

Northern Ireland Troubles (Legacy and Reconciliation) Bill

FOURTH
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 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
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 ICRIR 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).”

Clause 36 - continued

(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 ICRIR 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

155A Page 30, line 5, leave out from “after” to “may” in line 6 and insert “17 May 2022”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Browne of Ladyton at page 41, line 4.

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.

Schedule 9

LORD BROWNE OF LADYTON

161A Page 78, leave out lines 19 and 20 and insert “17 May 2022”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Browne of Ladyton at page 41, line 4.

161B Page 79, line 20, leave out from “after” to “including” on line 21 and insert “17 May 2022”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Browne of Ladyton at page 41, line 4.

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
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.
- (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 46

BARONESS HOEY

174ZA Page 36, line 40, at end insert –

“(2A) When enabling or assisting the designated persons to comply with the duties imposed by subsection (1)(a) to (d), previous research excellence as assessed by independent peer review is not to be regarded as the sole criterion for any decision by UKRI.”

Member's explanatory statement

This addition to Clause 46 is designed to ensure that a broader range of academic research than has historically been the case is sought and funded by UKRI Councils in relation to Clause 46.

174A Page 37, line 13, at end insert “of the gay and lesbian community's experience of those events, and”

Member's explanatory statement

This addition to subsection (6) ensures that the experience of the gay community in Northern Ireland during the Troubles, including decriminalisation, is recorded and assessed.

After Clause 46

LORD GODSON

LORD CARLILE OF BERRIEW

LORD UDNY-LISTER

LORD ROBERTSON OF PORT ELLEN

174B Insert the following new Clause –

“Public history of the Troubles

- (1) Within six months of this Act being passed, the Secretary of State must commission a public history of the Troubles (‘the public history’).
- (2) The public history must take account of the lessons of the Government’s official history programme commenced in 1908, the official histories published by the Foreign, Commonwealth & Development Office and the Ministry of Defence as well as the advice given by Sir Joe Pilling and Bill Hamilton in ‘Reports on Future Plans for the Government’s Official History Programme 2009’.
- (3) In commissioning the public history, the Secretary of State must seek to achieve the objectives set out in subsections (4) to (7) in relation to the public history.
- (4) The public history should be completed and published within three years of its commissioning.
- (5) The public history should be made widely available in the United Kingdom and the Republic of Ireland in print (hardback and paperback) as well as digital formats at a price which is affordable for the ordinary reading public.

After Clause 46 - continued

- (6) The public history should not be undertaken as part of the Official History Programme but as part of the legacy programme, along the lines of a departmental history such as those produced in the past by the the Foreign, Commonwealth & Development Office and the Ministry of Defence.
- (7) The public history must consider in particular the inclusion of –
 - (a) a security history of the Troubles;
 - (b) a social history of sectarian dispute and ethnic hostility in Northern Ireland;
 - (c) a political history of attempts to provide for the governance of Northern Ireland;
 - (d) an account of the contribution and involvement of the Republic of Ireland;
 - (e) an analysis of whether and how the key players followed and abided by their stated principles and purposes.
- (8) The Secretary of State, or a person commissioned to oversee the public history, must consider whether there should be appointed two or more public historians and the level of research and researcher support to be made available to them in order to achieve the objectives set out in this section.
- (9) The Secretary of State must consider the question of official records, following the precedents set by the Saville Inquiry –
 - (a) whether the public historians will have access to all documents;
 - (b) the release programme for documents including the temporary or permanent retention of documents;
 - (c) that redactions are made as necessary.
- (10) The Secretary of State must consider on what terms the public historians should approach retired persons in the public service for interviews.
- (11) The public historians must produce regular reports to the Secretary of State on their recommendations for the public release of official documents related to the issues addressed and covered by the public history, including a final report that summarises the recommendations of the public historians.
- (12) The Secretary of State must take into account the recommendations of the public historians on the public release of documents, in general and as regards specific documents, as part of a programme of opening up the Troubles related archives to the public.
- (13) The Secretary of State must ensure that sufficient funding for the public history is provided so that the Secretary of State and the public historians are able to achieve the objectives established by this section.”

Member’s explanatory statement

This new Clause requires the Secretary of State to commission a public history of the Troubles, taking into account lessons from the Government’s official history programme and departmental histories, to decide the scale of resource to be applied and requiring the Secretary of State to decide the terms of access to official documents and access to retired officials. This Clause requires the Secretary of State to take into account recommendations from the public historians as to the public release of documents related to the Troubles.

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 –
 - (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.

After Clause 51 - continued

- (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;
 - (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).

LORD BROWNE OF LADYTON

178A Page 41, line 4, leave out subsection (c)

Member's explanatory statement

Subsection (8) refers to "the actual date of the First Reading". The actual date of the First Reading was 17th May 2022 and therefore the formula proposed in Clause 52(8)(c) is unnecessary if the bill is otherwise amended to refer to 17th May 2022.

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 ICRIR 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 ICRIR.
- (2) Where no such procedures are in force in relation to the ICRIR, 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 ICRIR.
- (5) Nothing in any other statutory provision prevents the ICRIR 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 ICRIR officer outside Northern Ireland.
- (7) In this section—

“ICRIR” 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 ICRIR 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 statements: revocation of immunity</i>)	revocation of immunity under that Act	making of false statements”
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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.”
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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).”
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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.”
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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

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

9 May 2023
