

Northern Ireland Troubles (Legacy and Reconciliation) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 23rd November 2022, as follows –

Clauses 1 and 2	Schedule 7
Schedule 1	Clauses 29 to 39
Clauses 3 to 6	Schedules 8 and 9
Schedule 2	Clause 40
Clauses 7 to 9	Schedule 10
Schedule 3	Clauses 41 and 42
Clauses 10 to 14	Schedule 11
Schedule 4	Clauses 43 to 52
Clauses 15 to 26	Schedule 12
Schedules 5 and 6	Clauses 53 to 58
Clauses 27 and 28	Title.

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

BARONESS SUTTIE
LORD MURPHY OF TORFAEN
BARONESS RITCHIE OF DOWNPATRICK

1 Page 2, leave out lines 30 to 38

Member's explanatory statement

This amendment is to probe whether the definition of "serious physical or mental harm" in the Bill is sufficiently broad to ensure all those who wish to avail themselves of the ICRIR's services are able to.

Clause 2

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

2 Page 3, line 13, after "out" insert "investigations and"

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

- 3 Page 3, line 15, after “out” insert “investigations and”

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

- 4 Page 3, line 17, after second “the” insert “investigations and”

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

- 5 Page 3, line 18, at end insert “unless an investigation is one to which subsections (2) and (3) of section 17 apply”

Member's explanatory statement

This amendment removes the duty to produce a report on the finding of any investigation until the matter under investigation has been dealt with by the Prosecutor.

LORD CAINE

- 6 Page 3, line 26, at end insert –

“(4A) At least three months before the start of each financial year the ICRIR must –
 (a) produce and publish a work plan for that year, and
 (b) give a copy of the plan to the Secretary of State.

But this duty does not apply in relation to any financial year which starts before 1 April 2024.

- (4B) A work plan must deal with the following matters –
 (a) the caseload which the ICRIR is expecting;
 (b) the plans which the ICRIR has for dealing with its caseload;
 (c) the plans which the ICRIR has for engaging with persons entitled to request reviews of deaths and other harmful conduct;
 (d) policies which the ICRIR is planning to introduce, review or change;
 (e) such other matters as the ICRIR considers appropriate.”

Member's explanatory statement

This would require the ICRIR to produce a work plan for each financial year before the start of the year.

- 7 Page 3, leave out line 27 and insert –

“(5) No later than six months after the end of each financial year, the ICRIR must –
 (a) produce and publish an annual report in relation to that year, and
 (b) give a copy of the annual report to the Secretary of State.

(5A) An annual report must deal with the following matters –”

Member's explanatory statement

This amends the existing provision about annual reports so that it takes the same form as the new provision in the amendment in the Minister's name about work plans (including by imposing a time limit for producing the reports and requiring the reports to relate to financial years).

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

8 Page 3, line 31, after "for" insert "investigations and"

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

9 Page 3, line 32, after second "of" insert "investigations and"

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

LORD CAINE

10 Page 3, line 42, leave out subsection (6)

Member's explanatory statement

This is consequential on the amendment in the Minister's name which amends the existing provision about annual reports.

11 Page 4, line 4, at end insert –

“(9) In this Act “financial year”, in relation to the ICRIR, means –

(a) the period which –

- (i) begins with the day on which this section comes into force, and
- (ii) ends with the following 31 March; and

(b) each subsequent period of one year which ends with 31 March.”

Member's explanatory statement

This is consequential on the amendments in the Minister's name about work plans and annual reports.

Schedule 1

LORD BROWNE OF LADYTON
BARONESS O'LOAN
LORD MURPHY OF TORFAEN

12 Page 50, line 34, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member's explanatory statement

This and subsequent probing amendments in the name of Lord Browne remove the Secretary of State from various roles in connection with the appointment and holding office of Commissioners.

- 13 Page 50, line 37, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member's explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

LORD CAINE

- 14 Page 50, line 37, at end insert –
 “(1A) In exercising the power to appoint Commissioners, the Secretary of State must ensure that (as far as it is practicable) the Commissioners include one or more persons who have experience gained outside the United Kingdom that is relevant to the work of the ICRIR.”

Member's explanatory statement

This requires the Secretary of State to ensure that there is at least one Commissioner who has relevant international experience.

- 15 Page 51, line 4, leave out from “holds” to end of line 6 and insert “or has held high judicial office, and
 (b) the Secretary of State has consulted –
 (i) the relevant senior judge, and
 (ii) such other persons as the Secretary of State considers appropriate.”

Member's explanatory statement

This requires consultation in cases where a potential appointee no longer holds high judicial office (as well as in cases where they still hold such office), and authorises the Secretary of State to consult other persons besides the relevant senior judge.

LORD BROWNE OF LADYTON
 BARONESS O'LOAN

- 16 Page 51, line 4, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member's explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

LORD CAINE

- 17 Page 51, line 10, leave out from “Commissioner” to end of line 11

Member's explanatory statement

This removes some wording that is unnecessary as ill health is not a ground for removal from office as a Commissioner.

18 Page 51, line 11, at end insert –

“(5A) A reference in this paragraph to a person being insolvent, or to being disqualified from being a company director, has the same meaning as in paragraph 11 (see paragraph 11(4) or (5)).”

Member’s explanatory statement

This applies definitions of certain terms which appear in paragraph 11 to those terms as used in paragraph 7.

19 Page 51, line 12, leave out sub-paragraphs (6) to (8) and insert –

“(6) The following Orders apply to the Commissioners as they apply to constables –

- (a) the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195);
- (b) the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023);
- (c) the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50).”

Member’s explanatory statement

This updates the provision about the application to the Commissioners of the law relating to the rehabilitation of offenders. It ensures that the Bill provision reflects the current approach taken in that law.

20 Page 51, line 28, leave out paragraph (b)

Member’s explanatory statement

This is consequential on the amendment in the Minister’s name about consultation when appointing the Chief Commissioner.

21 Page 51, line 29, leave out “the holder of” and insert “a person who holds or has held”

Member’s explanatory statement

This is consequential on the amendment in the Minister’s name about consultation when appointing the Chief Commissioner.

22 Page 51, line 31, after “table” insert “; and, in the case of a person who has previously held two or more different kinds of high judicial office (but no longer holds any kind of high judicial office), the relevant senior judge is to be identified by reference to the kind of high judicial office which the person ceased to hold most recently”

Member’s explanatory statement

This clarifies who is to be consulted where a retired judge held two or more kinds of high judicial office.

23 Page 51, line 34, after first “Kingdom” insert “or Lord of Appeal in Ordinary”

Member’s explanatory statement

This requires consultation with the President of the Supreme Court where a retired judge was a Law Lord.

LORD BROWNE OF LADYTON

- 24 Page 52, line 33, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 25 Page 52, line 37, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 26 Page 52, line 38, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 27 Page 52, line 39, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 28 Page 53, line 2, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 29 Page 53, line 6, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

- 30 Page 53, line 14, leave out “Secretary of State” and insert “Northern Ireland Judicial Appointments Commission”

Member’s explanatory statement

This amendment is consequential upon a related amendment in the name of Lord Browne.

LORD CAINE

- 31 Page 56, line 25, leave out paragraph 18 and insert—
 “18(1) The following Orders apply to ICRIR officers as they apply to constables—
 (a) the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195);

Schedule 1 - continued

- (b) the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023);
 - (c) the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50).
- (2) This paragraph does not apply to the Commissioner for Investigations (instead see paragraph 7(6)).”

Member’s explanatory statement

This updates the provision about the application to ICRIR officers of the law relating to the rehabilitation of offenders. It ensures that the Bill provision reflects the current approach taken in that law.

32 Page 57, line 23, at end insert –

“(2) This paragraph does not apply to the Commissioner for Investigations (instead see paragraph 14).”

Member’s explanatory statement

This ensures that the Commissioner for Investigations (who is also ex-officio an ICRIR officer) falls only within paragraph 14 of Schedule 1 (as a Commissioner) and not also within paragraph 20 (as an ICRIR officer). Paragraphs 14 and 20 make equivalent provision to ensure that the prohibitions on trade union activity which govern the police do not apply to the ICRIR.

Clause 3

LORD EMPEY
BARONESS HOEY

33 Page 4, line 14, at end insert –

“(3A) There is no prohibition on the employment of former members of the Royal Ulster Constabulary, the Historical Enquiries Team or the Police Service of Northern Ireland.”

Member’s explanatory statement

This subsection in Clause 3 makes clear that police officers and civilians, with recent or current experience of producing final reports, are not excluded from consideration.

After Clause 3

BARONESS HOEY
LORD BEW
LORD GODSON
LORD EMPEY

34★ Insert the following new Clause –

“Human rights

The ICRIR, when performing its functions, through the Commissioners and officers, must take into account the Convention rights in Schedule 1 of the Human Rights Act 1998, including (but not limited to)-

- (a) Article 2 (right to life) substantive;

After Clause 3 - continued

- (b) Article 2 procedural;
- (c) Article 3 (prohibition of torture) substantive;
- (d) Article 3 procedural;
- (e) Article 6 (right to a fair trial);
- (f) Article 8 (right to respect for private and family life);
- (g) Article 10 (freedom of expression)."

Member's explanatory statement

This new Clause makes explicit that a range of articles in the European Convention on Human Rights must be considered, not just Article 2.

Clause 4

LORD BEW
LORD GODSON
BARONESS HOEY
LORD EMPEY

35★ Page 4, line 26, at end insert –

- “(d) would create or exercise police powers additional to those exercised by the Police Service of Northern Ireland, or
- (e) would create or exercise new duties towards prosecutors, additional to those exercised by the Police Service of Northern Ireland.”

Member's explanatory statement

These additional paragraphs in Clause 4(1) make clear that the ICRIR will not be exercising additional powers of any description not normally available to police officers.

36★ Page 4, line 31, at end insert –

- “(4) Before carrying out any reviews, the ICRIR must publish, and in carrying out any reviews, the ICRIR must take into account, guidelines containing best practice on the rights of those likely to be named in any reports.”

Member's explanatory statement

This new subsection makes it clear that when carrying out reviews and in the exercise of its power to make findings in reports the ICRIR will follow best practice for the due protection of the rights of any person who may be named with critical comment.

Clause 5

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

37 Page 4, line 37, leave out “reasonably”

Member's explanatory statement

This amendment and the new Clause after Clause 5 in the name of Baroness O'Loan give the ICRIR the right to require information, documents and other material from all the organisations listed in the definition of "relevant authority", other than the Security Service, the Secret Intelligence Service and GCHQ, without justification of the reasonableness of any request.

38 Page 5, line 3, after second "the" insert "investigation and"

Member's explanatory statement

This and other similar probing amendments in the name of Baroness O'Loan impose a function of investigation on the ICRIR as well as the function of review.

39 Page 5, line 22, after "PSNI" insert ", the chief officer of a police force in Great Britain, the Director General of the National Crime Agency, the Director General of the Independent Office for Police Conduct, the Police Investigations and Review Commissioner"

Member's explanatory statement

This amendment adds to the list of those who are required to assist the Commissioner for Investigations for the purposes of, or in connection with, the effective use of information, documents and other material provided by them under Clause 5.

After Clause 5

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

40 Insert the following new Clause—

"Special relevant authorities

- (1) A special 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.

- (2) A special relevant authority may also make available to the ICRIR any—
- (a) information,
 - (b) documents, and
 - (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 investigation and review functions or the immunity function.

After Clause 5 - continued

- (3) It is for the special 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)).
- (4) Information which the Commissioner for Investigations requires to be made available under subsection (1) must 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 special relevant authority is to—
 - (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;
 - (c) allow the ICRIR to access the information, document or other material while it is held by the special relevant authority.
- (6) A requirement under subsection (4), including anything required by virtue of subsection (5), must be consistent with regulations under section 30(1).
- (7) The Commissioner for Investigations may require the Director General of the Security Service, the Secret Intelligence Service or GCHQ 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.
- (8) It is not a breach of—
 - (a) any obligation of confidence owed by a special relevant authority, or
 - (b) any other restriction on the disclosure of information (however imposed),for a special relevant authority to make information, documents and other material available under this section.
- (9) In this section “copy” includes a photograph or similar representation.”

Member’s explanatory statement

This amendment creates an additional category of authority, the “special relevant authority,” which will not be under an unqualified obligation (as relevant authorities would be if the amendment in the name of Baroness O’Loan to Clause 5, page 5, line 3 were accepted) to provide information requested but will only be required to do so when that information is “reasonably” required, thus enabling the proper protection of national security.

Clause 6

LORD BEW
LORD GODSON
LORD EMPEY
BARONESS HOEY

41★ Page 5, line 42, at end insert –

“(2A) The Commissioner for Investigations must, before exercising the power under subsection (2), consider whether an ICRIR officer-

- (a) might not perform equally or better by remaining a civilian,
- (b) should have only some specified powers of a constable, and
- (c) should have only some specified privileges of a constable.”

Member’s explanatory statement

This subsection in Clause 6 enables consideration of limiting the number of ICRIR officers being designated as constable, and the extent of their powers.

Schedule 2

LORD CAINE

42 Page 60, line 17, at end insert –

“(1A) Sub-paragraph (1)(a) does not apply to an assault on a designated ICRIR officer under the law of England and Wales (instead see section 1 of the Emergency Workers (Offences) Act 2018).”

Member’s explanatory statement

This avoids overlap with the provisions of the Emergency Workers (Offences) Act 2018 which will apply to designated ICRIR officers (but is law only in England and Wales).

Clause 7

LORD CAINE

43 Page 6, line 15, at end insert –

“(3A) Subsection (2) does not apply in relation to proceedings against D for an offence under paragraph 8(1)(a) of Schedule 4 (distortion of evidence); and subsections (2) and (3) do not apply in relation to proceedings against D for an offence under section (*False statements: offence*) (false statements).”

Member’s explanatory statement

This amendment allows for certain evidence given to the ICRIR to be used (against the person who gave the evidence) in criminal proceedings relating to false statements and distortion of evidence.

44 Page 6, line 28, after “Where” insert “subsection (3A) or”

Member’s explanatory statement

This amendment is in consequence of the amendment to insert subsection (3A).

BARONESS O'LOAN
 LORD MURPHY OF TORFAEN
 LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK

The above-named Lords give notice of their intention to oppose the Question that Clause 7 stand part of the Bill.

Clause 8

LORD CAINE

45 Page 7, line 37, after “section” insert “–

“civil proceedings” does not include–

- (a) family proceedings within the meaning of Article 12 of the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6));
- (b) family proceedings within the meaning of section 75(3) of the Courts Act 2003;
- (c) family proceedings within the meaning of section 135 of the Courts Reform (Scotland) Act 2014 (asp 18) or proceedings under the Children (Scotland) Act 1995 or the Children’s Hearings (Scotland) Act 2011 (asp 1);”

Member’s explanatory statement

This excludes family proceedings from the scope of Clause 8.

Clause 9

BARONESS O'LOAN
 LORD MURPHY OF TORFAEN
 LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK

46 Page 7, line 42, after “request” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

47 Page 8, line 3, leave out “but only if it is appropriate for that family member to make that request”

48 Page 8, line 5, after “request” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

49 Page 8, line 8, after “request” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

50 Page 8, line 10, after “request” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

51 Page 8, line 14, after “for” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

52 Page 8, line 48, leave out subsection (8)

Member's explanatory statement

This amendment in the name of Baroness O'Loan deletes the five-year period within which investigations or reviews must be sought.

Clause 10

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

53 Page 9, line 19, after “request” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

54 Page 9, line 22, after “request” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

Clause 11

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

55 Page 9, line 28, after “for” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

56 Page 9, line 29, after second “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2

57 Page 9, line 32, after “for” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

58 Page 9, line 33, after “for” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

59 Page 9, line 36, after “for” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

60 Page 9, line 39, after “out” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

61 Page 9, line 42, after “for” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

62 Page 10, line 3, after second “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

BARONESS HOEY
LORD BEW
LORD GODSON
LORD EMPEY

63★ Page 10, line 5, at end insert –

“(5A) The Commissioner for Investigations must, in making a decision under subsection (4), take into account whether any of the following apply in relation to the death or harmful conduct-

Clause 11 - continued

- (a) there was a criminal investigation, and its outcome (or outcomes),
 - (b) there was an inquest, and its outcome (or outcomes),
 - (c) there was a report by the Historical Enquiries Team,
 - (d) there was a report by the Legacy Investigation Branch,
 - (e) there was a judicial review (including any appeal or appeals), and its outcome (or outcomes),
 - (f) there was a public inquiry, under the Tribunals of Inquiry (Evidence) Act 1921 or the Inquiries Act 2005, and its outcome.
- (5B) If one or more of the matters mentioned in subsection (5A)(a) to (f) apply in relation to the death or harmful conduct, the Commissioner for Investigations must consider whether the close family member, or family member, where appropriate, has compelling new evidence, and if not, must reject that request.
- (5C) In applying the test in subsection (5B), the Commissioner for Investigations must consider whether a report by the Historical Enquiries Team satisfies the public interest in finality regarding the review of deaths and other harmful conduct.”

Member’s explanatory statement

These three subsections in Clause 11 seek to ensure that the ICIR does not become involved in unnecessary repetition of reviews.

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

64 Page 10, line 7, after “out” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

65 Page 10, line 16, after “account” insert “the investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

Clause 12

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

66 Page 10, line 26, after “out” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

67 Page 10, line 32, after “out” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

Clause 13

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

68 Page 11, line 3, after “of ” insert “investigations or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

69 Page 11, line 7, after “of ” insert “investigations or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

70 Page 11, line 8, after “each” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

LORD BROWNE OF LADYTON
BARONESS RITCHIE OF DOWNPATRICK

71 Page 11, line 9, after “out” insert “as far as possible in public”

Member's explanatory statement

This amendment provides for transparency in the conduct of reviews by the ICRIR.

LORD HAIN
LORD CORMACK
BARONESS SUTTIE
BARONESS RITCHIE OF DOWNPATRICK

72 Page 11, line 13, at end insert –

“(3A) The Commissioner for Investigations must ensure that each review –

- (a) is carried out to criminal justice standards as modelled on Operation Kenova,

Clause 13 - continued

- (b) complies fully with obligations under the European Convention on Human Rights,
 - (c) gathers as much information as possible in relation to the death or harmful conduct, and
 - (d) explores all evidential opportunities.
- (3B) “Operation Kenova” means the independent investigation established under the overall command of former Chief Constable Jon Boutcher in 2016, known as Operation Kenova.”

Member’s explanatory statement

This amendment establishes minimum standards for a “review” conducted by the ICRIR to ensure conduct is investigated to criminal justice standards, along the lines of Operation Kenova.

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

73 Page 11, line 14, at end insert insert “investigations or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

74 Page 11, line 16, after “different” insert “investigations or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

75 Page 11, line 18, after “any” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

LORD CAINE

76 Page 11, line 18, at end insert –

“(4A) In particular, the Commissioner for Investigations is to decide whether a criminal investigation is to form part of a review.”

Member’s explanatory statement

This makes clear that the Commissioner for Investigations should consider whether there should be a criminal investigation as part of an ICRIR review.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

77 Page 11, line 22, after “which ” insert “the investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

78 Page 11, line 29, after “for” insert “the investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

79 Page 11, line 31, after first “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

80 Page 11, line 41, after “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

81 Page 11, line 43, at beginning insert “An investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

Clause 14

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

82 Page 12, line 10, after “the” insert “ investigation or”

Member’s explanatory statement

This amendment in the name of Baroness O’Loan is consequential upon the previous amendments to Clause 2.

LORD BROWNE OF LADYTON
 BARONESS O'LOAN
 BARONESS RITCHIE OF DOWNPATRICK
 LORD MURPHY OF TORFAEN

83 Page 12, line 12, at end insert “and respond to any questions”

Member’s explanatory statement

This amendment imposes a duty to respond to questions posed by the Commissioner for Investigations upon a person who has been required to submit information under Clause 14.

Schedule 4

LORD CAINE

84 Page 64, line 39, leave out “£1,000” and insert “£5,000”

Member’s explanatory statement

This increases the maximum penalty for failure to comply with an information notice under section 14 from £1,000 to £5,000.

After Schedule 4

LORD CAINE

85 Insert the following new Schedule—

“SCHEDULE

NO IMMUNITY IN CERTAIN CIRCUMSTANCES

PART 1

SEXUAL OFFENCES

- 1 (1) This paragraph applies if under section 18—
 - (a) a person (P) has requested the ICRIR to grant P immunity from prosecution,
 - (b) conditions A to C are met, and
 - (c) some or all of the identified possible offences are Troubles-related sexual offences.
- (2) If all of the identified possible offences are Troubles-related sexual offences, the ICRIR must not grant P immunity from prosecution.
- (3) Accordingly, section 18(1) and (7) to (16) do not apply.
- (4) If some of the identified possible offences are Troubles-related sexual offences—
 - (a) the immunity requests panel must not decide under section 18(7) that P should be granted immunity from prosecution for—
 - (i) any identified possible offence that is a Troubles-related sexual offence, or
 - (ii) a description of offences that includes any Troubles-related sexual offence; and
 - (b) the ICRIR must not grant P immunity from prosecution for any Troubles-related sexual offences.
- (5) Accordingly, section 18(7) to (13) have effect subject to sub-paragraph (4).

After Schedule 4 - continued

- (6) In this paragraph “Troubles-related sexual offence” means any Troubles-related offence that is –
- (a) a sexual offence, or
 - (b) an inchoate offence relating to a sexual offence.
- (7) For the purposes of this paragraph “sexual offence” includes –
- (a) rape;
 - (b) any offence committed by –
 - (i) sexual assault,
 - (ii) sexual activity, or
 - (iii) causing or inciting another person to engage in sexual activity;
 - (c) any offence relating to indecent images of children.
- (8) For the purposes of this paragraph “inchoate offence relating to a sexual offence” includes an offence of –
- (a) attempting to commit a sexual offence;
 - (b) conspiracy to commit a sexual offence;
 - (c) incitement to commit a sexual offence;
 - (d) aiding, abetting, counselling or procuring the commission of a sexual offence.
- (9) The Secretary of State may, by regulations, make provision about the meaning of –
- (a) “sexual offence”, or
 - (b) “inchoate offence relating to a sexual offence”;
- for the purposes of this paragraph (including provision specifying offences which are to comprise, or to be included in, that definition).
- (10) Regulations under sub-paragraph (9) are subject to negative procedure.

PART 2

NEW REQUEST FOR IMMUNITY AFTER REVOCATION OF PREVIOUS GRANT

- 2 (1) This paragraph applies where –
- (a) under section (*False statements: revocation of immunity*), a court revokes immunity from prosecution granted to a person (P) (the “revoked immunity”),
 - (b) P requests the ICRIR to grant P immunity from prosecution (the “new request”),
 - (c) the new request –
 - (i) is made before the revocation and is not concluded at the time of the revocation, or
 - (ii) is made after the revocation, and
 - (d) conditions A to C in section 18 are met in relation to the new request.
- (2) When dealing with the new request, the duty of the immunity requests panel to decide (under section 18(7)) what immunity should be granted to P has effect subject to sub-paragraphs (3) and (4).
- (3) The panel must not decide that P should be granted immunity from prosecution for any identified possible offence which was also within the scope of the revoked immunity.

After Schedule 4 - continued

- (4) When the panel is determining under section 18(9) or (11)(b) a description of offences for which P should be granted immunity from prosecution, the panel must frame the description so that it does not consist of, or include, one or more offences which were also within the scope of the revoked immunity.
- (5) If the panel decides in accordance with sub-paragraphs (3) and (4) that there are no offences for which P should be granted immunity –
 - (a) the panel must decide that P should not be granted immunity from prosecution, and
 - (b) the ICRIR must not grant P immunity from prosecution (and accordingly section 18(1) does not apply).
- (6) For the purposes of this paragraph the new request is “concluded” when the ICRIR gives P written notice of the outcome of the request in accordance with section 18(13)(a).”

Member’s explanatory statement

This amendment reproduces the provision in Clause 19 and deals with the situation where a person’s immunity from prosecution is revoked under section 23B and the person makes another request for immunity from prosecution under section 18.

Clause 15

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

86 Page 13, line 9, at beginning insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

87 Page 13, line 11, at beginning insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

88 Page 13, line 13, at end insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

89 Page 13, line 14, at end insert “unless the Chief Commissioner has referred relevant conduct to a prosecutor in accordance with section 23”

Member's explanatory statement

This amendment ensures that where a prosecutor has been sent a report under section 23, the Chief Commissioner is not under a duty to produce and disseminate a final report pending the prosecutor's decision.

90 Page 13, line 15, after first “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

91 Page 13, line 18, after third “the” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

92 Page 13, line 21, after first “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

93 Page 13, line 25, at end insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

BARONESS SUTTIE
LORD MURPHY OF TORFAEN
BARONESS RITCHIE OF DOWNPATRICK

94 Page 13, line 33, at end insert –

“(c) allow those persons to submit, for inclusion in the final report, a victim impact statement which sets out the physical, emotional, social or financial impact upon them of the matters contained in the report.

(4A) The ICRIR must produce guidance on the support available to assist in drafting the statement in subsection (4)(c) and suggested matters for inclusion.”

Member's explanatory statement

This amendment is intended to give victims and survivors a voice within the ICRIR process by providing the opportunity to set out the impact upon them of the matters contained in the ICRIR report.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

95 Page 13, line 34, after first “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

BARONESS SUTTIE
LORD MURPHY OF TORFAEN
BARONESS RITCHIE OF DOWNPATRICK

96 Page 13, line 45, at end insert –

“(c) allow those persons to submit, for inclusion in the final report, a victim impact statement which sets out the physical, emotional, social or financial impact upon them of the matters contained in the report.

(5A) The ICIR must produce guidance on the support available to assist in drafting the statement in subsection (5)(c) and suggested matters for inclusion.”

Member's explanatory statement

This amendment is intended to give victims and survivors a voice within the ICIR process by providing the opportunity to set out the impact upon them of the matters contained in the ICIR report.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

97 Page 14, line 1, after “any” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

98 Page 14, line 4, after “of” insert “material criticising the individual in”

Member's explanatory statement

This amendment restricts the obligation on the Chief Commissioner to provide the whole report to an individual.

LORD BEW
LORD GODSON
LORD EMPEY
BARONESS HOEY

99★ Page 14, line 6, at end insert –

“(6A) The Chief Commissioner may only include material criticising a living individual when the following procedural safeguards have been applied during the producing of the report-

- (a) advance notice was given to the individual of matters which were of interest to the Chief Commissioner;
- (b) the individual was given the opportunity to give evidence to the Chief Commissioner, in writing or orally;

Clause 15 - continued

- (c) the individual was furnished, where reasonably practicable, with any relevant document in advance of giving evidence;
 - (d) the Chief Commissioner put adverse material to the individual, and gave the individual a reasonable chance to respond fully, in writing or orally.
- (6B) The Chief Commissioner may only include material criticising an individual who is no longer alive when the following procedural safeguards have been applied during the producing of the report-
- (a) the Chief Commissioner has used his or her best endeavours to locate a close family member or any member of the family (as provided for in section 9) of the individual who is no longer alive;
 - (b) the Chief Commissioner has invited that close family member or any member of the family to assist in the producing of the report;
 - (c) the Chief Commissioner has extended to that close family member or any member of the family the opportunities extended to those under this Act requesting a review of a death.”

Member’s explanatory statement

These two new subsections in Clause 15 seek to balance the rights of those who may be named in reports with those requesting the reviews.

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

100 Page 14, line 17, after “exclude” insert “or modify”

Member’s explanatory statement

This probing amendment enhances the ability of the Chief Commissioner to provide a more complete report by permitting them to modify the material rather than simply to exclude it.

LORD BEW
LORD GODSON
LORD EMPEY
BARONESS HOEY

101★ Page 14, line 35, leave out “significant”

Member’s explanatory statement

This deletion of the word “significant” in Clause 15 seeks to prevent harm being done to an individual by a subjective judgment that criticism is not significant.

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

102 Page 14, line 38, after “which” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

103 Page 14, line 39, after “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

Clause 16

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

104 Page 14, line 44, after “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

105 Page 14, line 45, after “the” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

106 Page 15, line 1, after third “the” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

107 Page 15, line 3, after first “the” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

108 Page 15, line 19, after “of” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

Clause 17

BARONESS O'LOAN
 LORD MURPHY OF TORFAEN
 LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK

109 Page 15, line 25, after “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

110 Page 15, line 28, at beginning insert “ an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

111 Page 15, line 30, at beginning insert “ an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

Clause 18

LORD HAIN
 LORD CORMACK
 BARONESS SUTTIE
 BARONESS RITCHIE OF DOWNPATRICK

112 Page 16, line 15, leave out “must” and insert “may”

LORD BROWNE OF LADYTON
 BARONESS O'LOAN

113 Page 16, line 16, leave out “C” and insert “D”

Member’s explanatory statement

This is a paving amendment for the amendment in the name of Lord Browne which defines the content of Condition D.

LORD DODDS OF DUNCAIRN
 LORD WEIR OF BALLYHOLME
 LORD MORROW
 LORD BROWNE OF BELMONT

114★ Page 16, line 27, at end insert —

“(4A) If Condition B is not met because P’s account is found by the panel to be not true to the best of P’s knowledge and belief, the Chief Commissioner must direct the Commissioner for Investigations to submit a prosecution file to the Public Prosecution Service for consideration and direction.”

Member's explanatory statement

This amendment is intended to require the Commissioner for Investigations to refer a file to the PPS when an individual is found to have provided false statements to the ICRIR in the course of its functions.

LORD BROWNE OF LADYTON
BARONESS O'LOAN

115 Page 16, line 35, at end insert –

“(6A) *Condition D*: the ICRIR is satisfied that the grant of immunity would –
(a) be compatible with Convention rights,
(b) comply with the constitutional principle of the rule of law, and
(c) satisfy the interests of justice.”

Member's explanatory statement

This probing amendment ensures that the ICRIR must consider whether granting immunity from prosecution would be compatible with Convention rights, comply with the constitutional principle of the rule of law, and satisfy the interests of justice.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

116★ Page 16, line 35, at end insert –

“(6A) *Condition D*: the immunity requests panel is satisfied that P is not engaged in activity that is likely to be understood by a reasonable person as precluding reconciliation.

(6B) For the purposes of subsection (6A), “activity” means conduct, speech or writing of any description by P which serves to publicise and promote P’s disclosed conduct or glorify the commission, preparation or instigation of any Troubles-related offence.

(6C) For the purposes of subsection (6A), “activity” means any activity described in subsection (6B) irrespective of whether P seeks or receives financial reward.”

Member's explanatory statement

This amendment would require an individual to be disengaged from activity which would be reasonably regarded as precluding reconciliation in order to be eligible for immunity from prosecution.

117★ Page 16, line 35, at end insert –

“(6A) If Condition D is not met because P is found by the immunity request panel to have engaged in activity that is likely to be understood by a reasonable person as precluding reconciliation, the Chief Commissioner must direct the Commissioner for Investigations to examine whether an offence under section 1 (encouragement of terrorism) of the Terrorism Act 2006 or section (*Offence of glorifying terrorism: Northern Ireland*) of this Act may have been committed by P and submit a prosecution file to the Public Prosecution Service for consideration and direction.”

Member's explanatory statement

This amendment is intended to require the Commissioner for Investigations to refer a file to the PPS when an individual is found to have engaged in activity likely to prevent reconciliation.

118★ Page 16, line 35, at end insert –

“(6A) *Condition D*: P has not fled the jurisdiction of any court in the United Kingdom or Ireland after being arrested or charged or being the subject of a warrant issued in connection with any Troubles-related offence.”

Member's explanatory statement

This amendment is intended to prevent the grant of immunity to any person subject to active proceedings who has moved abroad to escape prosecution.

LORD BROWNE OF LADYTON
BARONESS O'LOAN

119 Page 16, line 36, leave out “C” and insert “D”

Member's explanatory statement

This is a consequential amendment.

BARONESS SUTTIE
BARONESS RITCHIE OF DOWNPATRICK

120 Page 16, line 39, leave out paragraphs (b) and (c)

Member's explanatory statement

This amendment is to probe the meaning of “general immunity from prosecution”.

121 Page 17, line 1, leave out subsection (9)

Member's explanatory statement

This amendment is consequential on Baroness Suttie's amendment to page 16, line 39 to probe the meaning of “general immunity from prosecution”.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

122 Page 17, line 6, at end insert “arising from P's disclosed conduct.”

Member's explanatory statement

This amendment in the name of Baroness O'Loan requires the description of all identified possible offences which P has disclosed.

123 Page 17, line 22, leave out “not”

Member's explanatory statement

This amendment in the name of Baroness O'Loan makes a grant of immunity from prosecution revocable.

LORD HAIN
LORD CORMACK
BARONESS SUTTIE
BARONESS RITCHIE OF DOWNPATRICK

124 Page 17, line 22, leave out “not be revoked” and insert “be granted on terms set by the ICRIR.

- (14A) P is not eligible for immunity under this section unless P complies with such requirements as the ICRIR may impose, including –
- (a) attendance at a specified place, and
 - (b) provision of fingerprints and non-intimate samples.
- (14B) The ICRIR may revoke immunity from prosecution if –
- (a) P engages in any activity as set out in sections 11 to 13 of the Terrorism Act 2000,
 - (b) P is assessed by the ICRIR, in conjunction with the PSNI, to be a danger to the public,
 - (c) P approaches a victim in the case of injury or a victim’s family in relation to a death without the consent of the victim or victim’s family (as the case may be), or
 - (d) P seeks financial gain from the incident or incidents for which immunity has been granted.”

Member’s explanatory statement

This amendment gives the ICRIR discretion to impose “licence” conditions on those being granted immunity similar to early release arrangements. A breach of these conditions would not result in a return to prison since they had not been there in the first place but it could leave them open to prosecution as if immunity had not been granted.

LORD CAINE

125 Page 17, line 22, after “revoked” insert “, except by a court under section (*False statements: revocation of immunity*).”

Member’s explanatory statement

*This amendment is in consequence of new Clause *False statements: revocation of immunity*.*

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

126 Page 17, line 22, after “revoked” insert “if P is shown not to have complied with the requirements of subsection (3) of this section.”

Member’s explanatory statement

This amendment in the name of Baroness O’Loan provides the circumstances in which immunity from prosecution may be revoked.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

127★ Page 17, line 30, at end insert –

“(16A) Nothing in this Act confers any immunity from prosecution (after immunity has been granted to P) if P commits an offence under section 1 (encouragement of terrorism) of the Terrorism Act 2006 or section (*Offence of glorifying terrorism: Northern Ireland*) of this Act.”

Member’s explanatory statement

This amendment is intended to clarify that the granting of immunity under this Bill does not preclude prosecution of an individual for offences of encouraging and glorifying terrorism.

LORD CAINE

128 Page 17, line 31, leave out “section 19” and insert “Schedule (*No immunity in certain circumstances*)”

Member’s explanatory statement

This amendment is in consequence of new Schedule No immunity in certain circumstances.

LORD MURPHY OF TORFAEN
BARONESS O’LOAN
BARONESS RITCHIE OF DOWNPATRICK
BARONESS SUTTIE

The above-named Lords give notice of their intention to oppose the Question that Clause 18 stand part of the Bill.

Member’s explanatory statement

This has been tabled to facilitate a general debate around the proposed immunity scheme.

Clause 19

LORD CAINE

Lord Caine gives notice of his intention to oppose the Question that Clause 19 stand part of the Bill.

Member’s explanatory statement

The provision made by Clause 19 is moved to the new Schedule No immunity in certain circumstances.

Clause 21

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

129 Page 20, line 9, after “any” insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

130 Page 20, line 12, leave out subsection (4)

Member's explanatory statement

This amendment would impose an obligation on the ICRIR to seek all information which may undermine or assist verification of P's account.

131 Page 20, line 24, leave out subsections (7) and (8)

Member's explanatory statement

These amendments would enable the Chief Commissioner to make independent decisions about the granting of immunity without having regard to guidance issued by the Secretary of State.

After Clause 22

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

132 Insert the following new Clause—

“Revocation of immunity

- (1) This section applies if a person (P) has been granted immunity from prosecution for the offence under section 18, but later evidence is submitted to the immunity requests panel established under section 21 which the panel considers to be conclusive evidence that Condition D in section 18 is not met because P is, or has, engaged in activity that is likely to be understood by a reasonable person as precluding reconciliation.
- (2) This section applies if, after the immunity requests panel has ceased to operate, the Secretary of State considers that there is conclusive evidence that Condition D in section 18 is not met because P is, or has, engaged in activity that is likely to be understood by a reasonable person as precluding reconciliation.
- (3) Where subsection (1) or (2) applies, the immunity of P under this Act is revoked.
- (4) Where P's immunity is revoked under subsection (3), any new request for immunity by P under section 18 must not be granted by the immunity requests panel for any identified possible offence within the scope of the revoked immunity.

Member's explanatory statement

This new Clause requires the permanent revocation of immunity granted under the Bill in the event that the immunity requests panel or the Secretary of State is satisfied that an individual has engaged in activity that precludes reconciliation.

Clause 23

BARONESS O'LOAN
 LORD MURPHY OF TORFAEN
 LORD HAIN
 BARONESS RITCHIE OF DOWNPATRICK

133 Page 21, line 28, at beginning insert “an investigation or”

Member’s explanatory statement

This amendment extends the situations in which the Commissioner for Investigations may refer relevant conduct to the Prosecutor to include investigation as well as review.

134 Page 21, line 30, at beginning insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

LORD HAIN
 LORD CORMACK
 BARONESS SUTTIE
 BARONESS RITCHIE OF DOWNPATRICK

135 Page 21, line 32, leave out “may” and insert “must”

Member’s explanatory statement

This amendment would require the Commissioner to refer conduct to a prosecutor where the Commissioner considers that there is evidence the conduct constitutes an offence by an individual whose identity is known to the Commissioner.

LORD HAIN
 LORD HOGAN-HOWE
 LORD BLAIR OF BOUGHTON
 BARONESS O'LOAN

136 Page 22, line 3, at end insert—

“(3A) Where a Troubles-related offence or suspected offence is referred to a prosecutor, the Secretary of State must make payments or provide other resources to, or in respect of, the prosecutor in connection with any necessary investigation to decide whether to prosecute an individual.

(3B) Where a decision is made to prosecute such an individual, the Secretary of State must make payments or provide other resources to, or in respect of, the prosecutor in addition to the payments or resources under subsection (3A) in connection with the prosecution.

(3C) The amounts to be paid under subsections (3A) and (3B) may be set by regulations.

(3D) Regulations under this section are subject to the affirmative procedure.”

Clause 23 - continued

LORD CAINE

- 137 Page 22, line 10, leave out from “or” to end of line 12 and insert “the other harmful conduct, to which the review relates (the “main conduct”), and
- (b) any other conduct that relates to, or is otherwise connected with, the main conduct,
- and for this purpose other conduct is to be regarded as connected with the main conduct, in particular, if all of that conduct formed part of the same event.”

Member’s explanatory statement

This expands the kinds of conduct that can be referred to a prosecutor after an ICRIR review relating to a death or other harmful conduct. Other conduct related to or connected with the death or other harmful conduct can also be referred.

BARONESS O’LOAN
LORD MURPHY OF TORFAEN
LORD HAIN

BARONESS RITCHIE OF DOWNPATRICK

- 138 Page 22, line 12, after “the” insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

After Clause 23

LORD CAINE

- 139 Insert the following new Clause—

“False statements: offence

- (1) A person commits an offence by making a false statement to the ICRIR in connection with any of its functions under sections 9 to 22 .
- (2) For the purposes of this section—
 - (a) a person makes a false statement by—
 - (i) making a statement which the person knows to be false in a material respect, or
 - (ii) recklessly making a statement which is false in a material respect;
 - (b) “making a statement” includes giving an account in connection with a request for immunity under section 18.
- (3) A person guilty of an offence under this section 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;

After Clause 23 - continued

- (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.
- (4) Proceedings for an offence under this section may be instituted –
- (a) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland;
 - (b) in England and Wales, only by or with the consent of the Director of Public Prosecutions.”

Member's explanatory statement

This amendment prohibits (knowingly or recklessly) providing a statement to the ICRIR that is materially false.

140 Insert the following new Clause –

“False statements: revocation of immunity

- (1) This section applies where –
 - (a) a court is sentencing a person for an offence under section (*False statements: offence*),
 - (b) the offence was committed by the person in the course of requesting a grant of immunity under section 18, and
 - (c) the person was granted an immunity as a result of the request.
- (2) The court must revoke that immunity when passing sentence.
- (3) A revocation of immunity under this section –
 - (a) has immediate effect;
 - (b) has effect in relation to the entire grant of the immunity, but not any other grant of immunity to that person;
 - (c) does not prevent a person making a further request for immunity under section 18 (but see Part 2 of Schedule (*No immunity in certain circumstances*) for provision about requests that overlap with revoked immunities).”

Member's explanatory statement

This amendment requires courts, following a conviction for the offence, in new Clause False statements: offence, of making a false statement, to revoke any immunity granted under Clause 18 if the false statement was made in the course of applying for that immunity.

Clause 24

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

141 Page 22, line 36, at end insert –

“although any such person may voluntarily provide information to the ICRIR.”

Member’s explanatory statement

This amendment provides for the voluntary provision of information to the ICRIR in circumstances in which the ICRIR is not permitted to seek such information.

142 Page 22, line 41, leave out paragraph (a)

Member’s explanatory statement

This amendment would enable the provision of information for the purposes of the production of an historical record even where there is an obligation of confidentiality, though not a statutory obligation, owed by the holder of that information.

143 Page 23, line 9, after “which” insert “investigations or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

Clause 27

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

144 Page 24, line 15, at end insert “investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

Clause 31

BARONESS SMITH OF NEWNHAM

145 Page 26, line 22, leave out “negative” and insert “affirmative”

Member’s explanatory statement

This amendment would require regulations under this Clause to be made by the affirmative procedure.

Clause 34

LORD BROWNE OF LADYTON
 BARONESS O'LOAN
 LORD MURPHY OF TORFAEN

146 Page 28, line 10, leave out “continued or”

Member’s explanatory statement

This probing amendment deletes “continued or” from Clause 34(1).

LORD HAIN
 LORD HOGAN-HOWE
 LORD BLAIR OF BOUGHTON
 BARONESS O'LOAN

147 Page 28, line 10, at end insert –

“(1A) This section does not prevent the continuation of Operation Denton, commenced in February 2020 under the overall command of former Chief Constable Jon Boutcher.”

Member’s explanatory statement

Operation Denton is reviewing alleged offences, including 127 alleged murders, linked to the Glenanne Gang. It is scheduled to conclude in Spring 2024. This amendment would stop this investigation from being passed to the ICIR to complete.

Clause 35

LORD MURPHY OF TORFAEN
 BARONESS RITCHIE OF DOWNPATRICK

148 Page 28, line 29, at end insert “, but enforcement action may be taken to prevent P from seeking to profit from their conduct in relation to that offence (see section (*Grant of immunity: criminal memoirs etc*)).”

Member’s explanatory statement

This amendment, which is linked to the insertion of a new Clause, makes clear that while general criminal enforcement action may not be taken against an individual who has been granted immunity, enforcement action may occur in cases where P seeks to profit from their relevant criminal conduct.

LORD DODDS OF DUNCAIRN
 LORD WEIR OF BALLYHOLME
 LORD MORROW
 LORD BROWNE OF BELMONT

149 Page 28, line 29, at end insert –

“(3) But any sentencing decision in respect of a serious offence committed by P after 10 April 1998 may take into account the panel’s findings on any relevant serious Troubles-related offence committed by P.”

Member's explanatory statement

This amendment is intended to allow the offences for which immunity has been granted to be taken into account in sentencing for post-Troubles offences.

Clause 36

LORD CAINE

150 Page 28, line 35, leave out “only”

Member's explanatory statement

This is consequential on the other amendment of Clause 36 in the Minister's name.

151 Page 29, line 6, at end insert –

“(2A) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR's functions, may arrest or otherwise detain P in connection with the offence by P.

(2B) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR's functions, may charge P with the offence by P; and a prosecutor may conduct criminal proceedings arising from any such charge.

(2C) If subsection (2) becomes applicable to the offence by P, criminal enforcement action against P in respect of the offence may no longer be taken in accordance with subsection (2A) or (2B).

(2D) But that does not limit the criminal enforcement action that may be taken in accordance with subsection (2) after it becomes applicable (and, in particular, action previously taken in accordance with subsection (2A) or (2B) may be continued in accordance with subsection (2)).

(2E) Subsections (2), (2A) and (2B) only authorise a person to take criminal enforcement action by the exercise of powers which that person has otherwise than by virtue of this section.”

Member's explanatory statement

This expands the criminal enforcement action that can be taken where immunity has not been granted and where a referral to a prosecutor has not been made. It allows P to be arrested, and preserves the possibility of the ICRIR charging P with an offence.

Clause 38

LORD BROWNE OF LADYTON
BARONESS O'LOAN
BARONESS RITCHIE OF DOWNPATRICK

152 Page 29, line 22, leave out “or continued”

Member's explanatory statement

This amendment is consequential on the preceding amendment in the name of Lord Browne, to Clause 34.

LORD CAINE

153 Page 29, line 27, leave out “P” and insert “a person”

Member's explanatory statement

This removes the use of "P" to refer to a person who is being prosecuted for an offence.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

154 Page 29, line 30, at end insert –

“(3A) For the purposes of subsection (3), a criminal prosecution of P is to be treated as having begun when a file relating to the criminal investigation into P’s conduct has already been submitted to the Public Prosecution Service on or before the day that section 33 comes into force.

(3B) But if no prosecution of P is directed on the basis of the file submitted to the Public Prosecution Service for Northern Ireland, the case relating to P must be returned to the ICIR for investigation in accordance with this Part.”

Member's explanatory statement

The purpose of this amendment is to treat a public prosecution as having begun when the file is passed to the Public Prosecution Service for Northern Ireland.

Clause 39

LORD BROWNE OF LADYTON
BARONESS O'LOAN
BARONESS RITCHIE OF DOWNPATRICK
LORD MURPHY OF TORFAEN

155 Page 30, line 5, leave out subsection (1)

Member's explanatory statement

This probing amendment deletes subsection 39(1) from the Bill.

LORD BROWNE OF LADYTON
BARONESS O'LOAN
LORD MURPHY OF TORFAEN

156 Page 30, line 8, leave out “on or” and insert “from three years”

Member's explanatory statement

This probing amendment ensures that a Troubles related civil action can be brought up to three years after the coming into force of Clause 39.

LORD BROWNE OF LADYTON
BARONESS O'LOAN

157 Page 30, line 32, leave out subsection (7)

Member's explanatory statement

This amendment is consequential upon a previous amendment in the name of Lord Browne to Clause 39.

158 Page 30, line 38, leave out “(1) or”

Member's explanatory statement

This amendment is consequential upon a previous amendment in the name of Lord Browne to Clause 39.

159 Page 30, line 38, leave out “continued, or”

Member's explanatory statement

These amendments are consequential upon a previous amendment in the name of Lord Browne.

160 Page 30, line 40, leave out “continued or”

Member's explanatory statement

These amendments are consequential upon a previous amendment in the name of Lord Browne.

161 Page 30, line 43, leave out “continued or”

Member's explanatory statement

These amendments are consequential upon a previous amendment in the name of Lord Browne.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

The above-named Lords give notice of their intention to oppose the Question that Clause 39 stand part of the Bill.

Member's explanatory statement

This amendment would delete the removal of all rights of civil action from those who have been bereaved or affected by the Troubles.

Clause 40

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

The above-named Lords give notice of their intention to oppose the Question that Clause 40 stand part of the Bill.

Member's explanatory statement

This amendment would delete the removal of all existing and future inquests, investigations and inquiries into the deaths resulting directly from The Troubles.

Clause 41

LORD CAINE

162 Page 33, line 18, at end insert –

“(2A) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, the Ombudsman –

- (a) is not to begin any formal investigation of a matter, and
- (b) is to cease any formal investigation of a matter begun before that day,

insofar as the matter relates to conduct forming part of the Troubles.”

Member’s explanatory statement

This prevents the Police Ombudsman for Northern Ireland from beginning, or continuing, to investigate matters that relate to conduct forming part of the Troubles. That limitation on investigation is in addition to the limitation on dealing with complaints (already covered by Clause 41).

163 Page 33, line 18, at end insert –

“(2B) This section does not prevent the Ombudsman from carrying out a criminal investigation of a Troubles-related offence if –

- (a) a public prosecution of a person for the offence had been begun before the day on which section 34 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, and
- (b) the criminal investigation is carried out for the purposes of that prosecution.

(2C) For the purposes of subsection (2B) –

- (a) “public prosecution” means any prosecution other than a private prosecution;
- (b) a public prosecution of a person for an offence is “begun” when a prosecutor makes the decision to prosecute that person for that offence.”

Member’s explanatory statement

This ensures that activity of the Ombudsman which constitutes a criminal investigation can continue where a prosecution of a person has begun before commencement. (This exception from the effect of Clause 41 is the same as the exception from the effect of Clause 34 set out in Clause 38(3).)

164 Page 33, line 21, at end insert –

““formal investigation” means an investigation under section 56 (whether resulting from a referral to the Ombudsman, or a decision by the Ombudsman, under section 55).”

Member’s explanatory statement

This is consequential on the amendment in the Minister’s name which prevents the Police Ombudsman for Northern Ireland from beginning, or continuing, to investigate matters that relate to conduct forming part of the Troubles.

165

Page 33, line 21, at end insert –

“(2) In section 28A of the Police Reform Act 2002 (application of complaints and misconduct provisions to matters occurring before 1 April 2004), after subsection (6) insert –

“(6A) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this section –

(a) ceases to apply to a pre-commencement matter or a matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter was given before that day), or

(b) does not apply to a pre-commencement matter or matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter is given on or after that day),

insofar as the matter relates to conduct forming part of the Troubles.

(6B) In subsection (6A) “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).”

(3) After section 47 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 insert –

“47A Complaint or investigation relating to Northern Ireland Troubles

(1) On and after the day on which section 41 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this Part –

(a) ceases to apply to a complaint or investigation (if the complaint was made, or investigation was begun, before that day), or

(b) does not apply to a complaint or investigation (if the complaint is made, or investigation is to begin, on or after that day),

insofar as the complaint or investigation relates to conduct forming part of the Troubles.

(2) In this section “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).”

Member’s explanatory statement

This extends Clause 41 so that the legislation dealing with police complaints in England, Wales and Scotland also does not apply to complaints relating to the Troubles.

After Clause 42

LORD HAIN
LORD HOGAN-HOWE
LORD BLAIR OF BOUGHTON
BARONESS O'LOAN

166 Insert the following new Clause—

“Amendment of the Code for Prosecutors for Troubles-related offences

In section 37 of the Justice (Northern Ireland) Act 2002 (Code for Prosecutors), after subsection (3) insert—

- “(3A) The code must ensure that the views, interests and well-being of victims, and of the families of deceased victims, are considered when determining whether criminal proceedings should be instituted for a Troubles-related offence.
- (3B) In relation to a Troubles-related offence the code must take account of—
- (a) the likelihood of the accused re-offending,
 - (b) the time elapsed since the offence,
 - (c) the volume and seriousness of the crime, and
 - (d) the character and behaviour of the accused since offending.”

LORD MURPHY OF TORFAEN
BARONESS O'LOAN
BARONESS RITCHIE OF DOWNPATRICK

167 Insert the following new Clause—

“Grant of immunity: criminal memoirs etc

- (1) A person (P) who has under section 18 been granted immunity from prosecution for an offence may not seek to profit from their conduct in relation to that offence.
- (2) The Coroners and Justice Act 2009 is amended as follows.
- (3) In section 156 (qualifying offenders), in sub-paragraph (3)(b)(i) at end insert “or, in relation to section 159(1)(aa), a citizen of Ireland who would qualify to be a United Kingdom national”.
- (4) In section 159 (relevant offences), after paragraph (1)(a) insert—

“(aa) a serious Troubles-related offence in relation to which P has been granted immunity from prosecution under section 18 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023,”.
- (5) The Secretary of State may, after consulting the First Minister and deputy First Minister if practicable, make regulations to prohibit the exploitation for profit of Troubles-related offences by any individual granted immunity under section 18.
- (6) Regulations under subsection (5) may further amend the Coroners and Justice Act 2009 and make any necessary provision to amend any relevant primary or secondary legislation in order to prohibit the exploitation for profit of Troubles-related offences by any individual granted immunity under section 18.

After Clause 42 - continued

(7) Regulations under this section are subject to affirmative procedure.”

Member’s explanatory statement

This new Clause would prevent a person who has been granted immunity from prosecution for a historic offence from seeking to profit from that criminal conduct, for example through the publication of criminal memoirs.

Schedule 11

LORD CAINE

168

Page 85, leave out lines 22 and 23 and insert –

- “(6A) An offence is a qualifying offence if –
- (a) subsection (7) or (7A) applies to the offence, and
 - (b) the prisoner was convicted of the offence –
 - (i) before the day on which section 18(1) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 came into force, or
 - (ii) on or after that day by virtue of a public prosecution begun before that day.
- (6B) For the purposes of subsection (6A) –
- (a) “public prosecution” means any prosecution other than a private prosecution;
 - (b) a public prosecution of a person for an offence is “begun” when a prosecutor makes the decision to prosecute that person for that offence.””

Member’s explanatory statement

This will prevent a prisoner from being released under the Northern Ireland (Sentences) Act 1998 if the prisoner is convicted after the ICRIR’s power to grant immunity from prosecution becomes exercisable (and so could have avoided conviction by obtaining immunity).

169

Page 86, line 9, leave out “it” and insert “the offence, and

- (b) the prisoner was convicted of the offence –
 - (i) before the day on which section 18(1) of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 came into force, or
 - (ii) on or after that day by virtue of a public prosecution begun before that day.
- (A2) For the purposes of sub-paragraph (A1) –
- (a) “public prosecution” means any prosecution other than a private prosecution;
 - (b) a public prosecution of a person for an offence is “begun” when a prosecutor makes the decision to prosecute that person for that offence.”

Member’s explanatory statement

This will prevent a prisoner from being released under the Northern Ireland (Sentences) Act 1998 if the prisoner is convicted after the ICRIR’s power to grant immunity from prosecution becomes exercisable (and so could have avoided conviction by obtaining immunity).

170 Page 86, line 30, leave out paragraphs 4 and 5

Member's explanatory statement

This removes some of the amendments proposed to the Northern Ireland (Sentences) Act 1998. Those amendments would have allowed prisoners to be released (a) if sentenced to less than 5 years' imprisonment; and (b) without the need to serve a minimum period in prison.

Clause 43

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

171 Page 33, line 35, after "collections" insert "and such collections are preserved"

Member's explanatory statement

This amendment would require the preservation of existing oral history records.

Clause 44

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

172★ Page 35, line 25, at end insert –

“(2A) The designated persons have an overarching duty to ensure that no memorialisation activities glorify the commission or preparation of Troubles-related offences.”

Member's explanatory statement

This amendment is intended to ensure that designated persons responsible for making recommendations about the initiation and carrying out of relevant memorialisation activities are under a duty to prevent the glorification of Troubles-related offences.

173 Page 35, line 28, at end insert –

“(3A) The designated persons must take into account the interests and concerns of victims of the Troubles in the preparation of the memorialisation strategy.

(3B) “Victims of the Troubles” do not include any person P who has received immunity under this Act and whose physical or mental harm was caused by Troubles-related conduct in which P participated unlawfully.”

Member's explanatory statement

This amendment is intended to ensure that only innocent victims are included as victims in the memorialisation strategy under this Act.

LORD GODSON
LORD BEW
LORD EMPEY
BARONESS HOEY

174★ Page 35, line 34, at end insert –

“(ba) how relevant memorialisation activities currently, or will in the future, promote a culture of anti-sectarianism;”

Member’s explanatory statement

This addition for Clause 44 strengthens the objectives of reconciliation and relevance.

Clause 49

LORD GODSON
LORD BEW
LORD EMPEY
BARONESS HOEY

175★ Page 38, line 40, at end insert –

“(c) the need to ensure that the membership of the advisory forum is not dominated by any particular political outlook or ideology.”

Member’s explanatory statement

This and another amendment to Clause 49 seek to improve the working of the advisory forum by ensuring a wide academic spectrum of opinion is represented, which takes proper account of the historical record.

176★ Page 38, line 40, at end insert –

“(2A) In discharging the duty under subsection (2)(a), the designated persons must have regard to the historical record produced under section 24.”

Member’s explanatory statement

This and another amendment to Clause 49 seek to improve the working of the advisory forum by ensuring a wide academic spectrum of opinion is represented, which takes proper account of the historical record.

After Clause 51

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW
LORD BROWNE OF BELMONT

177★ Insert the following new Clause –

“Offence of glorifying terrorism: Northern Ireland

(1) This section applies to a statement that is likely to be understood by a reasonable person as a direct or indirect encouragement or other inducement to some or all of the members of the public in Northern Ireland, to the commission, preparation or instigation of acts of terrorism.

(2) A person P commits an offence if –

After Clause 51 - continued

- (a) P publishes a statement to which this section applies or causes another to publish such a statement; and
 - (b) at the time P publishes it or causes it to be published, P—
 - (i) intends members of the public in Northern Ireland to be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism; or
 - (ii) is reckless as to whether members of the public in Northern Ireland will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate such acts.
- (3) For the purposes of this section, statements that are likely to be understood by a reasonable person as indirectly encouraging the commission or preparation of acts of terrorism include every statement which—
- (a) glorifies the commission or preparation in the past of Troubles-related offences; and
 - (b) is a statement from which members of the public in Northern Ireland could reasonably be expected to infer that what is being glorified is being glorified as conduct that should be emulated by them in existing circumstances.
- (4) For the purposes of this section the questions how a statement is likely to be understood and what members of the public in Northern Ireland could reasonably be expected to infer from it must be determined having regard both—
- (a) to the contents of the statement as a whole; and
 - (b) to the circumstances and manner of its publication.
- (5) It is irrelevant for the purposes of subsections (1) to (3)—
- (a) whether anything mentioned in those subsections relates to the commission, preparation or instigation of one or more particular acts of terrorism, of acts of terrorism of a particular description or of acts of terrorism generally; and
 - (b) whether any person is in fact encouraged or induced by the statement to commit, prepare or instigate any such act.
- (6) In proceedings for an offence under this section against a person P in whose case it is not proved that P intended the statement directly or indirectly to encourage or otherwise induce the commission, preparation or instigation of acts of terrorism it is a defence for P to show—
- (a) that the statement neither expressed P's views nor had P's endorsement; and
 - (b) that it was clear, in all the circumstances of the statement's publication, that it did not express P's views and did not have P's endorsement.
- (7) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 15 years, or to a fine, or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;

After Clause 51 - continued

- (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both.
- (8) In considering sentencing for an offence under this section, the court must take into consideration as an aggravating factor any immunity granted to P under this Act.”

Member’s explanatory statement

This new clause, based on section 1 of the Terrorism Act 2006, establishes an offence of glorifying terrorism in Northern Ireland and makes having received immunity under this Bill an aggravating factor in sentencing.

Clause 52

LORD BROWNE OF LADYTON
BARONESS O’LOAN

178 Page 40, line 37, leave out subsection (8)

Member’s explanatory statement

This amendment deletes subsection 52(8).

Schedule 12

LORD CAINE

179 Page 89, line 8, at end insert—

“2A After section 60ZC of the Police (Northern Ireland) Act 1998 insert—

“60ZD The Independent Commission for Reconciliation and Information Recovery

- (1) An agreement for the establishment in relation to ICIR officers of procedures corresponding or similar to any of those established by virtue of this Part may, with the approval of the Secretary of State, be made between the Ombudsman and the ICIR.
- (2) Where no such procedures are in force in relation to the ICIR, the Secretary of State may by order establish such procedures.
- (3) An agreement under this section may at any time be varied or terminated with the approval of the Secretary of State.
- (4) Before making an order under this section the Secretary of State must consult—
 - (a) the Ombudsman; and
 - (b) the ICIR.
- (5) Nothing in any other statutory provision prevents the ICIR from carrying into effect procedures established by virtue of this section.
- (6) No such procedures shall have effect in relation to anything done by an ICIR officer outside Northern Ireland.
- (7) In this section—

“ICIR” means the Independent Commission for Reconciliation and Information Recovery;

Schedule 12 - continued

“ICRIR officer” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.”

Member’s explanatory statement

This enables the Police Ombudsman for Northern Ireland to have jurisdiction over ICRIR officers.

180 Page 89, line 16, leave out paragraph 4

Member’s explanatory statement

This removes the amendment of the Regulation of Investigatory Powers Act 2000 (which would have made the ICRIR subject to the jurisdiction of the Investigatory Powers Tribunal, something no longer needed as the ICRIR will no longer have investigatory powers by virtue of amendment in the Minister’s name to leave out paragraph 6(3) of Schedule 12).

181 Page 89, line 29, at end insert –

“5A After section 26E of the Police Reform Act 2002 insert –

“26F The Independent Commission for Reconciliation and Information Recovery

- (1) The Director General and the ICRIR may enter into an agreement for the establishment, in relation to ICRIR officers, of procedures corresponding or similar to those provided for by or under this Part.
- (2) Where no such agreement is in force, the Secretary of State may by regulations establish such procedures.
- (3) An agreement under this section must not be made, varied or terminated except with the approval of the Secretary of State.
- (4) Before making regulations under this section the Secretary of State must consult –
 - (a) the Director General; and
 - (b) the ICRIR.
- (5) Nothing in any other statutory provision prevents the ICRIR from carrying into effect procedures established by virtue of this section.
- (6) An agreement or regulations under this section may contain provision for enabling the Director General to bring and present, or otherwise participate or intervene in, any proceedings that are identified by the agreement as disciplinary proceedings in relation to ICRIR officers.
- (7) Procedures established in accordance with an agreement under this section, or by regulations under this section, have no effect in relation to anything done outside England and Wales by any ICRIR officer.
- (8) In this section –

“ICRIR” means the Independent Commission for Reconciliation and Information Recovery;

“ICRIR officer” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.”

Schedule 12 - continued

- 5B(1) Article 4 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/1098) (agreements to establish complaints procedures) is amended as follows.
- (2) After paragraph (4) insert—
 - “(4A) The Commissioner and the ICIRIR may enter into an agreement to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part 1 of the Act in relation to complaints made about the acts or omissions of the ICIRIR and ICIRIR officers.”
 - (3) In paragraph (7), after sub-paragraph (d) insert—
 - “(e) any statement made by a person who is, or has been, an ICIRIR officer about the terms and conditions of their service;”.
 - (4) In paragraph (14), after sub-paragraph (b) insert—
 - “(c) “ICIRIR” means the Independent Commission for Reconciliation and Information Recovery;
 - (d) “ICIRIR officer” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023.”
- 5C(1) The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602) is amended as follows.
- (2) In article 3 (agreements to investigate serious incidents), after paragraph (17) insert—
 - “(17A) The Commissioner and the Independent Commission for Reconciliation and Information Recovery (the “ICIRIR”) may enter into an agreement for the Commissioner to investigate and report, where requested to do so by the ICIRIR, on any serious incident involving the ICIRIR.
 - (17B) A “serious incident involving the ICIRIR” has the same meaning as a “serious incident involving the police” in section 41B of the 2006 Act except that “a person serving with the police” means an ICIRIR officer (which has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023).”
 - (3) In article 4 (investigation of crimes and deaths), after sub-paragraph (h) insert—
 - “(i) an ICIRIR officer (which has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023).”

Member’s explanatory statement

This enables the Independent Office for Police Conduct (in England and Wales) and the Police Investigations and Review Commissioner (in Scotland) to have jurisdiction over ICIRIR officers.

Member's explanatory statement

This changes the amendment of section 58 of the Investigatory Powers Act 2016 so that it operates on section 58(4) rather than on section 58(2).

183 Page 89, line 40, leave out sub-paragraph (3)

Member's explanatory statement

This removes the amendment of Schedule 4 to the Investigatory Powers Act 2016 (which would have made the ICRI a "relevant public authority" for the purposes of Part 3 of that Act and enabled it to use investigatory powers).

184 Page 90, line 14, at end insert –

“7A In section 379 of the Sentencing Act 2020, in the table in subsection (1), at the appropriate place insert –
“Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

section (<i>False</i>	revocation of	making of
<i>statements: revocation of</i>	immunity under that Act	false statements”
<i>immunity)</i>		

Clause 54

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

185 Page 43, line 7, column 2, at end insert –

“the Director General of the National Crime Agency.”

Member's explanatory statement

This amendment would add the Director General of the NCA to the list of those described as "chief officers" for the purposes of the Bill.

LORD CAINE

186 Page 43, line 16, at end insert –

“deputy First Minister

 | The deputy First Minister in Northern
 | Ireland.”

Member's explanatory statement

This defines the expression "deputy First Minister" for the purposes of the Bill.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

187 Page 43, line 21, column 2, after “of” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

188 Page 43, line 22, column 2, after “or” insert “an investigation or”

Member’s explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O’Loan to Clause 2.

LORD CAINE

189 Page 43, line 23, at end insert –

“financial year”

“This has the meaning given in section 2(9).”

Member’s explanatory statement

This amends the table of definitions to include the definition of “financial year” that is added to the Bill by the amendments of Clause 2 in the Minister’s name.

190 Page 43, line 23, at end insert –

“First Minister

“The First Minister in Northern Ireland.”

Member’s explanatory statement

This defines the expression “First Minister” for the purposes of the Bill.

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN
BARONESS RITCHIE OF DOWNPATRICK

191 Page 45, leave out lines 18 to 20

Member’s explanatory statement

This amendment removes “the Security Service; the Secret Intelligence Service; GCHQ” from the list of relevant authorities.

192 Page 45, line 27, column 1, after “for” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

193 Page 45, line 27, column 2 after “for” insert “an investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

LORD CAINE

194 Page 45, line 30, column 2, leave out from “which” to first “the” in line 32 and insert “(if contained in a Bill for an Act of the Northern Ireland Assembly) would result in the Bill requiring”

Member's explanatory statement

This changes the definition of “reserved provision” to reflect the fact that section 8(b) of the Northern Ireland Act 1998 requires consent to a Bill for an Act (rather than to the Act itself).

BARONESS O'LOAN
LORD MURPHY OF TORFAEN
LORD HAIN

BARONESS RITCHIE OF DOWNPATRICK

195 Page 45, line 35, column 1, at beginning insert “investigation or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

196 Page 45, line 35, column 2, after “out” insert “investigations or”

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Baroness O'Loan to Clause 2.

197 Page 46, line 21, at end insert –

“Special relevant authority	The Security Service; the Secret Intelligence Service; GCHQ”
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Member's explanatory statement

This amendment removes “the Security Service; the Secret Intelligence Service; GCHQ” from the list of relevant authorities and creates a separate category of “special relevant authority” on which different obligations are imposed.

Clause 57

LORD MURPHY OF TORFAEN

198 Page 47, line 34, at end insert “, but such day or days must not be beyond the end of the period of two years beginning with the day on which this Act is passed”

Member’s explanatory statement

This amendment is to probe the Government’s intended implementation timetable for Parts 2 and 4 of the Bill.

Northern Ireland Troubles (Legacy and Reconciliation) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

20 January 2023
