or consultation;
  - (e) confer functions on the Secretary of State or any other person (as well as on the ICIR);
  - (f) create criminal offences.
- (3) The information about which the regulations may make provision includes information which (in accordance with Schedule 8)—
- (a) the Commissioner for Investigations has identified as prejudicial information or sensitive information,
  - (b) a relevant authority has identified as, and notified the Commissioner for Investigations as being, prejudicial information or sensitive information, or
  - (c) the Secretary of State has identified as, and notified the Commissioner for Investigations as being, protected international information.
- (4) A criminal offence created under subsection (2)(f)—

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- (a) may only apply to the conduct of a person who is or has been—
    - (i) a Commissioner,
    - (ii) an ICRIR officer, or
    - (iii) an ICRIR contractor;
  - (b) may not impose a penalty that is greater than a penalty that may be imposed for an offence under Schedule 7.
- (5) Regulations under this section are subject to negative procedure.