Draft Order laid before Parliament under paragraph 2(a) of Schedule 2 to the Human Rights Act 1998 (c. 42), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No.

NORTHERN IRELAND

The Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2025

Made - - - - ***

Coming into force

The following provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023(**a**) have been declared(**b**) under section 4 of the Human Rights Act 1998(**c**) to be incompatible with a Convention right(**d**)—

(a) sections 7(3), 12, 19, 20, 21, 22, 39, 41 and 42(1) (relating to immunity from prosecution and the prohibition of criminal enforcement in respect of certain offences),

(b) section 8 (relating to the exclusion of evidence in civil proceedings),

(c) section 43(1) (preventing the continuation of certain civil actions that were brought on or after 17th May 2022(**e**)).

The Secretary of State has abandoned the appeal that was brought against the declarations made under section 4 of the Human Rights Act 1998 in relation to those provisions.

Section 43(2) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (preventing the bringing of certain civil actions on or after 18th November 2023(**f**)) has also been declared(**g**) under section 4 of the Human Rights Act 1998 to be incompatible with a Convention right.

(**a**) 2023 c. 41.
(**b**) By the High Court in Northern Ireland in the case of *Dillon, McEvoy, McManus, Hughes, Jordan, Gilvary, and Fitzsimmons Application and In the matter of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and the Secretary of State for Northern Ireland* [2024] NIKB 11.
(**c**) 1998 c. 42. There are amendments to section 4(5) but none are relevant.
(**d**) For the definition of "the Convention rights", see section 1 of the Human Rights Act 1998, as amended by S.I. 2004/1574 and S.I. 2003/1887. For the definition of "the Convention", see section 21(1) of that Act. There are amendments to section 21(1) but none are relevant.
(**e**) 17th May 2022 was the date of First Reading in the House of Commons of the Bill for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.
(**f**) 18th November 2023 was the date on which section 43 came into force.
(**g**) By the Court of Appeal in Northern Ireland *In the Matter of an Application by Martina Dillon and others - NI Troubles (Legacy and Reconciliation) Act 2023* [2024] NICA 59.

The time for bringing an appeal against the declaration made under section 4 of the Human Rights Act 1998 in relation to that provision has expired and no appeal has been brought within that time.

The Secretary of State considers that there are compelling reasons for proceeding by way of a remedial order(**a**) to make such amendments to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 as the Secretary of State considers are necessary to remove the incompatibility.

In accordance with paragraph 2(a) of Schedule 2 to the Human Rights Act 1998, a draft of this instrument was laid before Parliament and was approved by resolution of each House of Parliament, a document containing a draft of this instrument having previously been laid before Parliament in accordance with paragraph 3(1) of that Schedule.

Accordingly, the Secretary of State makes the following Order, in exercise of the powers conferred by section 10(2) of, and paragraph 1(1), (2) and (3) of Schedule 2 to, the Human Rights Act 1998.

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2025 and comes into force on the day after the day on which it is made.

(2) In this Order "the 2023 Act" means the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.

(3) An amendment made by this Order has the same extent as the provision amended.

Removal of provision relating to immunity from prosecution etc

2.—(1) The 2023 Act is amended as follows.

(2) In section 2 (the Independent Commission for Reconciliation and Information Recovery)—

(a) in subsection (5), omit paragraph (d);

(b) in subsection (10), omit paragraphs (f) to (h).

(3) In section 4 (actions of the ICRIR: safeguards) omit subsection (3).

(4) In section 5 (full disclosure to the ICRIR)—

(a) in subsection (1), omit "or the immunity function";

(b) in subsection (2), omit "or the immunity function".

(5) In section 7 (admissibility of material in criminal proceedings)—

(a) omit subsection (3);

(b) in subsection (4), omit the words from "; and subsections" to the end;

(c) in subsection (11), in the definition of "other material", omit paragraph (b) and the "and" before it.

(6) In section 11 (requests for reviews: general provision)—

(a) in subsection (4)—

(**a**) For the definition of "remedial order", see section 21(1) of the Human Rights Act 1998. There are amendments to section 21(1) but none are relevant.

(i) in paragraph (a), omit the words from "(whether" to "section 12)";

(ii) in paragraph (b), for "request (or subsequent request)" substitute "subsequent request";

(iii) in the words after paragraph (b), for "that" substitute "the subsequent";

(b) in subsection (5)—

(i) in paragraph (a), for "that request (or subsequent request)" substitute "the subsequent request";

(ii) in paragraph (b), omit ", in a case where the ICRIR is carrying out the review following a request,";

(c) in subsection (6)—

(i) in paragraph (a), omit the words from "(whether" to "section 12)";

(ii) in paragraph (b), for "request (or subsequent request)" substitute "subsequent request";

(iii) in the words after paragraph (b), for "that" substitute "the subsequent";

(d) in subsection (7), in the words before paragraph (a), for "that" substitute "the subsequent";

(e) in subsection (8), for "that request (or subsequent request)" substitute "the subsequent request".

(7) Omit section 12 (reviews in connection with requests for immunity from prosecution).

(8) In section 13 (conduct of reviews)—

(a) in subsection (2), omit the words from ", whether" to the end;

(b) in subsection (9), omit paragraph (c);

(c) in subsection (12), omit paragraph (b).

(9) In section 16 (consultation on reports)—

(a) in subsection (1), for the words from "a review" to "section 9 or 10" substitute "any review";

(b) in subsection (2), omit the words from "carried out" to "section 12(2)";

(c) in subsection (3), omit the words from "carried out" to "section 12(3)".

(10) In section 17 (issuing and publication of reports)—

(a) in subsection (2), omit "If the review was carried out following a request made under section 9 or 10,";

(b) omit subsections (3) to (6);

(c) in subsection (7), omit ", or statement of the manner in which a review was carried out,";

(d) omit subsections (8) and (9).

(11) In section 18 (reports: general provision)—

(a) in subsection (2)—

(i) in paragraph (a), omit "and (3)";

(ii) omit paragraph (b) and the "or" before it;

(b) in subsection (4), omit ", or the statement is not to be published,";

(c) in subsection (5)(b), omit "or statement of the manner in which a review was carried out";

(d) for subsection (7) substitute—

"(7) For the purposes of this section—

(a) 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—

(i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or

(ii) the prosecution have sought a retrial;

(b) 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

(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.".

(12) Omit sections 19 to 22 and the italic heading before section 19 (immunity from prosecution).

(13) Before section 23 insert—

"Personal statements".

(14) In section 23 (personal statements by persons affected by deaths etc)—

(a) in subsection (1), omit paragraph (c);

(b) in subsection (5), omit paragraph (b) and the "or" before it;

(c) in subsection (7), omit paragraph (b) and the "or" before it.

(15) In section 24 (publication of personal statements) in subsection (10)(a), omit sub-paragraph (ii) and the "or" before it.

(16) In section 25 (information for prosecutors) in subsection (5), omit the words from "unless" to the end.

(17) Omit sections 26 and 27 and the italic heading before section 26 (grants of immunity: revocation and offence of making false statement).

(18) Omit section 39 (grant of immunity: prohibition of criminal enforcement action).

(19) In section 40 (no grant of immunity: restrictions on criminal enforcement action)—

(a) in the heading, for "No grant of immunity:" substitute "Serious or connected Troubles-related offences:";

(b) in subsection (1), omit the words from "unless" to the end.

(20) Omit section 41 (other Troubles-related offences: prohibition of criminal enforcement action).

(21) In section 42 (general provision and saving for ongoing pre-commencement action)—

(a) in subsection (1), for "any of sections 38 to 41" substitute "section 38 or 40";

(b) in subsection (2), for "sections 39 to 41" substitute "section 40";

(c) in subsection (4), omit "or 41";

(d) in subsection (5), for ", 40 or 41" substitute "or 40".

(22) In section 52 (academic research) in subsection (9), in the definition of "ICRIR reports", omit paragraph (b) and the "and" before it.

(23) In section 60 (interpretation) in the table in subsection (1), omit the entries for—

(a) "immunity function";

(b) "immunity requests panel".

(24) In Schedule 1 (the ICRIR, the Commissioners and ICRIR officers)—

(a) in paragraph 4, omit sub-paragraph (4);

(b) in paragraph 13, omit sub-paragraph (2).

(25) In Schedule 3 (family members) in paragraph 7—

(a) in sub-paragraph (1), for "15 or 17" substitute "16";

(b) in sub-paragraph (2)(b)(ii), omit "or section 17(4)";

(c) in sub-paragraph (3), for "15 or 17" substitute "16".

(26) Omit Schedule 5 (no immunity in certain circumstances).

(27) In Schedule 12 (prisoner release) omit—

(a) paragraph 2(2);

(b) paragraph 3(2).

(28) In Schedule 13 (amendments) omit paragraph 11.

Removal of restrictions on admissibility in civil proceedings of material obtained by the ICRIR

3. In the 2023 Act, omit section 8 (admissibility of material in civil proceedings).

Removal of bars on bringing civil claims relating to the Troubles

4.—(1) The 2023 Act is amended as follows.

(2) For the italic heading before section 43 substitute "Inquests and police complaints".

(3) Omit section 43 (tort, delict and fatal accident actions).

(4) Omit Schedule 9 (determination of whether the prohibition on civil actions applies).

(5) Omit Schedule 10 (civil actions to which the 2008 Mediation Directive applies).

(6) In Schedule 13 (amendments), omit Part 2.

Amendments of other enactments

5. The Schedule makes amendments of other enactments that are consequential on those made of the 2023 Act.

Secretary of State for Northern Ireland
Northern Ireland Office

Date

SCHEDULE

Article 5

Amendments of other enactments

Prescription and Limitation (Scotland) Act 1973

1. In the Prescription and Limitation (Scotland) Act 1973(**a**), omit section 23C(**b**) (actions relating to the Northern Ireland Troubles).

Limitation Act 1980

2. In the Limitation Act 1980(**c**), omit section 27D(**d**) (actions relating to the Northern Ireland Troubles).

Foreign Limitation Periods Act 1984

3. In the Foreign Limitation Periods Act 1984(**e**), omit section 4A(**f**) (actions relating to the Northern Ireland Troubles).

Merchant Shipping Act 1995

4. In the Merchant Shipping Act 1995(**g**), in section 190 (time limit for proceedings against ship owner or ships) omit subsection (7)(**h**).

Northern Ireland (Sentences) Act 1998

5.—(1) The Northern Ireland (Sentences) Act 1998(**i**) is amended as follows.

(2) In section 3(**j**) (applications for declaration of eligibility for release)—

(a) for subsection (6A) substitute—

"(6A) An offence is a qualifying offence if subsection (7) or (7A) applies to the offence.";

(b) omit subsection (6B).

(3) In Schedule 3 (sentences passed outside Northern Ireland) in paragraph 2(**k**)—

(a) for sub-paragraph (A1) substitute—

"(A1) An offence is equivalent to a qualifying offence if sub-paragraph (1) or (1A) applies to the offence.";

(b) omit sub-paragraph (A2).

(**a**) 1973 c. 52.
(**b**) Section 23C was inserted by paragraph 12 of Schedule 13 to the 2023 Act.
(**c**) 1980 c. 58.
(**d**) Section 27D was inserted by paragraph 13 of Schedule 13 to the 2023 Act.
(**e**) 1984 c. 16.
(**f**) Section 4A was inserted by paragraph 14 of Schedule 13 to the 2023 Act.
(**g**) 1995 c. 21.
(**h**) Section 190(7) was inserted by paragraph 17 of Schedule 13 to the 2023 Act.
(**i**) 1998 c. 35.
(**j**) Section 3 was amended by paragraph 2 of Schedule 12 to the 2023 Act.
(**k**) Paragraph 2 was amended by paragraph 3 of Schedule 12 to the 2023 Act.

Sentencing Act 2020

6. In the Sentencing Act 2020(**a**), in section 379(**b**) (behaviour orders) in the table in subsection (1), omit the entry for section 26 of the 2023 Act and the heading before it.

Foreign Limitation Periods (Northern Ireland) Order 1985

7. In the Foreign Limitation Periods (Northern Ireland) Order 1985(**c**), omit Article 5A(**d**) (actions relating to the Northern Ireland Troubles).

Limitation (Northern Ireland) Order 1989

8. In the Limitation (Northern Ireland) Order 1989(**e**), omit Article 73A(**f**) (actions relating to the Northern Ireland Troubles).

(**a**) 2020 c. 17.
(**b**) Section 379 was amended by paragraph 11 of Schedule 13 to the 2023 Act. There are other amendments but none are relevant.
(**c**) S.I. 1985/754 (N.I. 5).
(**d**) Article 5A was inserted by paragraph 15 of Schedule 13 to the 2023 Act.
(**e**) S.I. 1989/1339 (N.I. 11).
(**f**) Article 73A was inserted by paragraph 16 of Schedule 13 to the 2023 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes changes to the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 ("the 2023 Act") (c. 41) following judgments of the High Court, and the Court of Appeal, in Northern Ireland that certain provisions of the Act are in breach of the European Convention on Human Rights ("the Convention").

In the case of *Dillon, McEvoy, McManus, Hughes, Jordan, Gilvary, and Fitzsimmons Application and In the matter of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and the Secretary of State for Northern Ireland* [2024] NIKB 11, the High Court in Northern Ireland made declarations pursuant to section 4 of the Human Rights Act 1998 (the "1998 Act") (c. 42) that:

(a) sections 7(3), 12, 19, 20, 21, 22, 39, 41 and 42(1) (relating to immunity from prosecution and the prohibition of criminal enforcement in respect of certain offences) are incompatible with articles 2 and 3 of the Convention;

(b) section 8 (relating to the exclusion of evidence in civil proceedings) is incompatible with articles 2, 3 and 6 of the Convention;

(c) section 43(1) (preventing the continuation of certain civil actions that were brought on or after 17th May 2022) is incompatible with article 6 of the Convention.

In *the Matter of an Application by Martina Dillon and others - NI Troubles (Legacy and Reconciliation) Act 2023* [2024] NICA 59, the Court of Appeal in Northern Ireland made a declaration pursuant to section 4 of the 1998 Act that section 43(2) (preventing the bringing of certain civil actions on or after 18th November 2023) is incompatible with article 6 of the Convention.

Article 2 of this Order repeals the provisions of the 2023 Act relating to immunity from prosecution. It also makes amendments to other provisions of the 2023 Act consequential on the omission of the immunity provisions.

Article 3 repeals section 8 of the 2023 Act, which provides for the inadmissibility in certain proceedings of material obtained or produced by the Independent Commission for Reconciliation and Information Recovery in the exercise of its functions. The Independent Commission for Reconciliation and Information Recovery is established by, and its functions are set out in, section 2 of the 2023 Act.

Article 4 repeals section 43 of the 2023 Act. Section 43(1) prohibits the continuation of certain civil actions which were brought on or after 17th May 2022, being the date of the 2023 Act's first reading as a Bill in the House of Commons. Section 43(2) prohibits the bringing of certain civil actions on or after 18th November 2023, being the date on which section 43 came into force. Article 4 also repeals Schedules 9 and 10, and Part 2 of Schedule 13, to the 2023 Act in consequence of the omission of section 43.

Article 5 introduces the Schedule, which makes amendments to various enactments that are consequential on the amendments of the 2023 Act made by this Order.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the public, private or voluntary sector is foreseen.

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