

# Northern Ireland Troubles (Legacy and Reconciliation) Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, are published separately as Bill 10-EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Brandon Lewis has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Bill are compatible with the Convention rights.



# Northern Ireland Troubles (Legacy and Reconciliation) Bill

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## CONTENTS

### PART 1

#### THE TROUBLES

- 1 Meaning of “the Troubles” and other key expressions

### PART 2

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

##### *The ICRIR, the Commissioners and ICRIR officers*

- 2 The Independent Commission for Reconciliation and Information Recovery
- 3 ICRIR officers
- 4 Actions of the ICRIR: safeguards
- 5 Full disclosure to the ICRIR
- 6 Operational powers of ICRIR officers

##### *Admissibility of information provided to the ICRIR*

- 7 Admissibility of material in criminal proceedings
- 8 Admissibility of material in civil proceedings

##### *Reviews of deaths and other harmful conduct*

- 9 Requests for reviews of deaths
- 10 Requests for reviews of other harmful conduct forming part of the Troubles
- 11 Requests for reviews: general provision
- 12 Reviews in connection with requests for immunity from prosecution
- 13 Conduct of reviews
- 14 Supply of information
- 15 Production of reports on the findings of reviews
- 16 Issuing and publication of reports
- 17 Reports: general provision

##### *Immunity from prosecution*

- 18 Immunity from prosecution

- 19 Requests for immunity: procedural matters
- 20 Determining a request for immunity
- 21 The immunity requests panel

*Information for prosecutors*

- 22 Information for prosecutors

*The historical record of deaths*

- 23 Production of the historical record
- 24 Publication of the historical record

*Information*

- 25 Disclosure of information: general power and prohibitions
- 26 The ICRIR's use of information obtained by it
- 27 Identifying information that is subject to additional safeguards
- 28 Guidance and protocols relating to information
- 29 Regulations about the holding and handling of information

*Biometric material*

- 30 Biometric material

*Supplementary*

- 31 Review of the performance of the ICRIR's functions
- 32 Conclusion of the work of the ICRIR

**PART 3**

INVESTIGATIONS, LEGAL PROCEEDINGS ETC AND RELEASE OF PRISONERS

*Criminal investigations and proceedings*

- 33 No criminal investigations except through ICRIR reviews
- 34 Grant of immunity: prohibition of criminal enforcement action
- 35 No grant of immunity: restrictions on criminal enforcement action
- 36 Other Troubles-related offences: prohibition of criminal enforcement action
- 37 General provision and saving for ongoing pre-commencement action

*Civil proceedings, inquests and police complaints*

- 38 Tort, delict and fatal accident actions
- 39 Inquests, investigations and inquiries
- 40 Police complaints

*Release of prisoners*

- 41 Prisoner release

**PART 4**

MEMORIALISING THE TROUBLES

- 42 Oral history
- 43 The memorialisation strategy
- 44 Response to the memorialisation strategy
- 45 Academic research
- 46 Annual reports
- 47 Carrying out the Troubles-related work programme
- 48 The advisory forum
- 49 Designated persons and funding
- 50 Interpretation of this Part

**PART 5**

FINAL PROVISIONS

- 51 Consequential provision
- 52 Regulations
- 53 Interpretation
- 54 Application to the Crown
- 55 Extent
- 56 Commencement
- 57 Short title

- 
- Schedule 1 – The ICIR, the Commissioners and ICIR officers
    - Part 1 – The ICIR
    - Part 2 – The Commissioners
    - Part 3 – The Chief Commissioner
    - Part 4 – The Commissioner for Investigations
    - Part 5 – ICIR officers
  - Schedule 2 – Operational powers of ICIR officers
  - Schedule 3 – Family members
    - Part 1 – Close family members
    - Part 2 – Relevant family members
  - Schedule 4 – Supply of information: enforcement
    - Part 1 – Failure to comply with a notice
    - Part 2 – Distortion or suppression of evidence etc
  - Schedule 5 – Permitted disclosures of information
    - Part 1 – Disclosures that are “permitted”
    - Part 2 – Decisions to prohibit disclosures of sensitive information in final reports
  - Schedule 6 – Offences relating to disclosure of information
  - Schedule 7 – Identification of sensitive, prejudicial or protected international information
    - Part 1 – The ICIR: identification of sensitive or prejudicial information
    - Part 2 – Relevant authorities: identification of sensitive or prejudicial information

- Part 3 – Secretary of State: identification of protected international information
- Schedule 8 – Determination of whether the prohibition on civil actions applies
- Schedule 9 – Civil actions to which the 2008 Mediation Directive applies
- Schedule 10 – Investigations, inquests and inquiries in England and Wales and Scotland
  - Part 1 – England and Wales: investigations and inquests
  - Part 2 – Scotland: inquiries and investigations
- Schedule 11 – Prisoner release
- Schedule 12 – Amendments
  - Part 1 – The ICRIR
  - Part 2 – Limitation of legal proceedings

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**B I L L**

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Address the legacy of the Northern Ireland Troubles and promote reconciliation by establishing an Independent Commission for Reconciliation and Information Recovery, limiting criminal investigations, legal proceedings, inquests and police complaints, extending the prisoner release scheme in the Northern Ireland (Sentences) Act 1998, and providing for experiences to be recorded and preserved and for events to be studied and memorialised.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

THE TROUBLES

**1 Meaning of “the Troubles” and other key expressions**

- (1) In this Act “the Troubles” means the events and conduct that related to Northern Ireland affairs and occurred during the period – 5
- (a) beginning with 1 January 1966, and
  - (b) ending with 10 April 1998.
- (2) That includes any event or conduct during that period which was connected with – 10
- (a) preventing,
  - (b) investigating, or
  - (c) otherwise dealing with the consequences of,
- any other event or conduct relating to Northern Ireland affairs.
- (3) Accordingly, in this Act an event or conduct “forming part of the Troubles” is an event or conduct that falls within subsection (1) (including any of a kind described in subsection (2)). 15

- (4) In this Act “other harmful conduct forming part of the Troubles” means any conduct forming part of the Troubles which caused a person to suffer physical or mental harm of any kind (excluding death).
- (5) For the purposes of this Act—
- (a) an offence is “Troubles-related” if—
    - (i) it is an offence under the law of Northern Ireland, England and Wales or Scotland, and
    - (ii) the conduct which constitutes the offence was to any extent conduct forming part of the Troubles;
  - (b) a Troubles-related offence is “serious” if the offence—
    - (i) is murder, manslaughter or culpable homicide,
    - (ii) is another offence that was committed by causing the death of a person, or
    - (iii) was committed by causing a person to suffer serious physical or mental harm;
  - (c) a Troubles-related offence is “connected” if the offence—
    - (i) relates to, or is otherwise connected with, a serious Troubles-related offence (whether it and the serious offence were committed by the same person or different persons), but
    - (ii) is not itself a serious Troubles-related offence;
 and for this purpose, one offence is to be regarded as connected with another offence, in particular, if both offences formed part of the same event.
- (6) In this Act—
- “conduct” includes an act or an omission;
  - “Northern Ireland affairs” means—
    - (a) the constitutional status of Northern Ireland, or
    - (b) political or sectarian hostility between people in Northern Ireland.
  - “serious physical or mental harm” means—
    - (a) paraplegia;
    - (b) quadriplegia;
    - (c) severe brain injury or damage;
    - (d) severe psychiatric damage;
    - (e) total blindness;
    - (f) total deafness;
    - (g) loss of one or more limbs;
    - (h) severe scarring or disfigurement.
- (7) For the purposes of this section it does not matter if an event or conduct occurred in Northern Ireland, in another part of the United Kingdom, or elsewhere.



## PART 2

### THE INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY

#### *The ICIR, the Commissioners and ICIR officers*

## **2 The Independent Commission for Reconciliation and Information Recovery**

- (1) The Independent Commission for Reconciliation and Information Recovery is established. 5
- (2) The ICIR is a body corporate.
- (3) The ICIR consists of –
  - (a) the Chief Commissioner,
  - (b) the Commissioner for Investigations, and 10
  - (c) one, two or three other Commissioners.
- (4) The functions of the ICIR are –
  - (a) to carry out reviews of deaths that were caused by conduct forming part of the Troubles (see sections 9 and 11 to 13);
  - (b) to carry out reviews of other harmful conduct forming part of the Troubles (see sections 10 to 13); 15
  - (c) to produce reports (“final reports”) on the findings of each of the reviews of deaths and other harmful conduct (see sections 15 to 17);
  - (d) to determine whether to grant persons immunity from prosecution for serious or connected Troubles-related offences (see sections 18 to 20); 20
  - (e) to refer deaths that were caused by conduct forming part of the Troubles, and other harmful conduct forming part of the Troubles, to prosecutors (see section 22);
  - (f) to produce a record (the “historical record”) of deaths that were caused by conduct forming part of the Troubles (see sections 23 and 24). 25
- (5) The ICIR must produce and publish an annual report on –
  - (a) the finances of the ICIR;
  - (b) the administration of the ICIR;
  - (c) the volume of information received by the ICIR;
  - (d) the number of requests for reviews that have been made; 30
  - (e) the number of final reports on the findings of reviews that have been provided to persons requesting them;
  - (f) the number of applications for immunity from prosecution that have been made;
  - (g) the number of applications for immunity from prosecution that have been decided by the immunity requests panel; 35
  - (h) the number of persons who have been granted, and the number of persons who have been refused, immunity from prosecution;
  - (i) progress made in producing the historical record;
  - (j) such other matters as the ICIR considers appropriate. 40
- (6) The ICIR must provide a copy of each annual report to the Secretary of State.
- (7) *The Secretary of State may make payments or provide other resources to, or in respect of, the ICIR in connection with the exercise of the ICIR’s functions.*

- (8) Schedule 1 contains provision about the ICRIR, the Commissioners and the ICRIR officers.

### 3 ICRIR officers

- (1) The ICRIR may employ persons to be officers of the ICRIR.
- (2) The ICRIR may make arrangements for persons to be seconded to serve as officers of the ICRIR. 5
- (3) In employing and seconding persons, the ICRIR must ensure that (as far as it is practicable) the officers of the ICRIR include—
- (a) persons who have experience of conducting criminal investigations in Northern Ireland, and 10
  - (b) persons who do not have that experience but have experience of conducting criminal investigations outside Northern Ireland.
- (4) In this Act “ICRIR officers” means—
- (a) the Commissioner for Investigations,
  - (b) the persons employed under this section, and 15
  - (c) the persons seconded under this section.

### 4 Actions of the ICRIR: safeguards

- (1) The ICRIR must not do anything which—
- (a) would risk prejudicing, or would prejudice, the national security interests of the United Kingdom, 20
  - (b) would risk putting, or would put, the life or safety of any person at risk, or
  - (c) would risk having, or would have, a prejudicial effect on any actual or prospective criminal proceedings in any part of the United Kingdom.
- (2) In relation to something done by the ICRIR, criminal proceedings are “prospective” if, in the view of the ICRIR, the proceedings are likely to be brought within a reasonable period after that thing is done. 25
- (3) For provision about the way in which subsection (1) operates in relation to disclosures of information, see section 25(2) to (9).

### 5 Full disclosure to the ICRIR 30

- (1) A relevant authority must make available to the ICRIR such—
- (a) information,
  - (b) documents, and
  - (c) other material,
- as the Commissioner for Investigations may reasonably require for the purposes of, or in connection with, the exercise of the review function or the immunity function. 35
- (2) A relevant authority may also make available to the ICRIR any—
- (a) information,
  - (b) documents, and 40
  - (c) other material,

which, in the view of that authority, may be needed for the purposes of, or in connection with, the exercise of the review function or the immunity function.

- (3) It is for the relevant authority and the Commissioner for Investigations to agree the manner in which information, a document or other material is to be made available under this section (unless the Commissioner for Investigations imposes a requirement under subsection (4)). 5
- (4) Information which the Commissioner for Investigations requires to be made available under subsection (1) is to be made available in such manner as that Commissioner may reasonably require.
- (5) An agreement under subsection (3) may provide, and a requirement under subsection (4) may require, (in particular) that the relevant authority is to – 10
- (a) give the information, document or other material to the Commissioner for Investigations;
  - (b) give a copy of the information, document or other material to the Commissioner for Investigations; 15
  - (c) allow the ICRIR to access the information, document or other material while it is held by the relevant authority.
- (6) A requirement under subsection (4) (including anything required by virtue of subsection (5)) must be consistent with regulations under section 29(1).
- (7) The Commissioner for Investigations may require the Chief Constable of the PSNI or the Police Ombudsman for Northern Ireland to give the ICRIR such assistance as is reasonable for the purposes of, or in connection with, the effective use of information, documents and other material made available by that person under this section. 20
- (8) It is not a breach of – 25
- (a) any obligation of confidence owed by a relevant authority, or
  - (b) any other restriction on the disclosure of information (however imposed),
- for a relevant authority to make information, documents and other material available under this section. 30
- (9) In this section “copy” includes a photograph or similar representation.

## 6 Operational powers of ICRIR officers

- (1) The Commissioner for Investigations is (by virtue of this section) designated as a person having the powers and privileges of a constable.
- (2) The Commissioner for Investigations may designate any other ICRIR officer as a person having the powers and privileges of a constable, if that Commissioner is satisfied that that ICRIR officer – 35
- (a) is capable of effectively exercising those powers and privileges;
  - (b) has received adequate training in respect of the exercise of those powers and privileges; and 40
  - (c) is otherwise a suitable person to exercise those powers and privileges.
- (3) The powers and privileges of a constable which the Commissioner for Investigations, or any other ICRIR officer, has by virtue of a designation under this section may be exercised for the purposes of, or in connection with, any function of the ICRIR except the function of producing the historical record. 45

- (4) Schedule 2 contains further provision about the operational powers of ICRIR officers.

*Admissibility of information provided to the ICRIR*

**7 Admissibility of material in criminal proceedings**

- (1) This section applies in relation to criminal proceedings brought against a person (D). 5
- (2) Compelled material obtained from D may not be used in evidence against D.
- (3) If D has made an application for immunity from prosecution, the following material may not be used in evidence against D – 10
- (a) material provided by D to the ICRIR (including the immunity requests panel) in connection with the application;
- (b) material obtained (directly or indirectly) as a result of material provided as mentioned in paragraph (a).
- (4) Any other material provided by, or obtained from, D for the purposes of, or in connection with, the exercise of any of the ICRIR’s functions may not be used in evidence against D unless exception 1 or 2 applies in relation to the material. 15
- (5) *Exception 1:* the material was provided to, or obtained by, an ICRIR officer designated under section 6(1) or (2).
- (6) *Exception 2:* the proceedings brought against D relate to – 20
- (a) the exercise by the ICRIR of any function,
- (b) any other conduct of the ICRIR,
- (c) the conduct of any current or former Commissioner, ICRIR officer or ICRIR contractor,
- (d) a person being appointed, or holding office, as a Commissioner, or
- (e) a person being employed or seconded as, or being, an ICRIR officer. 25
- (7) Where exception 1 or 2 applies in relation to the material, this section does not affect the application to that material of any other legislation or rule of law relating to admissibility.
- (8) No evidence relating to any material inadmissible against D may be adduced, and no question relating to any material inadmissible against D may be asked by or on behalf of the prosecution, unless evidence relating to that material is adduced, or a question relating to that material is asked, in the proceedings by or on behalf of D. 30
- (9) This section applies in relation to material, and evidence or questions relating to material – 35
- (a) whether the material is in the form in which it was provided or obtained, or in some other form;
- (b) whether the material (in whatever form) is in the possession of the ICRIR or another person (whether obtained directly or indirectly from the ICRIR). 40
- (10) In this section –
- “compelled material” means anything that has been obtained by the ICRIR from a person through the exercise of the ICRIR’s powers under section 14;

“material inadmissible against D”, in relation to criminal proceedings brought against D, means material that, by virtue of subsections (2) to (6), may not be used in evidence against D;

“other material” means any material other than –

- (a) compelled material obtained from D, and 5
- (b) material provided by D as mentioned in subsection (3)(a).

## 8 Admissibility of material in civil proceedings

- (1) No protected material, or evidence relating to protected material, is admissible in any –
  - (a) civil proceedings, 10
  - (b) proceedings before a coroner, or
  - (c) inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).
- (2) This section does not apply to proceedings which relate to –
  - (a) the exercise by the ICRIR of any function, 15
  - (b) any other conduct of the ICRIR,
  - (c) the conduct of any current or former Commissioner, ICRIR officer or ICRIR contractor,
  - (d) a person being appointed, or holding office, as a Commissioner,
  - (e) a person being employed or seconded as, or being, an ICRIR officer, 20
  - (f) judicial review proceedings or, in Scotland, proceedings on an application to the supervisory jurisdiction of the Court of Session, which relate to the exercise of functions by, or other conduct of, a person other than the ICRIR.
- (3) This section applies in relation to material, and evidence or questions relating to material – 25
  - (a) whether the material is in the form in which it was provided or obtained, or in some other form;
  - (b) whether the material (in whatever form) is in the possession of the ICRIR or another person (whether obtained directly or indirectly from the ICRIR). 30
- (4) This section does not apply to any protected material which has been obtained by the ICRIR from a relevant authority under section 5.
- (5) In this section “protected material” means material provided to, or obtained by, the ICRIR for the purposes of, or in connection with, the exercise of any of its functions. 35

### *Reviews of deaths and other harmful conduct*

## 9 Requests for reviews of deaths

- (1) A close family member of the deceased may request a review of a death that was caused directly by conduct forming part of the Troubles. 40
- (2) If there are no close family members of the deceased, any member of the family of the deceased may instead exercise the right to make a request under subsection (1), but only if it is appropriate for that family member to make that request.

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- (3) The Secretary of State may request a review of a death that was caused by conduct forming part of the Troubles (whether or not it was caused directly by the conduct).
- (4) The Attorney General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles. 5
- (5) The Advocate General for Northern Ireland may request a review of a death that was caused directly by conduct forming part of the Troubles if section 14(3) of the Coroners Act (Northern Ireland) 1959 applies to the death (inquest on orders of Advocate General if national security involved).
- (6) A request for a review of a death that was caused directly by conduct forming part of the Troubles may be made by any of the following persons— 10
- (a) the coroner in Northern Ireland who—
    - (i) is responsible for an inquest into that death, or
    - (ii) was responsible for an inquest into that death which has been closed in accordance with section 16A(3) of the Coroners Act (Northern Ireland) 1959; 15
  - (b) the senior coroner in England and Wales who—
    - (i) is responsible for conducting an investigation into that death, or
    - (ii) was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(3) of Schedule 1A to the Coroners and Justice Act 2009; 20
  - (c) the Chief Coroner of England and Wales, if the Chief Coroner is prohibited by paragraph 3(4) of Schedule 1A to the Coroners and Justice Act 2009 from directing a senior coroner to conduct an investigation into the death; 25
  - (d) the sheriff in Scotland who—
    - (i) is responsible for conducting an inquiry into that death, or
    - (ii) was responsible for conducting an inquiry into that death which has been discontinued in accordance with paragraph 1(3) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2); 30
  - (e) the procurator fiscal in Scotland who—
    - (i) is responsible for conducting an investigation into that death, or
    - (ii) was responsible for conducting an investigation into that death which has been discontinued in accordance with paragraph 1(4)(b) of Schedule A1 to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016; 35
  - (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. (Scotland) Act 2016 from exercising functions so as to cause an inquiry to be held into the death. 40
- (7) It is for the Commissioner for Investigations to decide if it is appropriate for a family member to make a request in accordance with subsection (2).
- (8) A request under this section may not be made after the end of the fifth year of the period of operation of the ICRIIR. 45
- (9) For the purposes of this section, a death was “caused directly by conduct forming part of the Troubles” if—

- (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from an act of violence or force, and
  - (b) the act of violence or force was conduct forming part of the Troubles.
- (10) In this section – 5
  - “close family member” has the meaning given in Part 1 of Schedule 3;
  - “inquiry” means an inquiry under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016;
  - “investigation” means –
    - (a) in relation to a senior coroner in England and Wales or the Chief Coroner of England and Wales, an investigation under Part 1 of the Coroners and Justice Act 2009; 10
    - (b) in relation to a procurator fiscal, an investigation under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016. 15
- 10 Requests for reviews of other harmful conduct forming part of the Troubles**
- (1) A person may request a review of other harmful conduct forming part of the Troubles if that conduct caused that person to suffer serious physical or mental harm.
- (2) The Secretary of State may request a review of other harmful conduct forming part of the Troubles (whether or not it caused any person to suffer serious physical or mental harm). 20
- (3) A request under this section may not be made after the end of the fifth year of the period of operation of the ICRIR.
- 11 Requests for reviews: general provision** 25
- (1) A person making a request for a review may include in the request particular questions about the death, or other harmful conduct, to which the review will relate.
- (2) The Commissioner for Investigations is to decide –
  - (a) the form and manner in which a request for a review is to be made; 30
  - (b) the circumstances (if any) in which a request for a review may be changed (including by changing particular questions included in the request) or withdrawn.
- (3) The Commissioner for Investigations may reject a request for a review that is not made in the required form or manner. 35
- (4) In a case where –
  - (a) the ICRIR is carrying out a review of a death or other harmful conduct (whether following a request under section 9 or 10 or a decision by the ICRIR under section 12), and
  - (b) a request (or subsequent request) is made for a review relating to that death or that other harmful conduct, 40the Commissioner for Investigations is to decide how that request is to be dealt with.
- (5) The Commissioner for Investigations may (in particular) decide –

- (a) to reject that request (or subsequent request), or
- (b) that, in a case where the ICRIIR is carrying out the review following a request, the person or persons making the subsequent request are to be treated as if they had joined in the making of the earlier request.
- (6) In a case where – 5
- (a) the ICRIIR has carried out a review of a death or other harmful conduct (whether following a request under section 9 or 10 or a decision by the ICRIIR under section 12), and
- (b) a request (or subsequent request) is made for a review relating to that death or that other harmful conduct, 10
- the Commissioner for Investigations is to decide how that request is to be dealt with.
- (7) In deciding how that request is to be dealt with, the Commissioner for Investigations – 15
- (a) must take into account the review that has already been carried out; and
- (b) in particular, must ensure that the ICRIIR does not do anything which duplicates any aspect of that review unless, in the ICRIIR’s view, the duplication is necessary.
- (8) The Commissioner for Investigations may (in particular) decide to reject that request (or subsequent request). 20
- 12 Reviews in connection with requests for immunity from prosecution**
- (1) This section applies if a person (P) makes a request under section 18 for the ICRIIR to grant P immunity from prosecution.
- (2) The ICRIIR may carry out a review of a death caused by conduct forming part of the Troubles if it appears to the Commissioner for Investigations that any relevant conduct by P – 25
- (a) caused the death, or
- (b) relates to, or is otherwise connected with, other conduct (by P or another person) that caused the death. 30
- (3) The ICRIIR may carry out a review of other harmful conduct forming part of the Troubles if it appears to the Commissioner for Investigations that any relevant conduct by P –
- (a) caused the physical or mental harm concerned, or
- (b) relates to, or is otherwise connected with, other conduct (by P or another person) that caused the physical or mental harm concerned. 35
- (4) For the purposes of this section –
- (a) “relevant conduct by P” means conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution;
- (b) relevant conduct by P is to be regarded as connected with other conduct, in particular, if all of that conduct formed part of the same event. 40
- 13 Conduct of reviews**
- (1) The Commissioner for Investigations has operational control over the conduct of reviews by the ICRIIR, whether they have been – 45



- (a) requested under section 9 or 10, or
  - (b) decided on by the ICRIR under section 12.
- (2) The following provisions of this section apply to the Commissioner for Investigations in exercising operational control over the conduct of reviews.
- (3) The Commissioner for Investigations must ensure that each review – 5
  - (a) is carried out (but see subsection (7));
  - (b) looks into all the circumstances of the death or other harmful conduct to which it relates, including any Troubles-related offences (whether serious or not) which relate to, or are otherwise connected with, that death or other harmful conduct. 10
- (4) The Commissioner for Investigations is to decide how and when different reviews are to be carried out, including by deciding –
  - (a) whether different reviews should be carried out in conjunction with each other;
  - (b) what steps are necessary in carrying out any review. 15
- (5) In deciding what steps are necessary, the Commissioner for Investigations –
  - (a) must take into account any investigation that has previously been carried out by any other person into the death or other harmful conduct to which the review relates; and
  - (b) in particular, must ensure that the ICRIR does not do anything which duplicates any aspect of the previous investigation unless, in the ICRIR’s view, the duplication is necessary. 20
- (6) In deciding what steps are necessary, the Commissioner for Investigations must, in particular, have regard to the following matters so far as they are relevant – 25
  - (a) any particular questions included in a request for the review (see section 11(1));
  - (b) whether the review will, or is likely to, lead only to the production of a final report;
  - (c) any request made by a person (P) to the ICRIR to grant immunity from prosecution if it appears to the Commissioner for Investigations that any relevant conduct by P – 30
    - (i) caused the death, or physical or mental harm, to which the review relates, or
    - (ii) relates to, or is otherwise connected with, other conduct (by P or another person) that caused that death or other harmful conduct; 35
  - (d) whether information obtained through the review will be, or is likely to be, provided to a prosecutor.
- (7) A review is not to be carried out if – 40
  - (a) the Commissioner for Investigations decides, in the case of a request made by a person in accordance with section 9(2), that it is not appropriate for that person to make the request;
  - (b) the Commissioner for Investigations rejects the request in accordance with section 11(3), (5)(a) or (8). 45
- (8) For the purposes of this section –

- (a) an offence is to be regarded as connected with a death or other harmful conduct, in particular, if the offence formed part of the same event as that death or other harmful conduct;
- (b) “relevant conduct by P” means conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution. 5

#### 14 Supply of information

- (1) The Commissioner for Investigations may exercise the powers conferred by subsections (2) and (3) for the purposes of, or in connection with, the exercise of the review function.
- (2) The Commissioner for Investigations may by notice require a person to attend 10  
at a time and place stated in the notice—
  - (a) to provide information;
  - (b) to produce any documents in the person’s custody or under the person’s control;
  - (c) to produce any other thing in the person’s custody or under the person’s control for inspection, examination or testing. 15
- (3) The Commissioner for Investigations may by notice require a person, within such period as appears to that Commissioner to be reasonable—
  - (a) to provide evidence in the form of a written statement;
  - (b) to provide any documents in the person’s custody or under the person’s control; 20
  - (c) to produce any other thing in the person’s custody or under the person’s control for inspection, examination or testing.
- (4) A notice under this section must—
  - (a) explain the possible consequences of not complying with the notice; 25
  - (b) indicate what the recipient of the notice should do to make a claim under subsection (5).
- (5) A claim by a person that—
  - (a) the person is unable to comply with a notice under this section, or
  - (b) it is not reasonable in all the circumstances to require the person to comply with such a notice, 30
is to be determined by the Commissioner for Investigations, who may revoke or vary the notice on that ground (or leave it unchanged).
- (6) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (5)(b), the Commissioner for Investigations must consider the public interest in the information in question being obtained, having regard to the likely importance of the information. 35
- (7) A claim by a relevant authority that the ICIR—
  - (a) would breach section 4(1)(a) or (b) if the person given a notice under subsection (2) or (3) was required to comply with the notice, but 40
  - (b) would not breach section 4(1)(a) or (b) if a different person nominated by the relevant authority were instead required to comply with that notice,
is to be determined by the Commissioner for Investigations, who may vary the notice, so as to require the nominated person to comply with it, or revoke the notice (or leave it unchanged). 45

- (8) For the purposes of this section a thing is under a person’s control if it is in the person’s possession or if the person has a right to possession of it.
- (9) Schedule 4 makes provision about enforcement of notices under this section.

## **15 Production of reports on the findings of reviews**

- (1) This section applies where – 5
  - (a) a review of a death that was caused by conduct forming part of the Troubles, or
  - (b) a review of other harmful conduct forming part of the Troubles, has been carried out.
- (2) The Chief Commissioner must produce a final report on the findings of the review in accordance with this section. 10
- (3) In the case of a review of a death or of other harmful conduct carried out following a request made under section 9 or 10, the Chief Commissioner must, before producing the final report –
  - (a) give a draft of the report to the person who requested the review; and 15
  - (b) allow the person to make representations about the report during the applicable response period.
- (4) In the case of a review of a death carried out following a request made under section 9 or following a decision made by the ICRIR under section 12(2), the Chief Commissioner must, before producing the final report – 20
  - (a) give a draft of the report to –
    - (i) any relevant family members of the person to whose death the review relates,
    - (ii) any relevant family members of any other persons killed in the relevant event, and 25
    - (iii) 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, and
  - (b) allow those persons to make representations about the report during the applicable response period. 30
- (5) In the case of a review of other harmful conduct carried out following a request made under section 10 or following a decision made by the ICRIR under section 12(3), the Chief Commissioner must, before producing the final report –
  - (a) give a draft of the report to – 35
    - (i) any relevant family members of any persons killed in the relevant event, and
    - (ii) 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, and 40
  - (b) allow those persons to make representations about the report during the applicable response period.
- (6) In the case of any review, if it is proposed to include in the final report material criticising an individual, the Chief Commissioner must, before producing the report – 45
  - (a) give a draft of the report to the individual; and

- (b) allow the individual to make representations about that material during the applicable response period.
- (7) The Chief Commissioner must not produce the final report until after –
- (a) any applicable response period has ended, or
  - (b) all of the applicable response periods have ended (where two or more persons are given drafts of a report under subsections (3) to (5) and those periods end on different days). 5
- (8) If the Chief Commissioner considers that it would not be in the public interest for material included in a draft of the report to appear in the final report, the Chief Commissioner may exclude that material from the final report. 10
- (9) The Chief Commissioner must take account of any representations made by a person in accordance with subsections (3) to (5) when the Chief Commissioner is deciding under subsection (8) whether to exclude any material.
- (10) If the Chief Commissioner has given a draft of the final report to a person under subsections (3) to (5), this section does not require the Chief Commissioner to give that person a draft of any revised version of the final report. 15
- (11) If this section requires the Chief Commissioner to give a draft of the final report to two or more persons, this section does not require the Chief Commissioner to give the same draft to all of those persons. 20
- (12) In this section –
- “applicable response period”, in relation to a person who is given a draft of the report under subsections (3) to (5), means –
    - (a) the period of 30 days beginning with the day on which the draft is given to the person, or 25
    - (b) if the Chief Commissioner is satisfied that there is good reason to extend the period, such longer period as the Chief Commissioner determines;
  - “relevant family member” has the meaning given in Part 2 of Schedule 3;
  - “material criticising an individual” means material which, in the Chief Commissioner’s view, constitutes significant criticism of a living individual who was involved in the conduct forming part of the Troubles, or other harmful conduct forming part of the Troubles, to which a review relates; 30
  - “relevant event”, in relation to the final report on the findings of a review of a death or other harmful conduct, means the event in which that death, or other harmful conduct, occurred. 35

## **16 Issuing and publication of reports**

- (1) This section applies where the Chief Commissioner produces the final report on the findings of a review in accordance with section 15. 40
- (2) If the review was carried out following a request made under section 9 or 10, the Chief Commissioner must –
  - (a) give the final report to the person who requested the review, and
  - (b) publish the final report.
- (3) If the review was carried out following a decision by the ICRIR under section 12, the Chief Commissioner may publish the final report. 45

- (4) When deciding whether to publish the final report in such a case, the ICIRIR must (in particular) take into account the views of –
  - (a) any relevant family members of any person killed in the relevant event, and
  - (b) 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. 5
- (5) The ICIRIR must take such steps as it considers reasonable to identify, and obtain the views of, the persons referred to in subsection (4)(a) and (b).
- (6) It is for the Chief Commissioner to decide the manner in which a final report is published. 10
- (7) The Chief Commissioner may give the designated persons under Part 4 summaries of any final reports which are not published.
- (8) In this section –
  - “relevant event”, in relation to the final report on the findings of a review of a death or other harmful conduct, means the event in which that death, or other harmful conduct, occurred; 15
  - “relevant family member” has the meaning given in Part 2 of Schedule 3.

## 17 Reports: general provision

- (1) The Chief Commissioner must comply with sections 15 and 16 as soon as is practicable after the review has been carried out. 20
- (2) But subsection (1) does not apply to the publication under section 16(2)(b) or (3) of the final report of the findings of –
  - (a) a review of a death that was caused by conduct forming part of the Troubles, or 25
  - (b) a review of other harmful conduct forming part of the Troubles, if the Commissioner for Investigations refers any of that conduct to a prosecutor under section 22(1) (the “relevant conduct”).
- (3) Instead, in such a case, the final report is not to be published unless and until –
  - (a) the prosecutor has made a decision not to prosecute P for any relevant offence, or 30
  - (b) if the prosecutor has made a decision to prosecute P for any relevant offence or offences, the public prosecution or prosecutions are no longer continuing.
- (4) Section 15 or 16 and this section do not require the Chief Commissioner –
  - (a) to give a copy of a draft of a final report, or a final report, to any person, or 35
  - (b) to publish a final report,unless (and until) the Chief Commissioner can do so in accordance with sections 4(1) and 25(2). 40
- (5) Paragraph 8 of Schedule 5 makes provision about –
  - (a) other material that must be included in a final report, and
  - (b) circumstances in which a new final report must be produced.
- (6) Section 19(8)(f) and (g) (certain circumstances in which a public prosecution is, or is not, continuing) apply for the purposes of this section. 45

- (7) In this section—
- “P” means the person who carried out the relevant conduct;
- “relevant offence”, in relation to a referral to a prosecutor under section 22(1), means—
- (a) a suspected offence notified to the prosecutor under section 22(3)(a) in connection with the referral, and
  - (b) any other offence which the relevant conduct constitutes.

*Immunity from prosecution*

**18 Immunity from prosecution**

- (1) The ICIR must grant a person (P) immunity from prosecution if conditions A to C are met. 10
- (2) *Condition A*: P has requested the ICIR to grant P immunity from prosecution.
- (3) *Condition B*: the immunity requests panel is satisfied that the ICIR is in possession of an account (“P’s account”) that—
  - (a) has been given by P, 15
  - (b) describes conduct by P which is, or includes, conduct forming part of the Troubles (“P’s disclosed conduct”), and
  - (c) is true to the best of P’s knowledge and belief.
- (4) P’s account may consist of, or include, information which has previously been given by P (whether directly to the ICIR or otherwise) if, or to the extent that, the immunity requests panel is satisfied that the information is true to the best of P’s knowledge and belief. 20
- (5) *Condition C*: the immunity requests panel is satisfied that P’s disclosed conduct would tend to expose P—
  - (a) to a criminal investigation of, or 25
  - (b) to prosecution for,
 one or more particular serious or connected Troubles-related offences identified by the panel (the “identified possible offences”).
- (6) In deciding whether condition C is met, the immunity requests panel must disregard the effects of sections 33 to 36. 30
- (7) Where conditions A to C are met, the immunity requests panel must decide whether P should be granted—
  - (a) specific immunity from prosecution,
  - (b) general immunity from prosecution, or
  - (c) specific and general immunity from prosecution. 35
- (8) “Specific immunity from prosecution” is immunity from prosecution for all of the identified possible offences.
- (9) “General immunity from prosecution” is immunity from prosecution for all serious or connected Troubles-related offences which are within a description determined by the immunity requests panel. 40
- (10) In that case, the description of offences must—
  - (a) be framed by reference to P’s disclosed conduct, and
  - (b) consist of, or include, all of the identified possible offences.

- (11) “Specific and general immunity from prosecution” is immunity from prosecution for –
- (a) all of the identified possible offences, and
  - (b) all serious or connected Troubles-related offences which are within a description determined by the immunity requests panel. 5
- (12) In that case, the description of offences must be framed by reference to P’s disclosed conduct.
- (13) The ICRIR –
- (a) must give P written notice of the outcome of P’s request for immunity from prosecution; and
  - (b) must (where the outcome is that P is to be granted immunity) grant P –
    - (i) specific immunity from prosecution,
    - (ii) general immunity from prosecution, or
    - (iii) specific and general immunity from prosecution, as decided by the immunity requests panel. 15
- (14) Immunity from prosecution may not be revoked.
- (15) A reference in any other provision of this Act to an offence for which a person (P) has been granted immunity from prosecution is a reference to an offence which is within the scope of –
- (a) specific immunity from prosecution, 20
  - (b) general immunity from prosecution, or
  - (c) specific and general immunity from prosecution, that has been granted to P in accordance with this section.
- (16) Section 34 sets out the effects of a grant of immunity from prosecution.
- 19 Requests for immunity: procedural matters 25**
- (1) A request by a person (P) for a grant of immunity is not valid if, when it is made –
- (a) a public prosecution of P for a relevant Troubles-related offence has begun and is continuing, or
  - (b) P has a conviction for a relevant Troubles-related offence. 30
- (2) A request by a person (P) for a grant of immunity that is made after the end of the fifth year of the period of operation of the ICRIR is not valid unless, when the request is made, the ICRIR is carrying out a review that relates to –
- (a) relevant conduct by P, or
  - (b) other conduct which relates to, or is otherwise connected to, relevant conduct by P (including where the other conduct forms part of the same event as relevant conduct by P). 35
- (3) The Secretary of State may make rules about the procedures for –
- (a) making requests for grants of immunity from prosecution;
  - (b) dealing with requests for grants of immunity from prosecution. 40
- (4) Subject to any rules, the Chief Commissioner is to determine the procedures for –
- (a) making requests for grants of immunity from prosecution;
  - (b) dealing with requests for grants of immunity from prosecution.

- (5) A request for a grant of immunity is not valid if it is not made in accordance with any applicable procedure that –
- (a) is in rules, or
  - (b) has been determined by the Chief Commissioner.
- (6) It is for the Chief Commissioner to decide whether a request that has been made is valid. 5
- (7) Rules under this section are to be made by statutory instrument; and a statutory instrument containing the rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) For the purposes of this section – 10
- (a) “relevant conduct by P” is conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution;
  - (b) “P’s account” has the same meaning as in section 18;
  - (c) a Troubles-related offence is “relevant” if the Chief Commissioner is satisfied that any relevant conduct by P constitutes the offence; 15
  - (d) a “public prosecution” means any prosecution other than a private prosecution;
  - (e) a public prosecution of P for an offence “has begun” if a prosecutor has made the decision to prosecute P for that offence;
  - (f) the circumstances in which a public prosecution of P is to be regarded as continuing include circumstances where the trial which forms part of the prosecution ends without P being convicted or acquitted or any other verdict being given and either – 20
    - (i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or 25
    - (ii) the prosecution have sought a retrial;
  - (g) the circumstances in which a public prosecution of P is to be regarded as not continuing include –
    - (i) circumstances where the trial which forms part of the prosecution ends with P being convicted or acquitted or with another verdict being given, and 30
    - (ii) circumstances where the trial ends without P being convicted or acquitted or any other verdict being given and the period for the prosecution to seek a retrial ends without a retrial having been sought. 35

## 20 Determining a request for immunity

- (1) This section applies if a person (P) makes a request under section 18 for the ICRIR to grant P immunity from prosecution.
- (2) In forming a view on the truth of P’s account, the immunity requests panel must take into account any other information in the possession of the ICRIR that is relevant (including information which P has previously given to a person other than the ICRIR). 40
- (3) That includes information obtained through –
- (a) any review carried out under section 13, or
  - (b) any investigation that has previously been carried out by any other person. 45



- (4) But in order to form a view on the truth of P’s account, the immunity requests panel is not required to seek information from a person other than P.
- (5) Where—
- (a) it would have been possible for the ICRIR to carry out a review under section 12 in consequence of P’s request for immunity from prosecution, and 5
  - (b) the ICRIR did not decide to carry out the review, that does not prevent the immunity requests panel from forming a view on the truth of an account given by P.
- (6) When determining the request, the immunity requests panel must take account of any guidance given by the Secretary of State about when conditions B and C set out in section 18(3) to (5) are met. 10
- (7) The Secretary of State may, in particular, give guidance about ascertaining—
- (a) whether an account of a person’s conduct is true to the best of a person’s knowledge and belief; 15
  - (b) whether conduct is possible criminal conduct;
  - (c) whether information is an account of possible criminal conduct.
- (8) The immunity requests panel must take account of any guidance given by the Secretary of State—
- (a) when deciding in accordance with section 18(7) whether P should be granted— 20
    - (i) specific immunity from prosecution,
    - (ii) general immunity from prosecution, or
    - (iii) specific and general immunity from prosecution;
  - (b) when determining the description of offences for the purposes of— 25
    - (i) a grant of general immunity from prosecution (see section 18(9)), or
    - (ii) a grant of specific and general immunity from prosecution (see section 18(11)(b)).
- (9) In this section— 30
- “P’s account” has the same meaning as in section 18;
  - “possible criminal conduct” means conduct that would tend to expose a person—
    - (a) to a criminal investigation of, or
    - (b) to prosecution for, 35a Troubles-related offence.

## 21 The immunity requests panel

- (1) The immunity requests panel is to consist of—
- (a) the Chief Commissioner, and
  - (b) two ICRIR officers nominated by the Chief Commissioner. 40
- (2) The immunity requests panel is to be chaired by the Chief Commissioner.
- (3) The Chief Commissioner—
- (a) may remove an ICRIR officer from the panel;

- (b) may nominate a different ICRIR officer to be a temporary member of the panel if an ICRIR officer who is a member of the panel is unable to act (and is not removed from the panel).
- (4) An ICRIR officer may not become or remain a member of the panel (under subsection (1) or (3)) unless the officer – 5
- (a) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least ten years’ standing,
- (b) satisfies the judicial-appointment eligibility condition on an ten-year basis (see Part 2 of the Tribunals, Courts and Enforcement Act 2007), or
- (c) is an advocate or solicitor in Scotland of at least ten years’ standing. 10
- (5) In employing and seconding persons to be ICRIR officers, the ICRIR must ensure that the ICRIR officers include at least two persons who are qualified to serve on the panel in accordance with subsection (4).
- (6) The functions conferred on the immunity requests panel (whether by this Act or otherwise) are to be treated as functions of the ICRIR exercisable by the immunity requests panel on behalf of, and in the name of, the ICRIR. 15

*Information for prosecutors*

**22 Information for prosecutors**

- (1) This section applies where –
- (a) a review of a death that was caused by conduct forming part of the Troubles, or 20
- (b) a review of other harmful conduct forming part of the Troubles, has been carried out.
- (2) The Commissioner for Investigations may refer relevant conduct to a prosecutor if the Commissioner considers that there is evidence that the relevant conduct constitutes an offence by an individual whose identity is known to the Commissioner (a “suspected offence”). 25
- (3) If the Commissioner for Investigations refers relevant conduct to a prosecutor, the Commissioner –
- (a) must notify the prosecutor of the suspected offence or offences; 30
- (b) must give the prosecutor such information and material relating to the relevant conduct as the Commissioner considers appropriate; and
- (c) must, if requested to do so by the prosecutor –
- (i) obtain such information or material relating to the relevant conduct as it is practicable to obtain, and 35
- (ii) give the information or material obtained to the prosecutor.
- (4) In this section –
- “prosecutor” means –
- (a) the Director of Public Prosecutions for Northern Ireland,
- (b) the Director of Public Prosecutions (for England and Wales), or 40
- (c) the Lord Advocate;
- “relevant conduct” means –
- (a) the conduct which caused the death, or
- (b) the other harmful conduct,

to which the review relates.

*The historical record of deaths*

**23 Production of the historical record**

- (1) The historical record is to consist of a single document which gives an account of the circumstances in which each of the relevant deaths occurred. 5
- (2) The ICIR must take all reasonable steps –
  - (a) to identify all deaths that were caused by conduct forming part of the Troubles, and
  - (b) to identify and obtain –
    - (i) the information about the relevant deaths that is publicly available, and 10
    - (ii) other information about the relevant deaths which the ICIR considers is likely to be of use in producing the historical record.
- (3) The ICIR may request a person to provide information in connection with the production of the historical record. 15
- (4) But the ICIR may not request information that relates to the relevant death, or to the relevant event, to be provided by –
  - (a) a member of the family of the deceased person,
  - (b) a person who suffered physical or mental harm as a result of the relevant event, or 20
  - (c) a member of the family of a person –
    - (i) whose death was caused by conduct forming part of the relevant event, or
    - (ii) who was caused physical or mental harm by conduct forming part of the relevant event. 25
- (5) That does not prevent the ICIR from making a request to a person in their capacity as the holder of an employment, office or other position.
- (6) A person may provide information if requested to do so by the ICIR, but only if the provision of the information would not breach –
  - (a) any obligation of confidence owed by the person, or 30
  - (b) any other restriction on the disclosure of information (however imposed).
- (7) When deciding whether it is reasonable to take a particular step for the purposes of subsection (2)(a) or (b), the ICIR may, in particular, take into account whether that step would, in the ICIR’s view, involve disproportionate effort or cost. 35
- (8) In this section –
  - “relevant deaths” means those deaths which the ICIR identifies, after taking all reasonable steps in accordance with subsection (2)(a), as deaths that were caused by conduct forming part of the Troubles, except those deaths for which reviews are carried out under section 13; 40
  - “relevant event” means an event in which a relevant death occurred.

**24 Publication of the historical record**

- (1) The ICIR must publish the historical record.
- (2) It is for the ICIR to decide the manner in which the historical record is to be published.
- (3) This section does not require the ICIR to publish the historical record unless (and until) it can do so in accordance with sections 4(1) and 25(2). 5

*Information***25 Disclosure of information: general power and prohibitions**

- (1) The ICIR may disclose any information held by the ICIR to any other person. 10
- (2) A disclosure of information by the ICIR (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 5. 15
- (4) *Prohibition A*: the Commissioner for Investigations has identified the information as sensitive information (see paragraph 1 of Schedule 7).
- (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 7). 20
- (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 7).
- (7) *Prohibition D*: the ICIR would otherwise contravene the duty imposed by section 4(1) by making the disclosure. 25
- (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). 30
- (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 5 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 ICIR. 35
- (11) Schedule 6 sets out offences relating to disclosure of information.

**26 The ICIR’s use of information obtained by it**

- (1) Information that has been obtained by the ICIR –
  - (a) under section 5, or
  - (b) through the exercise of police powers, 40

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. 5
- (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 10
  - (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. 15

## 27 Identifying information that is subject to additional safeguards

Schedule 7 makes provision about the identification of sensitive, prejudicial or protected international information.

## 28 Guidance and protocols relating to information 20

- (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;
  - (c) chief officers of police forces in Great Britain; 25
  - (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. 30
- (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 7.
- (3) The Secretary of State may give guidance to the ICRIR about the exercise of its functions in accordance with section 4(1)(a). 35
- (4) The ICRIR 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 – 40
    - (i) the relevant authorities, and
    - (ii) the persons listed in paragraph 3(2) of Schedule 5.

- (6) An “information disclosure protocol” is a document dealing with a framework for the disclosure of information by, or to, the ICIR.

## **29 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. 5
- (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); 10
  - (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); 15
  - (f) create criminal offences.
- (3) The information about which the regulations may make provision includes information which (in accordance with Schedule 7) –
- (a) the Commissioner for Investigations has identified as prejudicial information or sensitive information, 20
  - (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. 25
- (4) A criminal offence created under subsection (2)(f) –
- (a) may only apply to the conduct of a person who is or has been –
    - (i) a Commissioner,
    - (ii) an ICIR officer, or 30
    - (iii) an ICIR contractor;
  - (b) may not impose a penalty that is greater than a penalty that may be imposed for an offence under Schedule 6.
- (5) Regulations under this section are subject to negative procedure.

*Biometric material* 35

## **30 Biometric material**

- (1) The Secretary of State may by regulations –
- (a) designate a collection of biometric material, or part of such a collection, for the purposes of this section;
  - (b) provide for biometric material in designated collections not to be destroyed if destruction of the material would otherwise be required by any of the destruction provisions; 40
  - (c) provide for preserved material to be retained;

- (d) provide for preserved material to be used for the purposes of, or in connection with, the exercise of any ICRIR function except the function of producing the historical record;
  - (e) provide for preserved material to be destroyed.
- (2) If regulations provide for the retention of preserved material, the Secretary of State must, by regulations, require – 5
- (a) that periodic reviews of the need to retain the material are carried out by the ICRIR;
  - (b) that the material is destroyed by no later than the end of a reasonable period after the conclusion of the ICRIR’s work (see section 31(1)) in connection with functions other than producing the historical record. 10
- (3) Regulations made under this section are subject to negative procedure.
- (4) In this section –
- “biometric material” means a record of –
    - (a) a DNA profile based on a DNA sample taken before 31 October 2013, or 15
    - (b) fingerprints taken before 31 October 2013;
  - “destruction provisions” means –
    - (a) Article 63B of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), 20
    - (b) Article 64 of the Police and Criminal Evidence (Northern Ireland) Order 1989,
    - (c) any provision of Part 1 of Schedule 8 to the Terrorism Act 2000 which requires the destruction of biometric material,
    - (d) paragraph 8 of Schedule 4 to the International Criminal Court Act 2001, 25
    - (e) any provision of sections 18 to 18E of the Counter-terrorism Act 2008 which requires the destruction of biometric material,
    - (f) any provision of Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 which requires the destruction of biometric material, 30
    - (g) section 18G of the Criminal Procedure (Scotland) Act 1995, and
    - (h) section 18(3) to (5) of the Criminal Procedure (Scotland) Act 1995 as applied by paragraph 7 of Schedule 4 to the International Criminal Court (Scotland) Act 2001 (asp 21); 35
  - “preserved material” means biometric material in a designated collection which, by virtue of regulations made under subsection (1)(b), has not been destroyed (as would otherwise have been required by any of the destruction provisions).
- Supplementary* 40
- 31 Review of the performance of the ICRIR’s functions**
- (1) The Secretary of State must carry out a review of the performance by the ICRIR of the functions conferred by section 2(4).
  - (2) The Secretary of State must carry out the review by the end of the third year of the period of operation of the ICRIR. 45

- (3) The Secretary of State must lay a copy of the review before Parliament.

### 32 Conclusion of the work of the ICRIR

- (1) *The Secretary of State may, by regulations, make provision for winding up the ICRIR if the Secretary of State is satisfied that the need for the ICRIR to exercise the functions conferred by section 2(4) has ceased.* 5
- (2) *Regulations under subsection (1) may, in particular, make provision for the transfer of property, rights and liabilities (whether or not otherwise capable of being transferred), including any acquired or arising after the regulations are made.*
- (3) Regulations under subsection (1) may, in particular, repeal or otherwise amend any provision of this Part other than – 10
- (a) this section;
- (b) Schedule 6 and the following provisions (which relate to the offence in paragraph 1 of that Schedule) – 15
- (i) section 4(1)(a) and (b);
- (ii) section 25(2) to (7), (10) and (11);
- (iii) Schedule 5.
- (4) The consequential provision that may (by virtue of section 52(5)(b)) be made by regulations under subsection (1) includes consequential amendments of – 20
- (a) Part 4 or 5 of this Act, or
- (b) any legislation other than this Act (whenever passed or made).
- (5) The Secretary of State must consult the required consultees, and take into account the annual reports produced by the ICRIR (see section 2(5)) and the Secretary of State’s review of the ICRIR’s functions (see section 31) – 25
- (a) when deciding whether to exercise the power to make regulations conferred by this section; and
- (b) before making regulations under this section.
- (6) Regulations under this section are subject to affirmative procedure.
- (7) If a draft of an instrument containing regulations under this section would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument. 30
- (8) In this section “required consultees” means – 35
- (a) the ICRIR, and
- (b) any other person the Secretary of State considers it appropriate to consult.

## PART 3

### INVESTIGATIONS, LEGAL PROCEEDINGS ETC AND RELEASE OF PRISONERS

#### *Criminal investigations and proceedings*

### 33 No criminal investigations except through ICRIR reviews

- (1) On and after the day on which this section comes into force, no criminal investigation of any Troubles-related offence may be continued or begun. 40



- 
- (2) But that does not prevent the ICRIR from carrying out any of its functions.
- (3) This section does not prevent a report or statement about a criminal investigation being produced for family members, or other public use, before the relevant day.
- (4) The Chief Constable of the PSNI and the chief officer of each police force in Great Britain must notify the Secretary of State of any criminal investigations of Troubles-related offences which, on the day before this section comes into force, their police force is carrying out. 5
- (5) This section has effect subject to section 37(3) (criminal investigations relating to pre-commencement prosecutions). 10
- (6) In this section “relevant day” means the earlier of these two days –  
(a) 1 May 2023;  
(b) the day on which section 2(4) comes into force.
- 34 Grant of immunity: prohibition of criminal enforcement action**
- (1) This section applies in relation to a serious or connected Troubles-related offence if a person (P) has been granted immunity from prosecution for the offence under section 18. 15
- (2) No criminal enforcement action may be taken against P in respect of the offence.
- 35 No grant of immunity: restrictions on criminal enforcement action** 20
- (1) This section applies in relation to a serious or connected Troubles-related offence by a person (P) unless P has been granted immunity from prosecution for the offence under section 18.
- (2) Criminal enforcement action may be taken against P in respect of the offence by P only if – 25  
(a) the Commissioner for Investigations has referred conduct by P to a prosecutor under section 22(2) (the “relevant conduct”),  
(b) the offence by P is – 30  
(i) the suspected offence, or one of the suspected offences, notified to the prosecutor under section 22(3)(a), or  
(ii) another offence which the relevant conduct constitutes, and  
(c) the criminal enforcement action is taken in connection with that referral (including any prosecution or conviction which follows from that referral).
- (3) This section has effect subject to section 37(4) (pre-commencement criminal enforcement action). 35
- 36 Other Troubles-related offences: prohibition of criminal enforcement action**
- (1) This section applies in relation to a Troubles-related offence unless it is a serious or connected Troubles-related offence.
- (2) No criminal enforcement action may be taken against any person in respect of the offence. 40

- (3) This section has effect subject to section 37(4) (pre-commencement criminal enforcement action).

### **37 General provision and saving for ongoing pre-commencement action**

- (1) Any legislation or other law is of no effect insofar as it authorises or requires a person to do anything that is prohibited by any of sections 33 to 36. 5
- (2) For the purposes of sections 34 to 36, criminal enforcement action is taken against a person (P) in respect of an offence if –
- (a) P is prosecuted for the offence,
  - (b) criminal proceedings relating to the offence are brought or continued against P, or 10
  - (c) P is arrested or otherwise detained in connection with the offence.
- (3) Section 33 does not prevent a criminal investigation of a Troubles-related offence being carried out by a person other than the ICRR if –
- (a) a public prosecution of P for the offence had been begun before the day on which that section comes into force, and 15
  - (b) the criminal investigation is carried out for the purposes of that prosecution.
- (4) Section 35 or 36 does not prevent criminal enforcement action from being taken against a person (P) in respect of an offence if –
- (a) a public prosecution of P for the offence had been begun before the day on which that section comes into force (whether or not the prosecution was continuing on the day before that section comes into force), and 20
  - (b) the criminal enforcement action is taken against P in connection with the prosecution (including any conviction of P arising from that prosecution, whether given before or after that section comes into force). 25
- (5) Subsections (3) and (4) do not prevent provision being made under section 56(4) in connection with the coming into force of section 33, 35 or 36.
- (6) In this section –
- (a) “public prosecution” means any prosecution other than a private prosecution; 30
  - (b) a public prosecution of P for an offence is “begun” when a prosecutor makes the decision to prosecute P for that offence.

#### *Civil proceedings, inquests and police complaints*

### **38 Tort, delict and fatal accident actions** 35

- (1) A relevant Troubles-related civil action that was brought on or after the day of the First Reading in the House of Commons of the Bill for this Act may not be continued on and after the day on which this section comes into force.
- (2) A relevant Troubles-related civil action may not be brought on or after the day on which this section comes into force. 40
- (3) For the purposes of this section an action is a “relevant Troubles-related civil action” if conditions A, B and C are met.

- (4) *Condition A*: the action is to determine a claim arising out of conduct forming part of the Troubles.
- (5) *Condition B*: the action is founded on—
- (a) tort or delict,
  - (b) a cause of action arising under fatal accidents legislation, or 5
  - (c) a cause of action arising under the law of any other jurisdiction that corresponds to—
    - (i) tort or delict, or
    - (ii) a cause of action arising under fatal accidents legislation.
- (6) *Condition C*: the time limit for bringing the action was, or would be (in the absence of this section), given in— 10
- (a) the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)),
  - (b) the Foreign Limitation Periods (Northern Ireland) Order 1985 (S.I. 1985/754 (N.I. 5)),
  - (c) the Limitation Act 1980, 15
  - (d) the Foreign Limitation Periods Act 1984,
  - (e) the Prescription and Limitation (Scotland) Act 1973, or
  - (f) section 190 of the Merchant Shipping Act 1995;
- (including where a court has permitted the action to be brought outside such a time limit). 20
- (7) Subsection (1) does not stop a relevant Troubles-related civil action from being continued on and after the day on which this section comes into force, if the court of first instance has given a final judgment on, or otherwise finally determined, the matter in dispute before that day (including by a default judgment or a consent order or, in Scotland, by a decree in absence, decree by default or summary decree). 25
- (8) Where subsection (1) or (2) stops an action from being continued, or brought, on or after the day on which this section comes into force, that subsection—
- (a) does not stop costs proceedings from being continued or begun on or after that day; but
  - (b) otherwise stops the proceedings in the action, and any other related proceedings, from being continued or begun on or after that day. 30
- (9) In this section—
- “costs proceedings”, in relation to a relevant Troubles-related civil action, means proceedings to determine or recover costs (in Northern Ireland or England and Wales) or expenses (in Scotland) of the action; 35
  - “fatal accidents legislation” means—
    - (a) the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)),
    - (b) the Fatal Accidents Act 1976, or 40
    - (c) section 4 of the Damages (Scotland) Act 2011 (asp 7);
  - “matter in dispute”, in relation to a relevant Troubles-related civil action, means the claim (referred to in subsection (4)) which arises out of conduct forming part of the Troubles and which the action is to determine; 45
  - “other jurisdiction”, in relation to a relevant Troubles-related civil action, means a jurisdiction (whether within or outside the United Kingdom) other than the jurisdiction in which that action is, or would be, brought;

- “other related proceedings”, in relation to a relevant Troubles-related civil action, means proceedings which relate to, or arise out of the action (including any enforcement action and any appeal), except for costs proceedings;
- “2008 Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. 5
- (10) Schedule 8 makes provision for courts to determine whether the prohibitions in this section apply to a civil action.
- (11) Schedule 9 makes provision about bringing and continuing relevant Troubles-related civil actions if the 2008 Mediation Directive applies to the matter in dispute by virtue of the EU withdrawal agreement. 10
- 39 Inquests, investigations and inquiries**
- (1) After section 16 of the Coroners Act (Northern Ireland) 1959 insert –
- “16A Death resulting directly from the Troubles: closure of existing inquest** 15
- (1) This section applies to an inquest into a death that resulted directly from the Troubles that was initiated before the relevant day, unless the inquest is at an advanced stage.
- (2) On and after that day, a coroner must not progress the conduct of the inquest. 20
- (3) As soon as practicable on or after that day, the coroner responsible for the inquest must close the inquest (including by discharging any jury that has been summoned).
- (4) The provision in section 14(1) requiring a coroner to conduct an inquest is subject to this section. 25
- 16B ICRIR review: existing inquest**
- (1) This section applies to an inquest into a death that resulted directly from the Troubles if –
- (a) the inquest was initiated before the relevant day,
- (b) the inquest is at an advanced stage, and 30
- (c) the coroner who is responsible for the inquest makes a request under section 9(6)(a)(i) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 for a review of the death.
- (2) At any time after the request is made, the coroner who is responsible for the inquest – 35
- (a) may adjourn the inquest (on one or more occasions);
- (b) may, after any adjournment, resume the conduct of the inquest;
- (c) may close the inquest (whether or not it is, or has been, adjourned) and, if the inquest is closed, must discharge any jury that has been summoned. 40
- (3) The provision in section 14(1) requiring a coroner to conduct an inquest is subject to this section.

**16C Death resulting directly from the Troubles: prohibition of new inquest**

On and after the day on which section 39 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force –

- (a) a coroner must not decide to hold an inquest into any death that resulted directly from the Troubles, and 5
- (b) the Attorney General or Advocate General for Northern Ireland must not give a direction under section 14 for the conduct of an inquest into any death that resulted directly from the Troubles.

**16D Interpretation** 10

- (1) This section applies for the purposes of sections 16A to 16C and this section.
- (2) A death “resulted directly from the Troubles” if –
  - (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from an act of violence or force, and 15
  - (b) the act of violence or force was conduct forming part of the Troubles.
- (3) “Conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 (see section 1 of that Act). 20
- (4) The “relevant day” is the earlier of these two days –
  - (a) 1 May 2023;
  - (b) the day on which section 2(4) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force. 25
- (5) An inquest is “initiated” –
  - (a) by a coroner deciding to hold the inquest, or
  - (b) by a direction under section 14 being given for the conduct of the inquest.
- (6) An inquest is “at an advanced stage” if the inquest hearing to ascertain –
  - (a) who the deceased was, and
  - (b) how, when and where the deceased died, 30has been begun before the relevant day.”
- (2) Schedule 10 makes provision about investigations and inquests in England and Wales and inquiries and investigations in Scotland. 35

**40 Police complaints**

After section 50 of the Police (Northern Ireland) Act 1998 insert –

**“50A Complaints relating to conduct forming part of the Troubles**

- (1) On and after the day on which section 40 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force, this Part – 40
  - (a) ceases to apply to a complaint (if made before that day), or

- (b) does not apply to a complaint (if made on or after that day), insofar as the complaint relates to conduct forming part of the Troubles.
- (2) On and after the day on which section 40 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force, 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) insofar as the complaint relates to conduct forming part of the Troubles. 5
- (3) In this section “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 (see section 1 of that Act).” 10

*Release of prisoners*

**41 Prisoner release**

Schedule 11 makes provision about prisoner release under the Northern Ireland (Sentences) Act 1998. 15

**PART 4**

MEMORIALISING THE TROUBLES

**42 Oral history**

- (1) The designated persons must secure that –
- (a) within the initial period – 20
- (i) a study is carried out of Troubles-related oral history records contained in current collections in Northern Ireland, and
- (ii) the current collections are analysed to identify groups and communities in Northern Ireland that are under-represented in the current collections; 25
- (b) Troubles-related oral history records are created, and are collected and preserved in Northern Ireland, especially oral history records which recount the personal experience of persons in groups and communities in Northern Ireland that are under-represented in current collections;
- (c) public engagement with Troubles-related oral history records in Northern Ireland is encouraged and facilitated, including by such records becoming more publicly accessible; 30
- (d) a catalogue of publicly accessible Troubles-related oral history records is –
- (i) produced and kept up to date, and 35
- (ii) made available on a website which the public can use without charge.
- (2) In complying with subsection (1)(b), the designated persons must, in particular, secure that appropriate assistance (including training and resources) is provided to persons with an interest in creating, collecting or preserving Troubles-related oral history records. 40
- (3) In complying with subsection (1)(c), the designated persons must, in particular, secure that events and services intended to encourage and facilitate

public engagement with Troubles-related oral history records in Northern Ireland are arranged.

- (4) The designated persons may exercise the functions under subsection (1) in relation to oral history records about events and conduct before or after the period of the Troubles; and, if and to the extent that they do so, this section applies to such records as it applies to Troubles-related oral history records. 5
- (5) 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. 10
- (6) In this section –
- “current collection” means a collection existing immediately before the specified day;
  - “oral history record about events and conduct before or after the period of the Troubles” means a record (in any form) which – 15
    - (a) recounts personal experience relating to any of the events and conduct before or after the period of the Troubles, (including any effect which it has had on a person, whenever the effect occurred), and
    - (b) is of lasting historical significance; 20
  - “period of the Troubles” means the period –
    - (a) beginning with 1 January 1966, and
    - (b) ending with 10 April 1998;
  - “publicly accessible” means accessible by the public or by a section of the public (including where the access is available by arrangement, on the basis of a subscription or membership, or on payment); 25
  - “Troubles-related oral history record” means a record (in any form) which –
    - (a) recounts personal experience relating to the Troubles, (including any effect which the Troubles have had on a person, whenever the effect occurred), and 30
    - (b) is of lasting historical significance, whether the personal experience (or effect) relates to the Troubles generally or to any aspect or aspects of the Troubles.
- (7) For the purposes of this section it does not matter whether an oral history record is made by, or received from, a person in the United Kingdom, Ireland or elsewhere. 35

#### 43 The memorialisation strategy

- (1) The designated persons must secure that –
- (a) a study of relevant memorialisation activities that are being carried out immediately before the specified day (“current memorialisation activities”) is undertaken; 40
  - (b) recommendations about the initiation and carrying out of relevant memorialisation activities (“new memorialisation activities”) are made;
  - (c) a report (a “memorialisation strategy”) which sets out – 45
    - (i) the findings of the study, and
    - (ii) the recommendations,

- is produced and published within the initial period;
- (d) a copy of the memorialisation strategy is given to the Secretary of State as soon as practicable after it is produced.
- (2) A “relevant memorialisation activity” is an activity that is carried out in Northern Ireland for the purpose of marking, commemorating, or providing information or education about – 5
- (a) events and conduct that formed part of the Troubles and occurred in Northern Ireland, or
- (b) events and conduct before or after the Troubles that occurred in Northern Ireland, 10
- (whether or not it also relates to any other events and conduct that formed part of the Troubles or any other events and conduct before or after the Troubles).
- (3) It is for the designated persons to decide whether, and to what extent, the study and recommendations should cover relevant memorialisation activities that relate to events and conduct before or after the Troubles. 15
- (4) 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; 20
- (c) appropriate non-UK memorialisation activities.
- (5) In particular, consideration must be given to whether the establishment of a new museum, memorial or similar project should be recommended.
- (6) The process by which the study is carried out and the recommendations are made must enable the public and other interested persons to contribute to the process. 25
- (7) In particular, the process must include opportunities for the public and other interested persons –
- (a) to suggest current memorialisation activities that should form part of the study; 30
- (b) to comment on current memorialisation activities;
- (c) to suggest new memorialisation activities.
- (8) In this section “appropriate non-UK memorialisation activity” means an activity – 35
- (a) which is undertaken outside the United Kingdom to mark, commemorate or provide information or education about past events or conduct, and
- (b) which appears to the designated persons to be appropriate to consider in carrying out the study and making the recommendations. 40

#### 44 Response to the memorialisation strategy

- (1) The Secretary of State must –
- (a) consider, and decide a response to, each of the recommendations made in the memorialisation strategy;
- (b) produce and publish a document which sets out the response to each of the recommendations, including (as appropriate) – 45



- (i) the action the Secretary of State proposes to take in response, or
  - (ii) the Secretary of State’s reasons for not taking any action in response.
- (2) The Secretary of State must –
  - (a) comply with that requirement before the end of the period of one year beginning with the day on which the copy of the strategy is given in accordance with section 43(1)(d), and 5
  - (b) consult the First Minister and deputy First Minister on the proposed action, or reasons for not taking action, before deciding a response to each recommendation. 10
- (3) In this section “recommendations” means recommendations about the initiation and carrying out of new memorialisation activities.

#### 45 Academic research

- (1) The designated persons must secure that –
  - (a) terms of reference are set for academic research into the Troubles; 15
  - (b) academic research is carried out in accordance with those terms of reference;
  - (c) the terms of reference are set within the initial period;
  - (d) the researchers produce a report on the outcome of the academic research (the “academic report”); 20
  - (e) the academic report is published and a copy of it is given to the Secretary of State before the end of the seventh year of the period of operation of the ICRIR.
- (2) The designated persons must use their best endeavours to make arrangements under which one of the UKRI’s Councils is to undertake, or participate in, activities which enable, or assist, the designated persons to comply with the duties imposed by subsection (1)(a) to (d). 25
- (3) The researchers must carry out their work –
  - (a) independently of the influence of any other persons, and
  - (b) otherwise in such ways as will secure the confidence of the people of Northern Ireland in them and their work. 30
- (4) The terms of reference may –
  - (a) provide for academic research to be carried out into events and conduct before or after the Troubles, and
  - (b) make provision about criteria for identifying the kinds of events and conduct before or after the Troubles into which the academic research is to be carried out. 35
- (5) The terms of reference must require the researchers to take account of ICRIR reports in carrying out the academic research.
- (6) The terms of reference –
  - (a) must require the academic research to include the production of an analysis of patterns and themes emerging from the relevant events and conduct into which the academic research is carried out, including (in particular) an analysis of women’s and girls’ experience of those events, and 4045

- (b) may include provision about criteria for identifying the kinds of relevant events and conduct that the researchers are to take into account for the purposes of producing that analysis.
- (7) The terms of reference must require the researchers to carry out a statistical analysis of – 5
- (a) all ICRIR reports relating to a death, and
- (b) the historical record.
- (8) That analysis must, in particular, set out, to the extent possible from the ICRIR reports and historical record – 10
- (a) the number of deaths (resulting from conduct forming part of the Troubles) recorded in those reports and that record,
- (b) an overview of the biographical attributes of the deceased (including by age range and community background), and
- (c) an overview of the circumstances of the deaths (including when and where they occurred, and the involvement of any body or proscribed organisation). 15
- (9) In this section –
- “ICRIR reports” means –
- (a) the final reports published in accordance with section 16, and
- (b) any final reports of which summaries are given in accordance with section 16; 20
- “proscribed organisation” means an organisation that has been proscribed at any time under terrorism legislation in the United Kingdom;
- “relevant events and conduct” means – 25
- (a) events and conduct forming part of the Troubles, and
- (b) events and conduct before or after the Troubles;
- “researchers” means the persons carrying out the academic research into the Troubles and producing the report;
- “UKRI’s Council” means any of the Councils of United Kingdom Research and Innovation provided for by or under section 92 of the Higher Education and Research Act 2017. 30

#### 46 Annual reports

- (1) The designated persons must – 35
- (a) produce, for each reporting period, a report on the progress made in carrying out the Troubles-related work programme during the reporting period concerned (an “annual report”);
- (b) publish each annual report as soon as practicable after it is produced;
- (c) give a copy of each annual report to the Secretary of State at least two weeks before the report is published. 40
- (2) In this section “reporting period” means –
- (a) the initial period, and
- (b) each subsequent period of one year beginning immediately after the end of a reporting period.

#### **47 Carrying out the Troubles-related work programme**

- (1) When carrying out the Troubles-related work programme, the designated persons must have regard to the need to ensure that –
  - (a) there is support from different communities in Northern Ireland for the way in which that programme is carried out, and 5
  - (b) a variety of views of the Troubles is taken into account in carrying out that programme.
- (2) When carrying out the Troubles-related work programme, the designated persons must have regard to the views given to them by any advisory forum (see section 48) in accordance with the arrangements under which it is established. 10
- (3) The designated persons may make arrangements about the way in which each of them will exercise its functions to secure that the Troubles-related work programme is carried out (“operational arrangements”).
- (4) The designated persons must publish any current operational arrangements as soon as practicable after they are made or amended (or after the specified day, in the case of any operational arrangements made before that day and not already published). 15

#### **48 The advisory forum**

- (1) The designated persons must use their best endeavours to establish an advisory forum consisting of other persons. 20
- (2) In establishing an advisory forum, the designated persons must have regard to –
  - (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 (whether or not they also represent the views of other persons); 25
  - (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. 30
- (3) The duties imposed on the designated persons by subsections (1) and (2) do not apply if –
  - (a) those persons have taken the actions required by those duties before the specified day, and
  - (b) an advisory forum established by those persons in compliance with those duties is in existence immediately before the specified day. 35
- (4) The designated persons must publish any current arrangements under which any advisory forum is established (including publishing the membership of the forum) as soon as practicable after the arrangements are made or amended (or after the specified day, in the case of any arrangements made before that day and not already published). 40

#### **49 Designated persons and funding**

- (1) *The Secretary of State may, by regulations, designate a person for the purposes of this Part if the Secretary of State is satisfied that the person would make a significant*

*contribution to the performance of the functions which are imposed by sections 42, 43 and 45.*

- (2) When deciding whether to designate a person, the Secretary of State must have regard to whether the person is supported by different communities in Northern Ireland and will act independently of the influence of any other persons. 5
- (3) Regulations under this section may provide –
- (a) that a power of direction is not to be exercised to give a designated person, a member or officer of that person, or any staff assisting that person, a direction relating to functions under this Part; 10
  - (b) for the staff assisting a designated person to assist in the exercise of the person’s functions under this Part;
  - (c) that a designated person is required to perform only a particular function or an aspect of a function.
- (4) Regulations under this section are subject to negative procedure. 15
- (5) *The Secretary of State may make payments or provide other resources to, or in respect of, the designated persons in connection with the exercise of functions under this Part.*

## 50 Interpretation of this Part

- (1) In this Part –
- “designated persons” means the persons designated by the Secretary of State in regulations made under section 49; 20
  - “different communities in Northern Ireland” means communities in Northern Ireland –
    - (a) which had or have differing views on the constitutional status of Northern Ireland, or 25
    - (b) between which there was or is political or sectarian hostility;
  - “events and conduct before or after the Troubles” has the meaning given in subsection (2) to (4);
  - “initial period” means the period of one year beginning with the specified day; 30
  - “specified day” means the day specified in regulations made by the Secretary of State for the purposes of commencing the Troubles-related work programme;
  - “Troubles-related work programme” means the functions which are imposed on the designated persons by sections 42, 43 and 45. 35
- (2) “Events and conduct before or after the Troubles” means the events and conduct that related to Northern Ireland affairs and occurred –
- (a) before 1 January 1966, or
  - (b) after 10 April 1998.
- (3) That includes events and conduct at those times which were connected with – 40
- (a) preventing,
  - (b) investigating, or
  - (c) otherwise dealing with the consequences of,
- other events and conduct relating to Northern Ireland affairs.

- (4) For the purposes of this section it does not matter if an event or conduct occurred in Northern Ireland, in another part of the United Kingdom, or elsewhere.
- (5) Section 1 includes provision about the meaning of “conduct” and “Northern Ireland affairs”. 5
- (6) Where this Part requires one or more persons to publish a document, it is for the person or persons to decide the manner in which the document is to be published.

## PART 5

### FINAL PROVISIONS

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#### 51 Consequential provision

- (1) Schedule 12 amends existing legislation.
- (2) A national authority may by regulations make provision that is consequential on this Act.
- (3) In this Act “national authority” means – 15
  - (a) the Secretary of State,
  - (b) the Department of Justice in Northern Ireland, or
  - (c) the Scottish Ministers.
- (4) Regulations under subsection (2) may, in particular, amend legislation (whenever passed or made). 20
- (5) Regulations made under subsection (2) are subject to affirmative procedure if they contain any amendment of primary legislation.
- (6) Any other regulations made under subsection (2) are subject to negative procedure.
- (7) The power of the Department of Justice in Northern Ireland or the Scottish Ministers to make regulations under subsection (2) is subject to section 52(6) or (7). 25
- (8) The Secretary of State may by regulations –
  - (a) replace a reference in provision made by this Act to the commencement of a provision of this Act with a reference to the actual date on which the provision comes into force; 30
  - (b) replace a reference in provision made by this Act to a date determined by reference to the commencement of a provision of this Act with a reference to the actual date so determined;
  - (c) replace a reference in provision made by this Act to the day of the First Reading in the House of Commons of the Bill for this Act with a reference to the actual date of the First Reading; 35
  - (d) in section 33 or in any provision made by section 39 or Schedule 10 may replace a reference to the relevant day with a reference to the actual date of the relevant day, and repeal a definition of “relevant day”; 40
  - (e) in Part 4 –

- (i) replace a reference to the specified day with a reference to the actual date of the specified day and repeal the definition of “specified day”, or
- (ii) amend the definition of “specified day” so that it sets out the actual date of the specified day.

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## 52 Regulations

- (1) Regulations made under this Act by the Secretary of State are to be made by statutory instrument.
- (2) Regulations made under this Act by the Department of Justice in Northern Ireland are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Where regulations under this Act are “subject to affirmative procedure” they are to be made in accordance with the procedure set out in this table that is applicable (which depends on who makes the regulations) –

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<i>Person(s) making the regulations</i>	<i>Procedure applicable</i>	
The Secretary of State	The regulations may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament	15
The Department of Justice in Northern Ireland	The regulations may not be made unless a draft of them has been laid before, and approved by a resolution of, the Northern Ireland Assembly	20
The Scottish Ministers	The regulations are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10))	25

- (4) Where regulations under this Act are “subject to negative procedure” they are to be made in accordance with the procedure set out in this table that is applicable (which depends on who makes the regulations) –

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<i>Person(s) making the regulations</i>	<i>Procedure applicable</i>	
The Secretary of State	The statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament	35
The Department of Justice in Northern Ireland	The regulations are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)	40

<i>Person(s) making the regulations</i>	<i>Procedure applicable</i>
The Scottish Ministers	The regulations are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010

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- (5) Regulations under this Act may make –
- (a) different provision for different purposes or cases;
  - (b) incidental, supplementary or consequential provision;
  - (c) transitional or transitory provision or savings.
- (6) Regulations made by the Department of Justice in Northern Ireland under this Act may only make –
- (a) transferred provision, or
  - (b) reserved provision;
- and the regulations may not make reserved provision without the consent of the Secretary of State.
- (7) Regulations made by the Scottish Ministers under this Act 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.

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### 53 Interpretation

- (1) In this Act, each expression set out in an entry in the first column of the following table is to be read in accordance with the corresponding entry in the second column –

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<i>Expression</i>	<i>Interpretation</i>
Chief Commissioner	The Commissioner appointed under section 2(3)(a).
chief officer	This means –
	the chief constable of a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
	the Commissioner of Police of the Metropolis;
	the Commissioner of Police for the City of London;
	the chief constable of the Police Service of Scotland;
	the chief constable of the Ministry of Defence Police;
	the chief constable of the British Transport Police.

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<i>Expression</i>	<i>Interpretation</i>	
Commissioner for Investigations	The Commissioner appointed under section 2(3)(b).	
Commissioners	The members of the ICRIR appointed under section 2(3)(a), (b) and (c).	5
conduct	This has the meaning given in section 1.	
conduct forming part of the Troubles	This has the meaning given in section 1.	
connected Troubles-related offence	This has the meaning given in section 1.	10
event forming part of the Troubles	This has the meaning given in section 1.	
excepted matter	This has the meaning given by section 4(1) of the Northern Ireland Act 1998.	
final report	A report under section 15 on the findings of a review of a death or a review of other harmful conduct forming part of the Troubles.	15
GCHQ	This has the same meaning as in the Intelligence Services Act 1994.	
Her Majesty's forces	This has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).	20
historical record	This has the meaning given in section 2(4)(f).	
the ICRIR	The Independent Commission for Reconciliation and Information Recovery.	
ICRIR contractor	A person providing, or being employed in the provision of, goods or services for the purposes of the ICRIR.	25
ICRIR officers	This has the meaning given in section 3(4).	
immunity function	The function of determining whether to grant persons immunity from prosecution conferred by section 2(4)(d).	30
immunity requests panel	The panel formed in accordance with section 21.	
inspector of constabulary for Northern Ireland	An inspector of constabulary for Northern Ireland (appointed under section 41 of the Police (Northern Ireland) Act 1998).	35
legislation	Primary legislation and subordinate legislation.	



<i>Expression</i>	<i>Interpretation</i>	
national authority	This means has the meaning given in section 51(3)	
Northern Ireland affairs	This has the meaning given in section 1.	
other harmful conduct forming part of the Troubles	This has the meaning given in section 1.	5
period of operation of the ICRIR	The period beginning with the day on which section 2(4) comes into force.	
police force in Great Britain	This means – a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London); the metropolitan police force; the City of London police force; the Police Service of Scotland; the Ministry of Defence Police; the British Transport Police.	10       15
prejudicial information	Information which, if disclosed generally, would risk putting, or would put, the life or safety of any person at risk.	20
primary legislation	This means – Northern Ireland legislation (which has the meaning given in section 24(5) of the Interpretation Act 1978); an Act of Parliament; an Act of the Scottish Parliament; a Measure or Act of Senedd Cymru.	25
protected international information	Information which – (a) was supplied to any person by, or by an agency of, the government of a country or territory outside the United Kingdom, and (b) if disclosed generally might, in the opinion of the Secretary of State, damage international relations.	30   35
PSNI	The Police Service of Northern Ireland.	
relevant authority	This means –	

<i>Expression</i>	<i>Interpretation</i>	
	<p>the Chief Constable of the PSNI;</p> <p>the chief officer of a police force in Great Britain;</p> <p>the Police Ombudsman for Northern Ireland;</p> <p>the Director General of the Independent Office for Police Conduct;</p> <p>the Police Investigations and Review Commissioner;</p> <p>any Minister of the Crown (which has the same meaning as in the Ministers of the Crown Act 1975 – see section 8 of that Act);</p> <p>the Security Service;</p> <p>the Secret Intelligence Service;</p> <p>GCHQ;</p> <p>any other department of the United Kingdom government (including a non-ministerial department);</p> <p>a Northern Ireland department;</p> <p>the Scottish Ministers;</p> <p>any of Her Majesty’s forces.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p>
request for a review	A request for a review under section 9 or 10.	
reserved matter	This has the meaning given by section 4(1) of the Northern Ireland Act 1998.	
reserved provision	Provision which, if it were contained in an Act of the Northern Ireland Assembly, would require the consent of the Secretary of State under section 8(b) of the Northern Ireland Act 1998.	25
review function	The function of carrying out reviews conferred by section 2(4)(a) and (b).	30
sensitive information	<p>This means information of the following kinds.</p> <p>Information which, if disclosed generally, would risk prejudicing, or would prejudice, the national security interests of the United Kingdom.</p>	35



<i>Expression</i>	<i>Interpretation</i>
	(ii) a reference to provision dealing with a matter is to be read in accordance with section 98(2) of the Northern Ireland Act 1998.
the Troubles	This has the meaning given in section 1.
Troubles-related offence	This has the meaning given in section 1.

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- (2) A reference in this Act to the day on which a provision of this Act comes into force is, in a case where that provision comes into force at different times for different purposes, a reference to the day on which that provision comes into force for all purposes.

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#### **54 Application to the Crown**

This Act binds the Crown.

#### **55 Extent**

- (1) This Act extends to Northern Ireland, England and Wales, and Scotland.
- (2) But that is subject to subsections (3) to (5).
- (3) An amendment or repeal has the same extent as the provision amended or repealed.
- (4) Paragraph 2(2) of Schedule 10 extends to England and Wales only.
- (5) Part 4 extends to Northern Ireland only.

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#### **56 Commencement**

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- (1) The following provisions come into force on the day on which this Act is passed—
- Part 1;
  - this Part, except section 51(1) and Schedule 12.
- (2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—
- Part 3;
  - Part 2 of Schedule 12, and section 51(1) so far as it relates to that Part of that Schedule.
- (3) Otherwise, this Act comes into force on such day or days as the Secretary of State may by regulations appoint.
- (4) A national authority may by regulations make transitory, transitional or saving provision in connection with the coming into force of any provision of this Act.

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#### **57 Short title**

This Act may be cited as the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.

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## SCHEDULES

## SCHEDULE 1

Section 2

## THE ICRIR, THE COMMISSIONERS AND ICRIR OFFICERS

## PART 1

## THE ICRIR

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*Status*

- 1 The ICRIR is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

*Powers*

- 2 (1) The ICRIR may do anything that it thinks necessary or expedient in connection with the exercise of its functions. 10
- (2) In particular, the ICRIR may –
- (a) enter into contracts and other agreements (whether legally binding or not), and
- (b) acquire and dispose of property (including land). 15
- (3) But the ICRIR may not borrow money.
- (4) The ICRIR may make payments of, or payments towards the provision of, any remuneration, pensions, allowances, gratuities or compensation payable to, or in respect of –
- (a) the Commissioners, and 20
- (b) the ICRIR officers.

*Regulation and validity of proceedings*

- 3 (1) The ICRIR may regulate its own proceedings (including quorum).
- (2) The validity of any proceedings of the ICRIR is not affected by –
- (a) any vacancy in the membership of the ICRIR; 25
- (b) any defect in the appointment of any Commissioner.

*Delegation of functions and their exercise by the Commissioners*

- 4 (1) Any function of the ICRIR may be exercised on behalf of, and in the name of, the ICRIR by –
- (a) a Commissioner, or 30
- (b) an ICRIR officer,

who has been authorised (whether generally or specifically) by the ICRIR for that purpose.

- (2) Any functions conferred on a Commissioner (whether by this Act or otherwise) are to be treated as functions of the ICRIR exercisable by the Commissioner on behalf of, and in the name of, the ICRIR. 5
- (3) A function conferred on a Commissioner is to be exercisable by the ICRIR if—
- (a) there is a vacancy in the office of that Commissioner, or
  - (b) that Commissioner is unable to exercise the function.
- (4) But that does not apply to function of the Chief Commissioner as a member of the immunity requests panel (including any function as chair of the panel). 10
- (5) If a function is exercisable by the ICRIR in accordance with sub-paragraph (3), the ICRIR may make arrangements under sub-paragraph (1) relating to the exercise of the function. 15

*Seal and proof of documents*

- 5 (1) The ICRIR may have a seal.
- (2) The application of the ICRIR’s seal must be authenticated by the signature of at least one of the Commissioners
- (3) This paragraph does not prevent the ICRIR from acting otherwise than by a document under seal. 20
- (4) A document purporting to be duly executed under the seal of the ICRIR must be received in evidence and treated as so executed unless the contrary is shown.
- (5) A document purporting to be signed on behalf of the ICRIR by— 25
- (a) at least one of the Commissioners, or
  - (b) any person who is authorised (generally or specially) for that purpose,
- must be received in evidence and treated as so signed unless the contrary is shown. 30

PART 2

THE COMMISSIONERS

*Number of Commissioners*

- 6 The Secretary of State is to determine from time to time whether there are to be one, two or three other Commissioners under section 2(3)(c). 35

*Appointment*

- 7 (1) The Commissioners are to be appointed by the Secretary of State.
- (2) A person may not be appointed as a Commissioner if—
- (a) the person has been sentenced to a term of imprisonment, or given a sentence of detention, of three months or more; 40

- (b) the person is insolvent; or
  - (c) the person is disqualified from being a company director.
- (3) A person may not be appointed as the Chief Commissioner unless –
- (a) the person holds high judicial office and the Secretary of State has consulted the relevant senior judge, or 5
  - (b) the person has held a high judicial office.
- (4) A person’s current or previous appointment as a Commissioner does not prevent the person from being appointed again as a Commissioner.
- (5) But a person who has been removed from office in accordance with paragraph 11(2) to (3) may not be appointed as a Commissioner unless the person was removed because of ill health. 10
- (6) Articles 2 and 3 of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195) are to apply to the Commissioners as they apply to the offices and employments specified in Part 2 of Schedule 1 to that Order. 15
- (7) Articles 3ZA and 4ZA of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023) are to apply to the Commissioners as they apply to offices, employments and occupations specified in the provisions of Part 2 of Schedule 1 to that Order.
- (8) Articles 4 and 5 of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50) are to apply to the Commissioners as they apply to offices and employments specified in the provisions of Part 2 of Schedule 4 to that Order. 20
- (9) For the purposes of this paragraph –
- “high judicial office” means office – 25
    - (a) as a judge of a kind listed in an entry in the first column of this table, or
    - (b) as a Lord of Appeal in Ordinary;
  - “relevant senior judge”, in relation to the holder of an office listed in such an entry, means the person listed in the corresponding entry in the second column of this table – 30

<i>high judicial office</i>	<i>relevant senior judge</i>
Judge of the Supreme Court of the United Kingdom	President of the Supreme Court of the United Kingdom
Judge of the Court of Appeal in Northern Ireland	The Lord Chief Justice of Northern Ireland
Judge of the High Court in Northern Ireland	The Lord Chief Justice of Northern Ireland
Judge of the Court of Appeal in England and Wales	The Lord Chief Justice of England and Wales
Judge of the High Court in England and Wales	The Lord Chief Justice of England and Wales

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<i>high judicial office</i>	<i>relevant senior judge</i>
Judge of the Court of Session	The Lord President of the Court of Session

*Person holding public elected position not to be a Commissioner*

- 8 (1) A person who holds a relevant office may not be appointed as a Commissioner. 5
- (2) A person ceases to be a Commissioner if the person begins to hold a relevant office.
- (3) A reference in this Schedule to a person who holds a relevant office is a reference to a person who is – 10
- (a) a member of the Northern Ireland Assembly;
  - (b) a councillor (within the meaning of the Local Government Act (Northern Ireland) 2014 – see section 126(1) of that Act);
  - (c) a Member of Parliament;
  - (d) a member of a council established under – 15
    - (i) section 2 of the Local Government Act 1972 (councils in England outside London), or
    - (ii) paragraph 1(2) of Schedule 2 to that Act (London borough councils);
  - (e) a member of the Common Council of the City of London; 20
  - (f) a member of a council established under section 21 of the Local Government Act 1972 (councils in Wales);
  - (g) a member of the Scottish Parliament;
  - (h) a councillor of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; 25
  - (i) a member of the Dáil Éireann (House of Representatives of Ireland);
  - (j) a member of the Seanad Éireann (Senate of Ireland);
  - (k) a member of a city council, county council or city and county council in Ireland;
  - (l) a member of the European Parliament from any member State. 30

*Terms of appointment of Commissioners*

- 9 (1) The appointment of a person as a Commissioner –
- (a) begins with the day determined by the Secretary of State, and
  - (b) continues unless and until the person resigns in accordance with paragraph 11(1) or (3). 35
- (2) The other terms of a person’s appointment as a Commissioner are to be determined by the Secretary of State.
- (3) The Secretary of State may pay a person compensation on ceasing to be a Commissioner if it appears to the Secretary of State that there are special circumstances which make it right for the person to receive the compensation. 40



*Conflicts of interest*

- 10 (1) The Secretary of State may require –
- (a) a Commissioner, or
  - (b) a person who is being considered for appointment as a Commissioner,
- 5
- to provide the Secretary of State with information about any relevant matter.
- (2) In this paragraph “relevant matter” means any matter which might reasonably be expected to –
- (a) give rise to a conflict of interest in respect of a person’s work as a Commissioner, or
  - (b) otherwise affect a person’s ability to carry out the work as a Commissioner fairly and impartially.
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*Resignation and removal of Commissioners*

- 11 (1) A person ceases to be a Commissioner if the person gives the Secretary of State written notice of resignation.
- 15
- (2) The Secretary of State may call on a Commissioner to resign –
- (a) if the Commissioner is convicted of an offence and sentenced to a term of imprisonment;
  - (b) if the Commissioner is insolvent; or
  - (c) if the Commissioner is disqualified from being a company director.
- 20
- (3) If the Secretary of State calls on a Commissioner to resign, the Commissioner must resign –
- (a) on the date specified by the Secretary of State, or
  - (b) on any earlier date which the Commissioner agrees with the Secretary of State.
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- (4) For the purposes of this paragraph a person is “insolvent” if –
- (a) the person has become bankrupt or is an undischarged bankrupt;
  - (b) the person has become the subject of a bankruptcy restrictions order;
  - (c) a debt relief order or a debt relief restrictions order has been made in respect of the person;
  - (d) the person has made a composition or arrangement with his or her creditors, or granted a trust deed for, his or her creditors;
  - (e) under the law of Scotland, the person’s estate has been sequestrated and the person has not been discharged.
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- (5) For the purposes of this paragraph a person is “disqualified from being a company director” if the person is subject to –
- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002,
  - (b) any order, undertaking or other provision under the law of England and Wales or Scotland that has a corresponding effect,
  - (c) an order under Article 86(1) of the Judgments Enforcement (Northern Ireland) Order 1981, or
  - (d) any order, undertaking or other provision under the law of England and Wales or Scotland that has a corresponding effect.
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PART 3

THE CHIEF COMMISSIONER

*Delegation of functions*

- 12 (1) The Chief Commissioner may authorise – 5
- (a) any other Commissioner, or
- (b) any ICRIR officer,
- to do any act which the Chief Commissioner may do.
- (2) But that does not apply to any act to be done by the Chief Commissioner as a member of the immunity requests panel (including any to be done as chair of the panel). 10
- (3) An authorisation under this paragraph may be given generally or specially.

PART 4

THE COMMISSIONER FOR INVESTIGATIONS

*Delegation of functions*

- 13 (1) The Commissioner for Investigations may authorise – 15
- (a) any other Commissioner, or
- (b) any ICRIR officer,
- to do any act which the Commissioner for Investigations may do.
- (2) But no authorisation under sub-paragraph (1) may be given in relation to any function of the Commissioner for Investigations under section 6(2). 20
- (3) An authorisation under this paragraph may be given generally or specially.

*No limitation on trade union activity*

- 14 The Commissioner for Investigations is not to be regarded as in police service for the purposes of –
- (a) Article 145 of the Trade Union and Labour Relations (Northern Ireland) Order 1995; 25
- (b) Article 243 of the Employment Rights (Northern Ireland) Order 1996;
- (c) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992; or
- (d) section 200 of the Employment Rights Act 1996. 30

PART 5

ICRIR OFFICERS

*Employed ICRIR officers*

- 15 The ICRIR is to determine – 35
- (a) the number of employed ICRIR officers; and
- (b) the terms of their employment.

*Seconded ICRIR officers*

- 16 (1) Seconded ICRIR officers are under the direction and control of the ICRIR in the same way as employed ICRIR officers.
- (2) In the case of the secondment of a member of a police force to be a seconded ICRIR officer – 5
- (a) arrangements for the secondment are to be made with the chief officer of that police force; and
- (b) the arrangements must provide for the ICRIR to pay the policing body responsible for that police force the amount that is specified in, or determined in accordance with, the arrangements. 10
- (3) If a seconded ICRIR officer is a constable in any police force, the powers and privileges which that person has by virtue of being a constable are not exercisable in Northern Ireland –
- (a) from the time when the person becomes an ICRIR officer;
- (b) but are revived if the person – 15
- (i) ceases to be an ICRIR officer, and
- (ii) returns to service as a constable.
- (4) Sub-paragraph (3) ceases to apply to a person who resigns from, or otherwise ceases to hold, the office of constable.
- (5) Service as a seconded ICRIR officer is – 20
- (a) relevant service for the purposes of section 27 of the Police (Northern Ireland) Act 1998 (members of the PSNI engaged on other police service), if the person seconded is a member of the PSNI,
- (b) relevant service for the purposes of section 97 of the Police Act 1996 (police officers engaged on service outside their force), if the person seconded is a member of a police force as defined in section 101 of that Act), and 25
- (c) temporary service outwith the Police Service of Scotland under section 15(1) of the Police and Fire Reform (Scotland) Act 2012 (asp 8), if the person seconded is a constable in the Police Service of Scotland. 30
- (6) If a member of the PSNI is a seconded ICRIR officer, the application of –
- (a) section 35 of the Police (Northern Ireland) Act 1998, or
- (b) any provision under the law of England and Wales or Scotland that has a corresponding effect, 35
- to the person does not affect the person’s ability, as an ICRIR officer, to be a member of any trade union or association.
- (7) In this paragraph –
- “chief officer” means –
- (a) the Chief Constable of the PSNI, in the case of the secondment of a member of the PSNI, or 40
- (b) the chief officer of a police force in Great Britain, in the case of the secondment of a member of the force;
- “police force” means –
- (a) the PSNI, or 45
- (b) a police force in Great Britain;
- “policing body responsible for” a police force means –

- (a) in the case of the PSNI, the Northern Ireland Policing Board;
- (b) in the case of a police force maintained under section 2 of the Police Act 1996, the Police and Crime Commissioner for the police area for which that force is maintained;
- (c) in the case of the metropolitan police force, the Mayor’s Office for Policing and Crime; 5
- (d) in the case of the City of London police force, the Common Council of the City of London as police authority for the City of London police area;
- (e) in the case of the Police Service of Scotland, the Scottish Police Authority; 10
- (f) in the case of the Ministry of Defence Police, the Secretary of State;
- (g) in the case of the British Transport Police, the British Transport Police Authority. 15

*Persons holding public elected positions not to be ICRIR officers*

- 17 (1) A person who holds a relevant office may not become an ICRIR officer.
- (2) A person ceases to be an ICRIR officer if the person begins to hold a relevant office.
- (3) For the meaning of references in this paragraph to holding a relevant office, see paragraph 8(3). 20
- (4) This paragraph does not apply to the Commissioner for Investigations (instead see paragraph 8).

*Rehabilitation of offenders*

- 18 (1) Articles 2 and 3 of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195) apply to ICRIR officers as they apply to the offices and employments specified in Part 2 of Schedule 1 to that Order. 25
- (2) Articles 3ZA and 4ZA of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023) apply to ICRIR officers as they apply to offices, employments and occupations specified in the provisions of Part 2 of Schedule 1 to that Order. 30
- (3) Articles 4 and 5 of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50) apply to the Commissioners as they apply to offices and employments specified in the provisions of Part 2 of Schedule 4 to that Order. 35

*Liability for unlawful conduct*

- 19 (1) The ICRIR may, in such cases and to such extent as appear to the ICRIR to be appropriate, pay –
  - (a) any damages, or any costs or, in Scotland, expenses, awarded against an ICRIR officer in proceedings for any unlawful conduct of that ICRIR officer; 40
  - (b) any costs or, in Scotland, expenses incurred and not recovered by an ICRIR officer in such proceedings; and

- (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (2) The ICRIR may make arrangements for the legal representation of any ICRIR officer in any proceedings mentioned in sub-paragraph (1).
- (3) The Employers’ Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972, and any provision under the law of England and Wales or Scotland that has a corresponding effect, does not require insurance to be effected by the ICRIR. 5
- (4) The ICRIR is liable for the unlawful conduct of a person which occurs when the person is acting, or purporting to act, as a seconded ICRIR officer in the same manner as an employer is liable in respect of unlawful conduct of employees in the course of their employment. 10
- (5) If the unlawful conduct is a tort, the ICRIR is accordingly to be treated as a joint tortfeasor.
- No limitation on trade union activity* 15
- 20 An ICRIR officer is not to be regarded as in police service for the purposes of –
- (a) Article 145 of the Trade Union and Labour Relations (Northern Ireland) Order 1995;
- (b) Article 243 of the Employment Rights (Northern Ireland) Order 1996; 20
- (c) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992; or
- (d) section 200 of the Employment Rights Act 1996.

*Meaning of “employed” and “seconded” ICRIR officer*

- 21 In this Part – 25
- “employed ICRIR officer” means a person employed as an ICRIR officer under section 3(1);
- “seconded ICRIR officer” means a person seconded as an ICRIR officer under section 3(2).

SCHEDULE 2

Section 6 30

OPERATIONAL POWERS OF ICRIR OFFICERS

*Designations and designated ICRIR officers*

- 1 In this Schedule –
- “designated” means designated under section 6(1) or (2) (and “designation” is to be read accordingly); 35
- “designated ICRIR officer” means an ICRIR officer who is designated;
- “operational powers” means the powers and privileges which a designated ICRIR officer has by virtue of a designation;
- “powers and privileges of an English and Welsh constable” means the powers and privileges of a constable if, and to the extent that, they 40

are exercisable in England and Wales or the adjacent United Kingdom waters;

“powers and privileges of a Northern Ireland constable” means the powers and privileges of a constable if, and to the extent that, they are exercisable in Northern Ireland or the adjacent United Kingdom waters; 5

“powers and privileges of a Scottish constable” means the powers and privileges of a constable if, and to the extent that, they are exercisable in Scotland or the adjacent United Kingdom waters;

“United Kingdom waters” means the sea and other waters within the seaward limits of the territorial sea. 10

### *Effect of designation*

- 2 (1) A designated ICRIR officer has –
- (a) in Northern Ireland and the adjacent United Kingdom waters, all the powers and privileges of a Northern Ireland constable; 15
  - (b) in England and Wales and the adjacent United Kingdom waters, all the powers and privileges of an English and Welsh constable;
  - (c) in Scotland and the adjacent United Kingdom waters, all the powers and privileges of a Scottish constable.
- (2) But that is subject to – 20
- (a) section 6(3), and
  - (b) paragraphs 3 and 4.

### *Exercise of the powers and privileges of a Scottish constable*

- 3 (1) A designated ICRIR officer may only exercise the powers and privileges of a Scottish constable in one or other of the following cases. 25
- (2) The first case is where –
- (a) a Scottish general authorisation is in force, and
  - (b) the powers and privileges are exercised in accordance with that authorisation.
- (3) The second case is where – 30
- (a) a Scottish operational authorisation is in force in relation to a particular operation, and
  - (b) the powers and privileges are exercised – 35
    - (i) in connection with that operation, and
    - (ii) in accordance with that authorisation.
- (4) In this paragraph –
- “Scottish general authorisation” means an agreement between –
- (a) the Commissioner for Investigations, and
  - (b) the Scottish Ministers,
- about the exercise of the powers and privileges of Scottish constables by designated ICRIR officers; 40
- “Scottish operational authorisation” means an agreement between –
- (a) the Commissioner for Investigations, and
  - (b) an officer in the Police Service of Scotland who is at or above the rank of Assistant Chief Constable, 45

about the exercise of the powers and privileges of Scottish constables by designated ICRIR officers in connection with a particular operation.

*Limitations*

- 4 (1) A designation may be made subject to any limitations specified in the designation. 5
- (2) In particular, a designation may include –
- (a) limitations on which operational powers the designated ICRIR officer has;
  - (b) limitations on the purposes for which the designated ICRIR officer may exercise operational powers which that person has. 10
- (3) This paragraph does not apply to the designation of the Commissioner for Investigations under section 6(1).

*Duration of designation*

- 5 (1) A designation has effect without limitation of time, unless the designation specifies a period for which it is to have effect. 15
- (2) But that is subject to any modification or withdrawal of the designation.
- (3) This paragraph does not apply to the designation of the Commissioner for Investigations under section 6(1).

*Evidence of designation* 20

- 6 (1) A designated ICRIR officer must produce evidence of the designation if –
- (a) that ICRIR officer exercises, or purports to exercise, any operational power in relation to another person in reliance on the designation, and
  - (b) the other person requests that ICRIR officer to produce such evidence. 25
- (2) If the designated ICRIR officer fails to produce such evidence, that failure does not make the exercise of the operational power invalid.

*Territorial restrictions*

- 7 Any power or privilege of a constable is, when exercisable by a designated ICRIR officer, subject to any territorial restrictions on its exercise to which it is subject when exercisable by a constable. 30

*Powers exercisable under warrant*

- 8 (1) This paragraph applies to legislation if it provides for the issuing of warrants which authorise a constable to exercise any power or privilege of a constable. 35
- (2) For the purpose of enabling a designated ICRIR officer to exercise that power or privilege, the legislation has effect as if the designated ICRIR officer were a constable.

*Direction and control of ICRIR officers exercising powers in Scotland*

- 9 The ICRIR must ensure that any instruction given by the Lord Advocate or procurator fiscal in relation to the investigation of offences is complied with when designated ICRIR officers are exercising the powers and privileges of Scottish constables. 5

*Modification of references*

- 10 If a power or privilege of a constable is exercisable by any ICRIR officer, a reference to a constable in any legislation which relates to that power or privilege is to be taken to be, or to include, a reference to any ICRIR officer by whom that power or privilege is exercisable. 10

*Assaulting a designated ICRIR officer*

- 11 (1) Any person who assaults –
- (a) a designated ICRIR officer in the execution of that ICRIR officer’s duty, or
  - (b) a person assisting a designated ICRIR officer in the execution of that ICRIR officer’s duty,
- is guilty of an offence. 15
- (2) A person guilty of an offence under this paragraph is liable –
- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 2 years or to a fine, or to both. 20
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both; 25
  - (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.
- (3) In this paragraph, the references to the execution of the duty of a designated ICRIR officer are references to – 30
- (a) the exercise of a power or privilege conferred by the designation of the ICRIR officer;
  - (b) the performance of a duty imposed by the designation of the ICRIR officer. 35

*Resisting, obstructing or impeding a designated ICRIR officer*

- 12 (1) Any person who resists, obstructs or impedes –
- (a) a designated ICRIR officer in the execution of that ICRIR officer’s duty, or
  - (b) a person assisting a designated ICRIR officer in the execution of that ICRIR officer’s duty,
- is guilty of an offence. 40
- (2) A person guilty of an offence under this paragraph is liable –



- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 2 years or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; 5
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 3 on the standard scale, or to both;
  - (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both. 10
- (3) In this paragraph, the references to the execution of the duty of a designated ICRIR officer are references to –
- (a) the exercise of a power or privilege conferred by the designation of the ICRIR officer; 15
  - (b) the performance of a duty imposed by the designation of the ICRIR officer.
- (4) In relation to an offence committed before the commencement of section 280(2) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in sub-paragraph (2)(c) to 51 weeks is to be read as a reference to one month. 20

*Impersonating a designated ICRIR officer*

- 13 (1) Any person (P) who, with intent to deceive –
- (a) impersonates a designated ICRIR officer,
  - (b) makes any statement or does any act calculated falsely to suggest that P is a designated ICRIR officer, or 25
  - (c) makes any statement or does any act calculated falsely to suggest that P has powers as a designated ICRIR officer that exceed the powers that P actually has,
- is guilty of an offence. 30
- (2) A person guilty of an offence under this paragraph is liable –
- (a) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum, or to both; 35
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both;
  - (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 4 on the standard scale. 40

*Regulations*

- 14 (1) The power of a national authority under section 51(2) to make consequential provision includes power to make such provision as the appropriate authority considers appropriate in consequence of – 45
- (a) designated ICRIR officers, or

- (b) a description of designated ICRIR officers, having the powers and privileges of constables in accordance with this Schedule.
- (2) That provision may (in particular) –
- (a) provide for designated ICRIR officers to benefit from exemptions or other protection in respect of the exercise of operational powers; 5
  - (b) provide for the disclosure of information to, or the doing of other things in relation to, designated ICRIR officers;
  - (c) confer functions on ICRIR officers or any other person;
  - (d) provide for a class of ICRIR officers (whether identified by reference to a grade or pay scale or otherwise) to be treated as the equivalent of one or more ranks of the PSNI; 10
  - (e) apply (with or without modifications) any legislation or description of legislation.

## SCHEDULE 3

Section 9

15

## FAMILY MEMBERS

## PART 1

## CLOSE FAMILY MEMBERS

*Meaning of “close family member”*

- 1 (1) This Part of this Schedule applies for the purposes of – 20
- (a) section 9, and
  - (b) Part 2 of this Schedule,
- to determine whether one person (F) is a close family member of another person (D).
- (2) F is a close family member of D if F – 25
- (a) was the spouse, civil partner or co-habitee of D on the day of D’s death,
  - (b) is a child of D,
  - (c) is a parent of D,
  - (d) is a brother or sister of D, 30
  - (e) is a step-child of D,
  - (f) was a step-parent of D on the day of D’s death or is a step-parent of D on the day on which the request for the relevant review is made,
  - (g) is a half-brother or half-sister of D, or
  - (h) is a step-brother or step-sister of D. 35
- (3) Paragraphs 2 to 5 set out the meanings of “co-habitee”, “step-child”, “step-parent”, “step-brother” and “step-sister” for the purposes of this paragraph.
- (4) In this paragraph “relevant review” means –
- (a) the review for which a request is made (where this Part of this Schedule applies for the purposes of section 9), or 40

- (b) the review to which the final report relates (where this Part of this Schedule applies for the purposes of Part 2 of this Schedule).

*Co-habitee*

- 2 F was the “co-habitee” of D on the day of D’s death if—
  - (a) on that day F was living in the same household as D in a relationship with D corresponding to marriage or to civil partnership, and 5
  - (b) F had been doing so for a period of at least two years ending with that day.

*Step-child*

- 3 F is a “step-child” of D if F is a child of a person—
  - (a) who was the spouse, civil partner or co-habitee of D on the day of D’s death, or 10
  - (b) who had ceased to be the spouse, civil partner or co-habitee of D on any day within the period of two years ending with the day of D’s death. 15

*Step-parent*

- 4 F was, or is, a “step-parent” of D on a particular day if F—
  - (a) was, or is, the spouse, civil partner or co-habitee of a parent of D on that day, or
  - (b) had ceased to be the spouse, civil partner or co-habitee of a parent of D on any day within the period of two years ending with that day. 20

*Step-brother or step-sister*

- 5 F is the “step-brother” or “step-sister” of D if F is a child of a person—
  - (a) who was the spouse, civil partner or co-habitee of a parent of D on day of D’s death, or 25
  - (b) who had ceased to be the spouse, partner or co-habitee of a parent of D on any day within the period of two years ending with the day of D’s death.

*Interpretation*

- 6 For the purposes of paragraph 3, 4 or 5, one person (A) is, or was, the co-habitee of another person (B) at a particular time if—
  - (a) at that time A is, or was, living in the same household as B in a relationship with B corresponding to marriage or to civil partnership, and
  - (b) A has been, or had been, doing so for a period of at least two years ending with that day. 35

PART 2

RELEVANT FAMILY MEMBERS

*Meaning of “relevant family member”*

- 7 (1) This Part of this Schedule applies for the purposes of section 15 or 16 to determine whether one person (F) is a relevant family member of another person (D) who is— 5
- (a) in the case of a review of a death—
    - (i) the person to whose death the review relates,
    - (ii) another person killed in the relevant event, or
    - (iii) a person who suffered serious physical or mental harm in the relevant event and who has subsequently died; or 10
  - (b) in the case of a review of other harmful conduct—
    - (i) a person killed in the relevant event, or
    - (ii) a person who suffered serious physical or mental harm in the relevant event and who has subsequently died. 15
- (2) F is a relevant family member of D if—
- (a) F is a close family member of D whom the ICRIR has identified after taking such steps as the ICRIR considers reasonable, or
  - (b) in a case where no close family members have been identified after taking such steps, F is another member of the family of D whom the ICRIR— 20
    - (i) has identified after taking such steps as the ICRIR considers reasonable, and
    - (ii) considers it appropriate to be given the opportunity to make representations under section 15(4) or (5) or section 16(4). 25
- (3) In this paragraph “relevant event” has the same meaning as in section 15 or 16.

SCHEDULE 4

Section 14

SUPPLY OF INFORMATION: ENFORCEMENT

PART 1 30

FAILURE TO COMPLY WITH A NOTICE

*Penalty for failure to comply*

- 1 (1) The ICRIR may require a person to pay a penalty if the ICRIR is satisfied, on a balance of probabilities, that the person— 35
- (a) has failed to do anything that the person is required to do by a notice under section 14, and
  - (b) does not have a reasonable excuse for the failure.
- (2) A penalty—
- (a) may not exceed £1,000;
  - (b) is payable to the ICRIR on demand. 40

*Notification of penalty decision*

- 2 (1) If the ICRIR decides to require a person to pay a penalty under this Part of this Schedule, the ICRIR must give the person a penalty notice.
- (2) A penalty notice must –
- (a) be in writing, 5
  - (b) state the ICRIR’s reasons for deciding to require the person to pay a penalty,
  - (c) state the amount of the penalty,
  - (d) specify the date on which it is given,
  - (e) specify the date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid, 10
  - (f) specify how a penalty must be paid,
  - (g) include an explanation of the steps that the person may take if the person objects to the penalty (including specifying the manner and form in which any notice of objection must be given to the ICRIR), and 15
  - (h) include an explanation of the steps the ICRIR may take to recover any unpaid penalty.

*Objection to penalty decision* 20

- 3 (1) The recipient of a penalty notice (the “recipient”) may object to the penalty notice by giving a notice of objection to the ICRIR.
- (2) A notice of objection must –
- (a) be in writing,
  - (b) give the reasons for the objection, 25
  - (c) be given to the ICRIR in the manner and form specified in the penalty notice, and
  - (d) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given.
- (3) Where the ICRIR receives a notice of objection, the ICRIR must consider it and – 30
- (a) cancel the penalty,
  - (b) reduce the penalty,
  - (c) increase the penalty, or
  - (d) determine not to alter the penalty. 35
- (4) After deciding how to proceed under sub-paragraph (3), the ICRIR must notify the recipient of the decision in writing.
- (5) A notification under sub-paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as the ICRIR may agree with the recipient. 40
- (6) A notification under sub-paragraph (4), other than one notifying the recipient that the ICRIR has decided to cancel the penalty, must –
- (a) state the amount of the penalty following the ICRIR’s consideration of the notice of objection, 45

- (b) state the ICRIR’s reasons for the decision under sub-paragraph (3),
- (c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid,
- (d) specify how the penalty must be paid,
- (e) include an explanation of the recipient’s rights of appeal, and 5
- (f) include an explanation of the steps the ICRIR may take to recover any unpaid penalty.

### *Appeals*

- 4 (1) A person (the “appellant”) may appeal to the court against a decision to require the person to pay a penalty under this Part of this Schedule. 10
- (2) An appeal may be brought only if the appellant has given a notice of objection and the ICRIR has reduced, increased, or determined not to alter the penalty under paragraph 3(3).
- (3) An appeal must be brought within the period of 28 days beginning with the date on which the person is notified of the ICRIR’s decision on the notice of objection under paragraph 3(4). 15
- (4) On appeal, the court may –
- (a) allow the appeal and cancel the penalty,
  - (b) allow the appeal and reduce the penalty, or
  - (c) dismiss the appeal. 20
- (5) An appeal –
- (a) is to be a re-hearing of the ICRIR’s decision to impose a penalty, and
  - (b) may be determined having regard to matters of which the ICRIR was unaware.
- (6) Sub-paragraph (5)(a) has effect despite any provision of rules of court. 25
- (7) In this regulation, a reference to “the court” is a reference –
- (a) in Northern Ireland, to a county court,
  - (b) in England and Wales, to the county court, and
  - (c) in Scotland, to a sheriff.

### *Enforcement of penalty* 30

- 5 (1) This paragraph applies where a sum is payable to the ICRIR as a penalty under this Part of this Schedule.
- (2) In England and Wales, the penalty is recoverable as if it were payable under an order of the county court in England and Wales.
- (3) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland. 35
- (4) In Northern Ireland, the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.
- (5) Where action is taken under this paragraph for the recovery of a sum payable as a penalty under this Part of this Schedule, the penalty is – 40

- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
  - (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order. 5
- (6) The ICRIIR must pay into the Consolidated Fund any penalty paid or recovered under this Part of this Schedule. 10

*Giving of notices*

- 6 (1) The ICRIIR may give a notice to any person by –
- (a) handing it to them,
  - (b) leaving it at their proper address, or
  - (c) sending it by post to that address. 15
- (2) A person’s proper address for the purposes of sub-paragraph (1) is –
- (a) where that person is a body corporate, the address of its registered office or principal office;
  - (b) where that person is a partnership or an unincorporated association or body, the address of its principal office; 20
  - (c) in any other case, that person’s last known address.

*Interpretation*

- 7 In this Part of this Schedule –
- “notice of objection” means a notice given under paragraph 3(1);
  - “penalty notice” means a notice given under paragraph 2(1). 25

PART 2

DISTORTION OR SUPPRESSION OF EVIDENCE ETC

*Distorting evidence etc*

- 8 (1) A person is guilty of an offence if the person does anything that is intended to have the effect of – 30
- (a) distorting or otherwise altering any evidence, document or other thing that is produced or provided to the Commissioner for Investigations in accordance with a notice under section 14, or
  - (b) preventing any evidence, document or other thing from being produced or provided to the Commissioner for Investigations in accordance with a notice under section 14. 35
- (2) A person is guilty of an offence if the person does anything that the person knows or believes is likely to have the effect described in sub-paragraph (1)(a) or (b).

*Suppression of evidence etc* 40

- 9 (1) A person is guilty of an offence if the person –

- (a) intentionally suppresses or conceals, or  
 (b) intentionally alters or destroys,  
 a document that is, and that the person knows or believes to be, a relevant document.
- (2) For that purpose a document is a “relevant document” if it is likely that the Commissioner for Investigations would (if aware of its existence) wish to be provided with it. 5

*Institution of proceedings*

- 10 Proceedings for an offence under paragraph 8 or 9 may be instituted—
- (a) in England and Wales, only by or with the consent of the Director of Public Prosecutions; 10
- (b) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

*Penalties*

- 11 (1) A person who is guilty of an offence under this Part of this Schedule is liable on summary conviction to a fine not exceeding level three on the standard scale or to imprisonment for a term not exceeding the relevant maximum, or to both. 15
- (2) In this Part of this Schedule “relevant maximum” means—
- (a) in Northern Ireland, six months; 20
- (b) in England and Wales, 51 weeks;
- (c) in Scotland, 12 months.
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in sub-paragraph (2)(b) to 51 weeks is to be read as a reference to six months. 25

SCHEDULE 5

Section 25

PERMITTED DISCLOSURES OF INFORMATION

PART 1

DISCLOSURES THAT ARE “PERMITTED” 30

*Introduction*

- 1 Paragraphs 2 to 5 set out which disclosures of information are “permitted” for the purposes of section 25(3).

*Disclosure of any information to the Secretary of State*

- 2 A disclosure of any information by the ICRIR to the Secretary of State is permitted. 35



*Disclosure of sensitive information to certain recipients*

- 3 (1) A disclosure of sensitive information by the ICRIR to a person listed in sub-paragraph (2) is permitted if –
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and 5
  - (b) the disclosure is made after the end of the relevant 10 day period.
- (2) The persons to whom a disclosure is permitted under this paragraph are –
- (a) the Director of Public Prosecutions for Northern Ireland;
  - (b) the Director of Public Prosecutions;
  - (c) the Lord Advocate; 10
  - (d) a member of the PSNI;
  - (e) a member of a police force in Great Britain;
  - (f) a coroner in Northern Ireland or England and Wales who is –
    - (i) a judge of the High Court in Northern Ireland,
    - (ii) a judge of the High Court in England and Wales, 15
    - (iii) a county court judge in Northern Ireland, or
    - (iv) a Circuit judge in England and Wales;
  - (g) a sheriff in Scotland, if the disclosure is made in respect of an inquiry into a death being, or to be, held under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2). 20
- (3) In this paragraph “relevant 10 day period” (in relation to a proposed disclosure notified to the Secretary of State) means the period of ten working days beginning with the day on which notification of the proposed disclosure is given under sub-paragraph (1).
- (4) For that purpose “working day” means any day other than – 25
- (a) a Saturday or a Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

*Disclosure of sensitive information notified in advance to the Secretary of State* 30

- 4 (1) A disclosure of sensitive information by the ICRIR is permitted if –
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and
  - (b) the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is permitted. 35
- (2) The Secretary of State must respond to a notification by the Commissioner for Investigations under this paragraph within the relevant decision period, by notifying that Commissioner that the proposed disclosure either –
- (a) is permitted, or
  - (b) is prohibited. 40
- (3) But the Secretary of State may notify the Commissioner for Investigations that the proposed disclosure is prohibited only if, in the Secretary of State’s view, the disclosure of the sensitive information would risk prejudicing, or would prejudice, the national security interests of the United Kingdom.

- (4) If the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is prohibited –
- (a) the Secretary of State must consider whether reasons for prohibiting it can be given without disclosing information which would risk prejudicing, or would prejudice, the national security interests of the United Kingdom; and
  - (b) if they can be given, the Secretary of State must give those reasons to the Commissioner for Investigations.

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

- 5 (1) A disclosure of protected international information by the ICRIR is permitted if –
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and
  - (b) the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is permitted.
- (2) The Secretary of State must respond to a notification by the Commissioner for Investigations under this paragraph within the relevant decision period, by notifying that Commissioner that the proposed disclosure either –
- (a) is permitted, or
  - (b) is prohibited.
- (3) But the Secretary of State may notify the Commissioner for Investigations that the proposed disclosure is prohibited only if, in the Secretary of State’s view, the disclosure of the protected international information would, or would be likely to, damage international relations.

*The “relevant decision period”*

- 6 (1) In paragraph 4 or 5 “relevant decision period” (in relation to a proposed disclosure notified to the Secretary of State) means –
- (a) the period of 60 days beginning with the day on which the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, or
  - (b) any reasonable longer period which the Secretary of State specifies, in notice given to the Commissioner for Investigations during that 60 day period, as the period which the Secretary of State wishes to take in order to make a decision whether to permit or prohibit the proposed disclosure.
- (2) But if the court directs the Secretary of State to remake a decision –
- (a) on an appeal under paragraph 9, or
  - (b) on any further appeal,
- “relevant decision period” means the period for remaking that decision in compliance with that direction.

PART 2

DECISIONS TO PROHIBIT DISCLOSURES OF SENSITIVE INFORMATION IN FINAL REPORTS

*Application of this Part*

- 7 This Part of this Schedule applies if –
- (a) it was proposed to disclose sensitive information in a final report (the “proposed disclosure”), 5
  - (b) the Commissioner for Investigations notified the Secretary of State of the proposed disclosure in accordance with paragraph 4(1)(a), and
  - (c) the Secretary of State decided to prohibit the proposed disclosure in the final report (the “affected report”). 10

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

- 8 (1) The affected report must include a statement that the Secretary of State decided to prohibit the proposed disclosure.
- (2) The statement must also set out any reasons for prohibiting the disclosure which the Secretary of State gives in accordance with paragraph 4(4). 15
- (3) In a case where –
- (a) the affected report includes a statement relating to the proposed disclosure in accordance with this paragraph,
  - (b) an initial appeal is brought against the Secretary of State’s decision not to permit the proposed disclosure, and 20
  - (c) the Secretary of State remakes the decision in accordance with a direction given by the court,
- a new final report relating to the death or other Troubles-related circumstances must be produced in accordance with section 15.

*Initial appeals* 25

- 9 (1) In this Part of this Schedule “initial appeal” means an appeal to the relevant court against the Secretary of State’s decision not to permit the proposed disclosure in the affected report.
- (2) The function of the relevant court on an initial appeal is to review the Secretary of State’s decision not to permit the proposed disclosure. 30
- (3) In determining an initial appeal, the relevant court must apply the principles applicable on an application for judicial review or, in Scotland, an application to the supervisory jurisdiction of the Court of Session.
- (4) On an initial appeal –
- (a) the court has the power to quash the Secretary of State’s decision; 35
  - (b) if the court quashes the decision, it must direct the Secretary of State to remake the decision within –
- (i) the period of 60 days beginning with the day on which the court gives the direction, or
  - (ii) any reasonable longer period which the court specifies (after considering any representations made by a party to the proceedings). 40

- (5) If the court does not exercise that power to quash the decision, it must dismiss the appeal.

*Bringing an initial appeal*

- 10 (1) An initial appeal may be brought by –
- (a) the person who requested the review to which the affected report relates, or 5
  - (b) a person who would be eligible to request a review (see paragraph 13(3)).
- (2) An initial appeal must be brought within the period of 28 days beginning with the day on which the affected report is published under section 15. 10

*Further appeal against an initial appeal*

- 11 (1) This paragraph applies if the relevant court has determined an initial appeal.
- (2) The person who brought the initial appeal may bring an appeal in the appeal court against the determination of the initial appeal (a “further appeal”).
- (3) But that person may bring the further appeal only with the leave of – 15
- (a) the relevant court which determined the initial appeal, or
  - (b) the appeal court.
- (4) The court may not give such leave unless satisfied that –
- (a) the further appeal would raise some important point of principle or practice, or 20
  - (b) there is some other compelling reason for the further appeal to be heard.

*Application of the Justice and Security Act 2013*

- 12 (1) Any proceedings on an initial appeal or a further appeal (including any proceedings before the Supreme Court) are to be treated as section 6 proceedings (within the meaning of the JSA 2013) for the purposes of sections 8 to 14 of the JSA 2013. 25
- (2) Sections 8 to 14 of the JSA 2013 apply in relation to proceedings treated as section 6 proceedings by sub-paragraph (1) as if –
- (a) the Secretary of State were the relevant person, and 30
  - (b) the references to the interests of national security in sections 8, 11 and 13 of the JSA 2013 were references to the interests of national security or the interests of the international relations of the United Kingdom.
- (3) But sections 8 to 14 of the JSA 2013, and rules of court relating to section 6 proceedings, do not prevent an appeal under this paragraph from being considered in the presence of – 35
- (a) the Commissioner for Investigations,
  - (b) another ICRIR officer nominated by the Commissioner for Investigations, or
  - (c) a legal representative of the ICRIR. 40

*Interpretation*

- 13 (1) In this Part of this Schedule –
- “affected report” has the meaning given in paragraph 7(c);
  - “appeal court” means –
    - (a) the Court of Appeal of Northern Ireland, 5
    - (b) the Court of Appeal of England and Wales, or
    - (c) the Inner House of the Court of Session;
  - “further appeal” has the meaning given in paragraph 11;
  - “initial appeal” has the meaning given in paragraph 9;
  - “JSA 2013” means the Justice and Security Act 2013; 10
  - “proposed disclosure” has the meaning given in paragraph 7(a);
  - “relevant court” means –
    - (a) the High Court of Northern Ireland,
    - (b) the High Court of England and Wales, or
    - (c) the Outer House of the Court of Session. 15
- (2) Expressions used in this Part of this Schedule and in sections 9 to 15 have the same meanings in this Part as in those sections.
- (3) For the purposes of bringing an initial appeal a person “would be eligible to request a review” if, at the time of bringing the initial appeal, the person would be entitled to make a request under – 20
- (a) section 9 for a review of the death to which the affected report relates, or
  - (b) section 10 for a review of the other Troubles-related circumstances to which the affected report relates;
- and, in determining whether the person would be entitled to make the request, the fact that a review has already been requested must be ignored. 25
- (4) The following provisions apply to a determination (for the purposes of subparagraph (3)) of whether a person would be entitled to make a request under section 9.
- (5) In the case of a request under section 9(2), it is for the relevant court (rather than the Commissioner for Investigations) to decide the person’s entitlement to make the request (and accordingly section 9(7) does not apply). 30
- (6) In determining for the purposes of this Schedule whether a person is, under Schedule 3, a close family member of D, paragraph 1(2) of Schedule 3 has effect as if the following provision were substituted for paragraph (f) – 35
- “(f) was a step-parent of D on the day of D’s death or is a step-parent of D on –
    - (i) the day on which the request for the review is made, or
    - (ii) the day when the initial appeal is brought;” 40

## SCHEDULE 6

Section 25

## OFFENCES RELATING TO DISCLOSURE OF INFORMATION

*Current and former Commissioners, ICRIIR officers and ICRIIR contractors*

- 1 (1) A person who is, or has ceased to be, a Commissioner, ICRIIR officer or ICRIIR contractor commits an offence if – 5
- (a) the person discloses information which the person obtained as a Commissioner, ICRIIR officer or ICRIIR contractor, and
  - (b) the disclosure would, if it had been made by the ICRIIR, have constituted a breach of a relevant prohibition on disclosure.
- (2) It does not matter whether the disclosure of information occurs within or outside the United Kingdom. 10
- (3) This paragraph does not apply to the communication of information by a person to another person in that other person’s capacity as a Commissioner, ICRIIR officer, or ICRIIR contractor.
- (4) It is a defence for a person charged with an offence under this paragraph to prove that at the time of the alleged offence the person did not know, and had no reasonable cause to believe, that the disclosure would, if it had been made by the ICRIIR, have constituted a breach of a relevant prohibition on disclosure. 15

*Penalties* 20

- 2 A person guilty of an offence under this Schedule is liable –
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both; 25
  - (c) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine or both;
  - (d) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both. 30

*Interpretation*

- 3 In this Schedule –
- “relevant prohibition on disclosure” is a prohibition on disclosure of information imposed by section 25(2) – 35
- (a) where any of prohibitions A to C applies (see section 25(4) to (6)), or
  - (b) where prohibition D applies (see section 25(7)) because the disclosure contravenes the duty imposed by section 4(1)(a) or (b). 40

SCHEDULE 7

Section 27

IDENTIFICATION OF SENSITIVE, PREJUDICIAL OR PROTECTED INTERNATIONAL INFORMATION

PART 1

THE ICIR: IDENTIFICATION OF SENSITIVE OR PREJUDICIAL INFORMATION

- 1 (1) The Commissioner for Investigations must, from time to time, identify any information held by the ICIR which (in that Commissioner’s opinion) is— 5
- (a) sensitive information, or
  - (b) prejudicial information.
- (2) That duty does not require the Commissioner for Investigations to identify information as sensitive information, or as prejudicial information, if (in accordance with paragraph 2 or 3) a relevant authority has notified the Commissioner for Investigations that that authority has identified the information as that kind of information. 10

PART 2

RELEVANT AUTHORITIES: IDENTIFICATION OF SENSITIVE OR PREJUDICIAL INFORMATION 15

*Information made available by a relevant authority*

- 2 (1) This paragraph applies if a relevant authority is proposing to make any information available to the ICIR (whether in accordance with section 5 or otherwise).
- (2) The relevant authority must identify any of the information which, in the relevant authority’s opinion, is— 20
- (a) sensitive information, or
  - (b) prejudicial information.
- (3) When making the information available to the ICIR, the relevant authority must notify the Commissioner for Investigations of any of the information which the relevant authority has identified in accordance with this paragraph. 25

*Information made available by other persons*

- 3 (1) This paragraph applies if a person other than a relevant authority— 30
- (a) is proposing to make any information available to the ICIR, or
  - (b) has made any information available to the ICIR.
- (2) A relevant authority may identify any of the information which (in the relevant authority’s opinion) is—
- (a) sensitive information, or
  - (b) prejudicial information. 35
- (3) The relevant authority must notify the Commissioner for Investigations of any of the information which that relevant authority has identified in accordance with this paragraph.

*Notifications under this Schedule*

- 4 A notification of information under paragraph 2 or 3 must include a statement of whether, in the relevant authority’s opinion, the information would, if disclosed generally, be –
- (a) sensitive information, 5
  - (b) prejudicial information, or
  - (c) information of both of those kinds.

PART 3

SECRETARY OF STATE: IDENTIFICATION OF PROTECTED INTERNATIONAL INFORMATION

- 5 The Secretary of State may notify the Commissioner for Investigations of – 10
- (a) any information held by the ICRIR, or
  - (b) any information which any person is proposing to make available to the ICRIR,
- which, in the Secretary of State’s opinion, is protected international information. 15

SCHEDULE 8

Section 38

DETERMINATION OF WHETHER THE PROHIBITION ON CIVIL ACTIONS APPLIES

*Actions that contravene a section 38 prohibition*

- 1 In this Schedule a reference to an action that contravenes a section 38 prohibition is a reference to a relevant Troubles-related civil action that – 20
- (a) is being continued in contravention of the prohibition in section 38(1), or
  - (b) has been brought in contravention of the prohibition in subsection 38(2).

*Right of the Secretary of State to intervene* 25

- 2 (1) This paragraph applies to an action if –
- (a) sufficient evidence is adduced to raise an issue as to whether it is an action that contravenes a section 38 prohibition, or
  - (b) it otherwise appears to the court that it may be an action that contravenes a section 38 prohibition. 30
- (2) The Secretary of State is entitled to be given notice, in accordance with rules of court, that it may be an action that contravenes a section 38 prohibition.
- (3) The Secretary of State (or a person nominated by the Secretary of State) is entitled, on giving notice in accordance with rules of court, to be joined as a party to the action. 35
- (4) Notice under sub-paragraph (3) may be given at any time during proceedings relating to the action.
- (5) A person who has been made a party to the action as the result of a notice under sub-paragraph (3) may take part in proceedings so far as they concern



the question of whether it is an action that contravenes a section 38 prohibition.

*Determination by the court*

- 3 (1) This paragraph applies to an action if sufficient evidence is adduced to raise an issue as to whether it is an action that contravenes a section 38 prohibition. 5
- (2) The court must determine the question of whether it is an action that contravenes a section 38 prohibition in accordance with this paragraph.
- (3) The court must assume that it is an action that contravenes the section 38 prohibition unless it is proved that the action does not do so. 10
- (4) If the court determines that it is an action that contravenes the section 38 prohibition, the court must dismiss the action.
- (5) But the powers of a court in relation to the determination or recovery of costs (in Northern Ireland or England and Wales) or expenses (in Scotland) of the action are not affected by that obligation to dismiss the action. 15
- (6) Accordingly, the court may comply with that obligation by dismissing the action subject to determination or recovery of costs or expenses.
- (7) The court –
- (a) must determine the question of whether it is an action that contravenes a section 38 prohibition before considering any other question arising in the action; 20
- (b) must not, in the proceedings to determine the question of whether it is an action that contravenes a section 38 prohibition, consider any other question arising in the action.
- (8) But sub-paragraph (7) is subject to the following exceptions – 25
- (a) the court may consider –
- (i) the question of whether it is an action that contravenes a section 38 prohibition, and
- (ii) any question of limitation law arising in the action, 30  
in the same proceedings;
- (b) the court need not comply with sub-paragraph (7)(a), or with sub-paragraph (7)(b), if the court considers that there are exceptional reasons for not complying with it.
- (9) In this paragraph “question of limitation law” means a question relating to – 35
- (a) the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)),
- (b) the Foreign Limitation Periods (Northern Ireland) Order 1985 (S.I. 1985/754 (N.I. 5),
- (c) the Limitation Act 1980,
- (d) the Foreign Limitation Periods Act 1984, 40
- (e) the Prescription and Limitation (Scotland) Act 1973,
- (f) section 190 of the Merchant Shipping Act 1995, or
- (g) any other legislation relating to limitation of actions.

*Appeals etc*

- 4 (1) This paragraph applies if, in accordance with paragraph 3, the court determines the question of whether an action contravenes a section 38 prohibition.
- (2) Section 38 does not stop any proceedings which relate to, or arise out of, the determination, including any appeal or proceedings for costs (in Northern Ireland or England and Wales) or expenses (in Scotland), from being begun or continued. 5

## SCHEDULE 9

Section 38

## CIVIL ACTIONS TO WHICH THE 2008 MEDIATION DIRECTIVE APPLIES 10

*Prohibition on continuing or bringing actions which involved prior cross-border mediation*

- 1 (1) Section 38(1) and (2) do not apply to any action which involved prior cross-border mediation.
- (2) Accordingly, in relation to such an action, section 38 has effect as if subsections (1) and (2) were replaced with these provisions – 15
- “(1) An action which involved prior cross-border mediation that was brought on or after the later of –
- (a) the end of the relevant post-mediation period, and
- (b) the day of the First Reading in the House of Commons of the Bill for this Act, 20
- may not be continued on or after the day on which section 38 comes into force.
- (2) An action which involved prior cross-border mediation may not be brought on or after the day on which section 38 comes into force, unless the action is brought before the end of the relevant post-mediation period.” 25
- (3) A reference in section 38(7) or (8) to section 38(1) or (2) accordingly includes a reference to the corresponding provision contained in sub-paragraph (2).

*Interpretation*

- 2 (1) In this Schedule (including the modification of section 38 made by paragraph 1(2)) – 30
- “action which involved prior cross-border mediation” means a relevant Troubles-related civil action if the matter in dispute in the action has been subject to cross-border mediation in accordance with transitional EU law; 35
- “relevant post-mediation period”, in relation to such an action, means the period of eight weeks after the cross-border mediation ends;
- “2008 Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters. 40

- (2) “Relevant Troubles-related civil action” has the same meaning as in section 38.
- (3) The “matter in dispute” in a relevant Troubles-related civil action is the claim (referred to in section 38(4)) which arises out of conduct forming part of the Troubles and which the action is to determine. 5
- (4) The matter in dispute has been “subject to cross-border mediation in accordance with transitional EU law” if it is within case A or case B below.
- (5) *Case A*: a case where the 2008 Mediation Directive applies to the matter in dispute by virtue of point (i) or (ii) of Article 69(1)(b) of the EU withdrawal agreement (cases where, before the end of the transition period, the parties had agreed, or been ordered, to use mediation). 10
- (6) In such a case, the “cross-border mediation ends” when the mediation referred to in point (i) or (ii) of Article 69(1)(b) ends.
- (7) *Case B*: a case where –
  - (a) the 2008 Mediation Directive applies to the matter in dispute by virtue of point (iii) of Article 69(1)(b) of the EU withdrawal agreement (cases where, before the end of the transition period, a court had invited the parties to use mediation), and 15
  - (b) mediation of the matter in dispute starts (whether it starts before, on, or after the day of the First Reading in the House of Commons of the Bill for this Act, including where it starts on or after the day on which section 38 comes into force). 20
- (8) In such a case, the “cross-border mediation ends” when that mediation ends.
- (9) A mediation –
  - (a) “starts” when it would have started for the purposes of the corresponding limitation provision; 25
  - (b) “ends” when it would have ended for the purposes of the corresponding limitation provision.
- (10) The “corresponding limitation provision” is –
  - (a) Article 51A of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (see, in particular, Article 51A(3) of that Order), if –
    - (i) that Order,
    - (ii) the Foreign Limitation Periods (Northern Ireland) Order 1985 (S.I. 1985/754 (N.I. 5)), or 35
    - (iii) the Merchant Shipping Act 1995,is the limitation legislation that is ordinarily applicable;
  - (b) section 33A of the Limitation Act 1980 (see section 33A(6) to (8) of that Act), if –
    - (i) that Act, or 40
    - (ii) the Merchant Shipping Act 1995,is the limitation legislation that is ordinarily applicable;
  - (c) section 1A of the Foreign Limitation Periods Act 1984 (see section 1A(5) to (7) of that Act), if that Act is the limitation legislation that is ordinarily applicable; 45
  - (d) section 19F of the Prescription and Limitation (Scotland) Act 1973 (see, in particular, section 19F(3) of that Act), if –

- (i) that Act, or  
(ii) the Merchant Shipping Act 1995,  
is the limitation legislation that is ordinarily applicable.
- (11) Accordingly –
- (a) Article 51A of the 1989 Order, section 33A of the 1980 Act, and section 1A of the 1984 Act (which were repealed by Schedule 1 to the 2019 Regulations) continue to have effect for the purposes of this Schedule (in addition to the purposes for which they continue to have effect under regulation 5 of the 2019 Regulations); 5
- (b) section 19F of the 1973 Act (which was repealed by regulation 2 of the the 2020 Regulations) continues to have effect for the purposes of this Schedule (in addition to the purposes for which it continues to have effect under regulation 7 of the 2020 Regulations). 10
- (12) An Order or Act is “the limitation legislation that is ordinarily applicable” if the time limit for bringing the action which involved prior cross-border mediation was, or would be (in the absence of section 38), given in that Order or Act (see section 38(6)). 15
- (13) The “2019 Regulations” are the Cross-Border Mediation (EU Directive) (EU Exit) Regulations 2019 (S.I. 2019/469).
- (14) The “2020 Regulations” are the Civil and Family Justice (EU Exit) (Scotland) (Amendment etc) Regulations 2020 (S.S.I. 2020/441). 20

## SCHEDULE 10

Section 39

### INVESTIGATIONS, INQUESTS AND INQUIRIES IN ENGLAND AND WALES AND SCOTLAND

#### PART 1

#### ENGLAND AND WALES: INVESTIGATIONS AND INQUESTS 25

##### *Coroners and Justice Act 2009*

- 1 (1) After section 11 of the Coroners and Justice Act 2009 insert –

*“Deaths related to the Northern Ireland Troubles*

#### **11A Investigations and inquests into Troubles-related deaths**

Schedule 1A makes provision about investigations and inquests into Troubles-related deaths.” 30

(2) After Schedule 1 to that Act insert –

“SCHEDULE 1A

INVESTIGATIONS AND INQUESTS INTO TROUBLES-RELATED DEATHS

*Obligatory discontinuance of existing investigations and inquests*

- 1 (1) This paragraph applies to an investigation into a death that resulted directly from the Troubles if, immediately before the relevant day, a senior coroner was under a duty to conduct the investigation, unless the investigation is at an advanced stage. 5
- (2) On and after that day a coroner must not progress the conduct of – 10
- (a) the investigation, or
  - (b) the inquest.
- (3) As soon as practicable on or after that day, the senior coroner who is responsible for conducting the investigation must discontinue – 15
- (a) the investigation, and
  - (b) the inquest, including by discharging any jury that has been summoned.
- (4) Any enactment which requires a senior coroner to conduct an investigation or hold an inquest is subject to this paragraph.

*ICRIR review: existing investigations and inquests* 20

- 2 (1) This paragraph applies to an investigation into a death that resulted directly from the Troubles if –
- (a) immediately before the relevant day, a senior coroner was under a duty to conduct the investigation,
  - (b) the investigation is at an advanced stage, and 25
  - (c) the senior coroner who is responsible for conducting the investigation makes a request under section 9(6)(b)(i) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 for a review of the death.
- (2) At any time after the request is made, the coroner who is responsible for conducting the investigation – 30
- (a) may adjourn the inquest (on one or more occasions);
  - (b) may, after any adjournment, resume the conduct of the inquest;
  - (c) may discontinue the investigation and inquest (whether or not the inquest is, or has been, adjourned), including by discharging any jury that has been summoned. 35
- (3) Any enactment which requires a senior coroner to conduct an investigation or hold an inquest is subject to this paragraph.”

*New investigations and inquests*

- 3 (1) This paragraph applies on and after the day on which paragraph 1(2) of Schedule 10 to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force.
- (2) The duty under section 1(1) is not to begin to apply to a senior coroner in respect of a death that resulted directly from the Troubles. 5
- (3) A senior coroner (A) must not make a request under section 2 for another senior coroner (B) to conduct an investigation into a death that resulted directly from the Troubles; and B must not agree to such a request. 10
- (4) The Chief Coroner must not give a direction under section 1(5) or 3 to a senior coroner to conduct an investigation into a death that resulted directly from the Troubles.

*Interpretation*

15

- 4 (1) For the purposes of this Schedule a death “resulted directly from the Troubles” if—
- (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from of an act of violence or force, and 20
- (b) the act of violence or force was conduct forming part of the Troubles.
- (2) In this paragraph “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 (see section 1 of that Act). 25
- (3) For the purposes of this Schedule an investigation is “at an advanced stage” if the inquest hearing to ascertain—
- (a) who the deceased was, and
- (b) how, when and where the deceased died, 30
- has been begun before the relevant day.
- (4) In this Schedule—
- “inquest” means the inquest that forms part of an investigation;
- “investigation” means an investigation under this Part;
- “relevant day” means the earlier of these two days— 35
- (a) 1 May 2023;
- (b) the day on which paragraph 1(2) of Schedule 10 to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force.”

*Coroners Act 1988*

40

- 2 (1) In section 13 of the Coroners Act 1988 (order to hold investigation), after subsection (4) insert—
- “(5) This section does not apply in relation to a death that resulted directly from the Troubles (which has the same meaning as in

Schedule 1A to the Coroners and Justice Act 2009) Act 2022 – see paragraph 4 of that Schedule).”

- (2) The repeal of the Coroners Act 1988 in Part 1 of Schedule 23 to the Coroners and Justice Act 2009 applies to section 13(5) of the 1988 Act as it applies to the other provisions of that Act. 5

## PART 2

### SCOTLAND: INQUIRIES AND INVESTIGATIONS

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

- 3 (1) After section 7 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2) insert – 10

*“Deaths related to the Northern Ireland Troubles*

#### **“7A Inquiries and investigations into Troubles-related deaths**

Schedule A1 makes provision about inquiries and investigations into Troubles-related deaths.”

- (2) Before Schedule 1 to that Act insert – 15

#### “SCHEDULE A1

##### INQUIRIES AND INVESTIGATIONS INTO TROUBLES-RELATED DEATHS

##### *Obligatory discontinuance of existing inquiries and investigations*

- 1 (1) This paragraph applies to an inquiry into a death that resulted directly from the Troubles if it was initiated before the relevant day, unless the inquiry is at an advanced stage. 20
- (2) On and after that day, the sheriff must not progress the conduct of the inquiry.
- (3) As soon as practicable on or after that day, the sheriff must discontinue the inquiry. 25
- (4) If this paragraph applies to an inquiry –
- (a) on and after the relevant day, the procurator fiscal must not progress conduct of the investigation into that death required by section 1(1)(a), and
- (b) as soon as practicable on or after that day, the procurator fiscal must discontinue the investigation (if it has been begun). 30
- (5) Section 1(1) (procurator fiscal to investigate death and arrange inquiry) and section 1(2) (sheriff to conduct inquiry) are subject to this paragraph. 35

##### *ICRIR review: existing inquiries and investigations*

- 2 (1) This paragraph applies to an inquiry into a death that resulted directly from the Troubles if –

- (a) the inquiry was initiated before the relevant day,
  - (b) the inquiry is at an advanced stage, and
  - (c) the sheriff who is responsible for conducting the inquiry makes a request under section 9(6)(d)(i) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 for a review of the death. 5
- (2) At any time after the request is made, the sheriff who is responsible for conducting the inquiry –
- (a) may adjourn the inquiry (on one or more occasions);
  - (b) may, after any adjournment, resume the conduct of the inquiry; 10
  - (c) may discontinue the inquiry (whether or not it is, or has been, adjourned) and the investigation.
- (3) Section 1(1) (procurator fiscal to investigate death and arrange inquiry) and section 1(2) (sheriff to conduct inquiry) are subject to this paragraph. 15

*New inquiries and investigations*

- 3 On and after the day the day on which paragraph 3 of Schedule 10 to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force – 20
- (a) the Lord Advocate must not exercise the functions conferred by section 4, 6 or 7 so as to cause an inquiry to be held into any death that resulted directly from the Troubles;
  - (b) the procurator fiscal must not give the sheriff notice under section 15(1) that an inquiry is to be held into any death that resulted directly from the Troubles; and 25
  - (c) further inquiry proceedings must not be held in accordance with section 30(2) in relation to a death that resulted directly from the Troubles. 30

*Interpretation*

- 4 (1) For the purposes of this Schedule a death “resulted directly from the Troubles” if – 35
- (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from of an act of violence or force, and
  - (b) the act of violence or force was conduct forming part of the Troubles.
- (2) In this paragraph “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 (see section 1 of that Act). 40
- (3) For the purposes of this Schedule an inquiry – 45
- (a) is “initiated” by the procurator fiscal giving the sheriff notice under section 15(1) that the inquiry is to be held;
  - (b) is “at an advanced stage” if the inquiry proceedings to –
    - (i) establish the circumstances of the death, and



- (ii) consider what steps (if any) might be taken to prevent other deaths in similar circumstances, have been begun before the relevant day.
- (4) In this Schedule “relevant day” means the earlier of these two days—
  - (a) 1 May 2023;
  - (b) the day on which paragraph 3(2) of Schedule 10 to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 comes into force.”

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## SCHEDULE 11

Section 41

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### PRISONER RELEASE

#### *Amendment and saving of legislation*

- 1 (1) The Northern Ireland (Sentences) Act 1998 is amended in accordance with this Schedule.
- (2) Those amendments do not apply in relation to any application for a declaration made to the Commissioners under section 3(1) of the Northern Ireland (Sentences) Act 1998 before this Schedule comes into force.

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#### *Qualifying offences: offences committed between 1966 and 1973*

- 2 (1) Section 3 (applications to the Sentence Review Commissioners) is amended in accordance with this paragraph.
- (2) After subsection (6) insert—
  - “(6A) A qualifying offence is an offence to which subsection (7) or (7A) applies.”
- (3) In subsection (7)—
  - (a) in the opening words, for “A qualifying offence is” substitute “This subsection applies to”;
  - (b) in paragraph (a), after “committed” insert “on or after 8 August 1973 and”.
- (4) After subsection (7) insert—
  - “(7A) This subsection applies to an offence which—
    - (a) was committed on or after 1 January 1966 and before 8 August 1973,
    - (b) arose out of any conduct forming part of the Troubles, and
    - (c) is certified by the Director of Public Prosecutions for Northern Ireland as an offence which, if it had been committed in Northern Ireland on 8 August 1973, would have been a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1973.
  - (7B) In deciding whether an offence would have been a scheduled offence, the Director of Public Prosecutions for Northern Ireland

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must ignore the possibility of a certificate by the Attorney General for Northern Ireland that the offence was not to be treated as a scheduled offence.”

*Offences equivalent to qualifying offences: offences committed between 1966 and 1973*

- 3 (1) In Schedule 3 (sentences passed outside Northern Ireland), paragraph 2 (equivalent offences) is amended in accordance with this paragraph. 5
- (2) Before sub-paragraph (1) insert –
- “(A1) An offence is equivalent to a qualifying offence if sub-paragraph (1) or (1A) applies to it.”
- (3) In sub-paragraph (1) – 10
- (a) for “An offence is equivalent to a qualifying offence if it” substitute “This sub-paragraph applies to an offence which”;
- (b) in paragraph (a), after “committed” insert “on or after 8 August 1973 and”;
- (c) for paragraph (b) substitute – 15
- “(b) arose out of any conduct forming part of the Troubles, and”.
- (4) After sub-paragraph (1) –
- “(1A) This sub-paragraph applies to an offence which – 20
- (a) was committed on or after 1 January 1966 and before 8 August 1973,
- (b) arose out of any conduct forming part of the Troubles, and
- (c) is certified by the appropriate Law Officer as an offence which, if it had been committed in Northern Ireland on 8 August 1973, would have been a scheduled offence within the meaning of the Northern Ireland (Emergency Provisions) Act 1973.” 25
- (5) In sub-paragraph (2), after “sub-paragraph (1)(c)” insert “or (1A)(c)”.

*Length of sentence*

- 4 (1) In section 3 (applications), for subsection (3) substitute – 30
- “(3) The first condition is that the sentence was passed in Northern Ireland for a qualifying offence.”
- (2) In section 12 (interpretation: prisoners and sentences), for subsection (5) substitute –
- “(5) Two or more consecutive sentences being served by a prisoner shall be treated as a single sentence if they were passed on the same occasion and each was passed in Northern Ireland for a qualifying offence (within the meaning of section 3).” 35

*Release of prisoners*

5 (1) For section 4 (release of fixed term prisoners) substitute –

**“4 Release of prisoners**

- “(1) This section applies if a prisoner is granted a declaration in relation to a sentence. 5
- (2) The prisoner has a right to be released on licence (so far as that sentence is concerned) by the end of the day after the day of the declaration (the “ordinary release day”).
- (3) But if the ordinary release day is a listed day, the prisoner has a right to be released by the end of the next non-listed day. 10
- (4) If a fixed term prisoner is released on licence under this section, the prisoner’s sentence expires (and the licence lapses) –
- (a) in the case of a sentence passed in Northern Ireland, at the time when the prisoner could have been discharged on the ground of good conduct under prison rules, or 15
- (b) in the case of a sentence passed in England and Wales or Scotland, at the time when the prisoner could have been discharged under prison rules had the sentence been passed in Northern Ireland for a qualifying offence.
- (5) In this section “listed day” means – 20
- (a) Saturday,
- (b) Sunday,
- (c) Christmas Day,
- (d) Good Friday, and
- (e) a public holiday in Northern Ireland.” 25
- (2) In section 5 (fixed term prisoners: special cases), omit subsections (1) and (2).
- (3) Omit section 6 (release of life prisoners).
- (4) Omit section 7 (life prisoners: specified dates).
- (5) In section 8 (revocation of declaration), in subsections (1) and (2) omit “or 6”
- (6) In section 9 (licences: conditions) – 30
- (a) in subsections (1) and (2), omit “or 6”;
- (b) in subsection (6), for “section 4(3)” substitute “section 4(5)”.
- (7) Omit section 10 (accelerated release).
- (8) In section 11 (notice of decisions), in subsection (2), omit paragraph (b) (and the word “and” preceding it); 35
- (9) In section 15 (information for victims), in subsection (3) –
- (a) in paragraph (c), omit “or 6”;
- (b) in paragraph (e), after “he” insert “is a fixed term prisoner who”
- (10) In section 16 (power to suspend and revive) – 40
- (a) in subsection (2)(b), omit “or 6”;
- (b) omit subsection (3);
- (c) in subsection (4), omit “or (3)”.

- (11) In section 19 (orders and rules) –
- (a) in subsection (2), omit “, 10(8)”;
  - (b) in subsections (3) and (4), omit “or 10(8)”.

*Interpretation of the 1998 Act*

- 6 After section 13 insert – 5

**“13A Interpretation: conduct forming part of the Troubles**

In this Act “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022 (see section 1 of that Act).”

SCHEDULE 12 Section 51 10

AMENDMENTS

PART 1

THE ICRIR

*Prosecution of Offences Act 1985*

- 1 (1) Section 3 of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions) is amended in accordance with this paragraph. 15
- (2) In subsection (2) –
- (a) after paragraph (ac) insert –
    - “(ad) to take over the conduct of any criminal proceedings instituted in England and Wales by the ICRIR;” 20
  - (b) after paragraph (bc) insert –
    - “(bd) where it appears to the Director appropriate to do so, to institute and have the conduct of any criminal proceedings in England and Wales relating to a review by the ICRIR;” 25
  - (c) after paragraph (ee) insert –
    - “(ef) to give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on matters relating to –
      - (i) a review by the ICRIR; or 30
      - (ii) criminal proceedings instituted in England and Wales relating to a review by the ICRIR;”.
- (3) In subsection (3), after the definition of “the court” insert –  
“ICRIR” means the Independent Commission for Reconciliation and Information Recovery;” 35

*Northern Ireland Act 1998*

- 2 (1) The Northern Ireland Act 1998 is amended in accordance with this paragraph.

(2) In section 75(3) (statutory equality duty on public authorities), after paragraph (b) insert –

“(ba) the Independent Commission for Reconciliation and Information Recovery;”.

(3) In section 76(7) (discrimination by public authorities), after paragraph (c) insert –

“(ca) the Independent Commission for Reconciliation and Information Recovery;”.

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*Freedom of Information Act 2000*

3 In Schedule 1 to the Freedom of Information Act 2000 (public authorities), Part 6 (other public bodies and offices: general), at the appropriate place insert –

“The Independent Commission for Reconciliation and Information Recovery.”

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*Regulation of Investigatory Powers Act 2000*

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4 In section 65 of the Regulation of Investigatory Powers Act 2000 (the Tribunal), in subsection (6), after paragraph (ca) insert –

“(cb) the Independent Commission for Reconciliation and Information Recovery;”.

*Justice (Northern Ireland) Act 2002*

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5 (1) Section 31 of the Justice (Northern Ireland) Act 2002 is amended in accordance with this paragraph.

(2) After subsection (1) insert –

“(1A) The Director must take over conduct of all criminal proceedings which are instituted in Northern Ireland by the ICRIR.”

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(3) In subsection (5), after “forces” insert “and to the ICRIR”.

(4) After subsection (6) insert –

“(7) In this section “ICRIR” means the Independent Commission for Reconciliation and Information Recovery.”

*Investigatory Powers Act 2016*

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6 (1) The Investigatory Powers Act 2016 is amended in accordance with this paragraph.

(2) In section 58 (section 57: meaning of excepted disclosure), in subsection (2), after paragraph (c) insert –

“(d) a disclosure made to the Independent Commission for Reconciliation and Information Recovery for the purpose of facilitating the carrying out of any of the functions of the Independent Commission for Reconciliation and Information Recovery.”

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(3) In Schedule 4 (relevant public authorities and designated senior officers etc),

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in Part 1 (table of authorities and officers), after the entry for the National Crime Agency insert –

“Independent Commission for Reconciliation and Information Recovery	The Commissioner for Investigations	All	(b)”.  5
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*Data Protection Act 2018*

- 7 In Schedule 18 to the Data Protection Act 2018, in paragraph 3 (records relating to a caution or conviction whose production must not be required in connection with employment etc), in sub-paragraph (2), after paragraph (f) insert –

“(fa) the Independent Commission for Reconciliation and Information Recovery;”.

PART 2 15

LIMITATION OF LEGAL PROCEEDINGS

*Prescription and Limitation (Scotland) Act 1973*

- 8 After section 23B of the Prescription and Limitation (Scotland) Act 1973 insert –
- “23C Actions relating to the Northern Ireland Troubles** 20
- This Act has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

*Limitation Act 1980*

- 9 After section 27C of the Limitation Act 1980 insert –
- “27D Actions relating to the Northern Ireland Troubles** 25
- This Act has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

*Foreign Limitation Periods Act 1984*

- 10 After section 4 of the Foreign Limitation Periods Act 1984 insert –
- “4A Actions relating to the Northern Ireland Troubles** 30
- This Act has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

*Foreign Limitation Periods (Northern Ireland) Order 1985 (S.I. 1985/754 (N.I. 5))*

- 11 After article 5 of the Foreign Limitation Periods (Northern Ireland) Order

1985 (S.I. 1985/754 (N.I. 5)) insert –

**“5A Actions relating to the Northern Ireland Troubles**

This Order has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

*Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))*

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12 After article 73 of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) insert –

**“73A Actions relating to the Northern Ireland Troubles**

This Order has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

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*Merchant Shipping Act 1995*

13 In section 190 of the Merchant Shipping Act 1995 (time limit for proceedings against ship owner or ships), after subsection (6) insert –

“(7) This section has effect subject to section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2022.”

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# Northern Ireland Troubles (Legacy and Reconciliation) Bill

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## B I L L

To address the legacy of the Northern Ireland Troubles and promote reconciliation by establishing an Independent Commission for Reconciliation and Information Recovery, limiting criminal investigations, legal proceedings, inquests and police complaints, extending the prisoner release scheme in the Northern Ireland (Sentences) Act 1998, and providing for experiences to be recorded and preserved and for events to be studied and memorialised.

*Presented by Secretary Brandon Lewis  
Supported by the Prime Minister,  
Secretary Dominic Raab, Secretary Ben Wallace,  
Secretary Alister Jack, Secretary Simon Hart,  
the Attorney General,  
Conor Burns, David T C Davies,  
Leo Docherty and Iain Stewart.*

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*Ordered, by The House of Commons,  
to be Printed, 17th May 2022.*

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