

Northern Ireland Troubles (Legacy and Reconciliation) Bill

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 2

LORD CAINE

- 1** Page 3, line 11, leave out “one, two or three” and insert “between one and five”
- Member’s explanatory statement*
This provides that the ICRIR will have between one and five other Commissioners (in addition to the Chief Commissioner and the Commissioner for Investigations), with the actual number to be decided (as currently) by the Secretary of State under paragraph 6 of Schedule 1.
- 2** Page 3, line 11, at end insert –
“(3A) The principal objective of the ICRIR in exercising its functions is to promote reconciliation.”
- Member’s explanatory statement*
This would impose the principal objective of promoting reconciliation on the exercise of the ICRIR’s functions.
- 3** Page 3, line 26, at end insert –
“(4A) In exercising its functions, the ICRIR must have regard to the general interests of persons affected by Troubles-related deaths and serious injuries.”
- Member’s explanatory statement*
This would require the ICRIR to have regard to the interests of various categories of person when carrying out its functions.
- 4** Page 3, line 26, at end insert –
“(4A) At least three months before the start of each financial year the ICRIR must –

Clause 2 - continued

- (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 2025.

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

Member’s explanatory statement

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

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

- “(5) No later than six months after the end of each financial year, the ICIR 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 Lord Caine’s name about work plans (including by imposing a time limit for producing the reports and requiring the reports to relate to financial years).

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

Member’s explanatory statement

This is consequential on the amendment in Lord Caine’s name which amends the existing provision about annual reports.

- 7 Page 4, line 4, at end insert –

- “(9) In this section “persons affected by Troubles-related deaths and serious injuries” means –
- (a) family members of persons whose deaths were caused directly by conduct forming part of the Troubles (and the reference to those deaths has the meaning given in section 9(9)),
 - (b) persons who suffered serious physical or mental harm that was caused by conduct forming part of the Troubles, and
 - (c) family members of persons who suffered such harm and have subsequently died.”

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name about the duty to have regard to certain persons' interests.

8 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 Lord Caine's name about work plans and annual reports.

After Clause 2

LORD EAMES
BARONESS HOEY

9 Insert the following new Clause—

“ICRIR: immunity consent

- (1) The ICRIR process must have as its central feature the requirement for a close family member of a deceased person to grant consent prior to the granting of specific immunity for deaths caused by a troubles-related offence, subject to section (*Objections to request for immunity*)(3).
- (2) If there is an objection raised to a request for immunity in relation to deaths then the ICRIR may not exercise any powers in section 14, 15 or 16, subject to section (*Objections to request for immunity*)(3).
- (3) The Chief Commissioner may still conduct a review under section 9(3) to (6) if they deem it to be proportionate and in the public interest.
- (4) Nothing in this section affects the operation of section 23.”

Member's explanatory statement

This provides for the victim's consent to be central to the process. In the absence of such consent in regards offences causing death, there can be no immunity (subject to subsection (3) of the new clause in Lord Eames' name after Clause 12). If there is no consent, it is also the case that the ICRIR may not supply information or produce a public report, but nevertheless may still exercise the power in section 23 to refer to prosecutors.

Clause 4

LORD BEW
LORD GODSON

10 Page 4, line 26, at end insert—

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

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.

LORD CAINE

11 Page 4, line 29, at end insert –

“(2A) Subsection (1)(c) does not apply to grants of immunity from prosecution by the ICRIR under section 18 (but see paragraph 3 of Schedule (*No immunity in certain circumstances*)).”

Member's explanatory statement

*This amendment is consequential on paragraph 3 of new Schedule (*No immunity in certain circumstances*) in Lord Caine's name.*

LORD BEW
LORD GODSON

12 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
BARONESS RITCHIE OF DOWNPATRICK
LORD HOGAN-HOWE

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

Member's explanatory statement

This amendment gives the ICRIR the right to require information, documents and other material from all the organisations listed in the definition of “relevant authority”.

LORD CAINE

14 Page 5, line 21, leave out from “require” to “to” in line 22 and insert “any of the following persons”

Member's explanatory statement

This amendment is consequential on the other amendment of this Clause in Lord Caine's name

15 Page 5, line 25, after “section” insert “–

- (a) the Chief Constable of the PSNI;
- (b) the chief officer of a police force in Great Britain;
- (c) the Police Ombudsman for Northern Ireland;
- (d) the Director General of the Independent Office for Police Conduct;

Clause 5 - continued

(e) the Police Investigations and Review Commissioner.”

Member’s explanatory statement

This would expand the persons subject to the duty to provide assistance under Clause 5(7) (currently the duty applies to the Chief Constable of the PSNI and the Police Ombudsman for Northern Ireland).

Clause 7

LORD CAINE

16 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 (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.

17 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
BARONESS RITCHIE OF DOWNPATRICK
LORD HOGAN-HOWE

18 Leave out Clause 7

Clause 8

LORD CAINE

19 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

LORD EAMES
BARONESS HOEY

20 Page 7, line 43, at end insert –

“(1A) The making of a request under subsection (1) is to be treated as “consent” for the ICRIIR to grant specific immunity under section 18, subject to the requirements of that section and section (*Objections to request for immunity*).

(1B) In making a request under subsection (1) the close family member of the deceased may be represented by a family member, friend, legal representative or lay representative.”

Member's explanatory statement

This provides that if a close family member applies for a review, they are taken to have provided consent for the section 18 process to be applied. (1B) guards against the process becoming a financial drain on the Legal Aid budget, allowing a person to select their own representative who does not need to be legally qualified.

BARONESS O'LOAN
BARONESS RITCHIE OF DOWNPATRICK
LORD HOGAN-HOWE

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

Member's explanatory statement

This, and another amendment to Clause 7 in the name of Baroness O'Loan, removes the power of the Commissioner for Investigations to determine whether a family member should be prevented from requesting a review.

LORD CAINE

22 Page 8, line 17, leave out sub-paragraph (i)

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to Clause 40.

23 Page 8, line 22, leave out sub-paragraph (i)

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to Part 1 of Schedule 10.

24 Page 8, line 31, leave out sub-paragraph (i)

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to Part 2 of Schedule 10.

25 Page 8, line 37, leave out sub-paragraph (i)

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to Part 2 of Schedule 10.

BARONESS O'LOAN
BARONESS RITCHIE OF DOWNPATRICK
LORD HOGAN-HOWE

26 Page 8, line 46, leave out subsection (7)

Member's explanatory statement

This amendment removes the power of the Commissioner for Investigations to determine whether a family member should be prevented from requesting a review.

Clause 10

LORD EAMES
BARONESS HOEY

27 Page 9, line 21, at end insert –

“(1A) In making a request under subsection (1) the person may be represented by a family member, friend, legal representative or lay representative.”

Member's explanatory statement

This guards against the process becoming a financial drain on the Legal Aid budget, allowing a person to select their own representative who does not need to be legally qualified.

Clause 11

BARONESS HOEY
LORD BEW
LORD GODSON

28 Page 10, line 5, at end insert –

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

- (a) a criminal investigation, and its outcome (or outcomes);
- (b) an inquest, and its outcome (or outcomes);
- (c) a report by the Historical Enquiries Team;
- (d) a report by the Legacy Investigation Branch;
- (e) a judicial review (including any appeal or appeals), and its outcome (or outcomes);
- (f) 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) apply in relation to the death or harmful conduct, the Commissioner for Investigations must consider whether there is compelling new evidence to justify a review, or a further review.

Member's explanatory statement

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

After Clause 12

LORD EAMES
BARONESS HOEY

29 Insert the following new Clause –

“Objections to request for immunity”

- (1) Upon receipt of a request for immunity in relation to, or including, a specific offence the ICRIR shall, prior to the commencement of a review under section 12, publish a notice inviting any close family member of the deceased to lodge an objection to the granting of immunity.
- (2) The notice must not include any material which could lead to the identification of the applicant under section 18, and the identity of the applicant must not be disclosed under any circumstances in relation to the process for lodging an objection or granting consent.
- (3) If an objection is received from a close family member then the ICRIR must not consider immunity in relation to that specific offence, unless there are multiple deceased persons within the relevant troubles-related incident and the Chief Commissioner considers it proportionate and in the public interest to grant general immunity for the offence.
- (4) The Chief Commissioner must prescribe the procedural requirements for the lodging of an objection, subject to subsection (5).
- (5) If, at the expiry of a period of three months, no objection has been lodged in the prescribed form, then this must be treated as consent. The Chief Commissioner may, if determined to be in the public interest, extend the time-period by a further three months.”

Member's explanatory statement

This provides a process for a close family member of a deceased person to object to a request for immunity. If such an objection is received, this prohibits the grant of immunity, subject to subsection (3).

Clause 13

LORD CAINE

30 Page 11, line 1, at end insert –

“(A1) The Commissioner for Investigations must comply with the obligations imposed by the Human Rights Act 1998 when exercising functions under this section.”

Member's explanatory statement

This amendment expressly confirms that the Commissioner for Investigations (when exercising operational control over the conduct of reviews) must comply with obligations imposed by the Human Rights Act 1998.

LORD HAIN
LORD BLAIR OF BOUGHTON
BARONESS O'LOAN
LORD MURPHY OF TORFAEN

31 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,
- (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.

LORD CAINE

32 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.

33 Page 11, line 48, at end insert –

“(7A) Subsection (A1) does not limit the duty of the Commissioner for Investigations to comply with the obligations imposed by the Human Rights Act 1998 when exercising other functions.”

Member’s explanatory statement

This makes clear that the duty of the Commissioner for Investigations to comply with the Human Rights Act 1998 is not limited by the express provision in the new subsection (A1).

Clause 15

LORD CAINE

34 Page 13, line 14, at end insert –

“(2A) The final report must include a statement of the manner in which the review was carried out.”

Member's explanatory statement

This amendment requires the final report to include a statement about the manner in which a review was carried out.

- 35 Page 14, line 4, leave out “a draft of the report to the individual” and insert “a copy of that material to the individual”

Member's explanatory statement

This amendment limits the material that is to be given to a person criticised by a draft report before the final report is produced (so that the person is only given the critical material).

- 36 Page 14, line 6, at end insert –

“(6A) In the case of any review, if it is proposed to include in the final report material criticising a public authority, the Chief Commissioner must, before producing the report –

- (a) give a copy of that material to the public authority or to a person who, in the Chief Commissioner’s view, currently has responsibility for the public authority; and
- (b) allow that public authority or person to make representations about that material during the applicable response period.”

Member's explanatory statement

This amendment provides for a public authority that is criticised in a draft report to be given the opportunity to make representations about the critical material.

LORD BEW
LORD GODSON

- 37 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 production 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;
- (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 production 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;

Clause 15 - continued

- (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.

LORD CAINE

- 38 Page 14, line 10, leave out from “are” to “and” and insert “consulted”

Member’s explanatory statement

This amendment replaces existing wording with the new defined term “consulted” which is inserted into subsection (12) by the amendment in Lord Caine’s name.

BARONESS O’LOAN

- 39 Page 14, line 14, at end insert “or modify the material to make it appropriate for inclusion in the report”

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 CAINE

- 40 Page 14, line 16, leave out “subsections (3) to (5)” and insert “the consultation provisions”

Member’s explanatory statement

This amendment replaces existing wording with the new defined term “consultation provisions” which is inserted into subsection (12) by the amendment in Lord Caine’s name.

BARONESS O’LOAN
BARONESS RITCHIE OF DOWNPATRICK
LORD HOGAN-HOWE

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

Member’s explanatory statement

This probing amendment, and another in the name of Baroness O’Loan, 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 CAINE

- 42 Page 14, line 18, leave out from “has” to “this” in line 19 and insert “consulted a person,”

Member’s explanatory statement

This amendment replaces existing wording with the new defined term “consulted” which is inserted into subsection (12) by the amendment in Lord Caine’s name.

43 Page 14, line 21, at end insert “or any material included in it”

Member’s explanatory statement

This amendment is consequential on the amendment of subsection (6)(a) in Lord Caine’s name.

44 Page 14, line 26, leave out from “is” to “means” in line 27 and insert “consulted,”

Member’s explanatory statement

This amendment replaces existing wording with the new defined term “consulted” which is inserted into subsection (12) by the amendment in Lord Caine’s name.

45 Page 14, line 32, at end insert –

““consultation provisions” means subsections (3) to (6A);

“consulted” means given a draft of a report or other material, and allowed to make representations, in accordance with the consultation provisions;”

Member’s explanatory statement

This amendment adds the defined terms “consultation provision” and “consulted” to the interpretation provision of Clause 15. These terms replace existing references to subsections (3) to (5), and bring subsection (6) and the new subsections (6A) within the scope of those references.

46 Page 14, line 32, at end insert –

““material criticising a public authority” means material which, in the Chief Commissioner’s view, constitutes significant criticism of a public authority (and that material may consist of or include criticism of one or more individuals, whether living or not);”

Member’s explanatory statement

This amendment adds a defined term which is used in the new subsection (6A).

LORD BEW
LORD GODSON

47 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.

LORD CAINE

48 Divide Clause 15 into two Clauses, the first (*Production of reports on the findings of reviews*) to consist of subsections (1) to (2A) and the second (*Consultation on reports*) to consist of subsections (3) to (12)

Member’s explanatory statement

This amendment would divide Clause 15 into two Clauses.

Clause 16

LORD CAINE

49 Page 15, line 13, at end insert –

“(5A) If a final report is not published in such a case, the Chief Commissioner must publish the statement of the manner in which the review was carried out that is included in the final report in accordance with section 15(2A).”

Member’s explanatory statement

This amendment requires the Chief Commissioner to publish the statement about the manner in which the review was carried out if the final report is not published.

50 Page 15, line 14, after “report” insert “, or statement of the manner in which a review was carried out,”

Member’s explanatory statement

This amendment is consequential on the amendment in Lord Caine’s name to insert the new subsection (5A).

Clause 17

LORD CAINE

51 Page 15, line 26, leave out from “to” to end of line 27 and insert “ –

- (a) producing under section 15, and giving and publishing under section 16(2) and (3), the final report on the findings of an excepted review, or
- (b) publishing under section 16(5A) the statement of the manner in which an excepted review was carried out.

(2A) For that purpose an “excepted review” is –”

Member’s explanatory statement

This amendment expands subsection (2) to delay the production or publication of the final report, or the statement required by section 15(2A), where conduct is referred to a prosecutor.

52 Page 15, line 32, leave out “23(1)” and insert “23”

Member’s explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine’s name.

53 Page 15, line 33, after “be” insert “produced and published, or the statement is not to be”

Member’s explanatory statement

This amendment is consequential on the amendment of subsection (2) in Lord Caine’s name.

54 Page 15, line 40, after first “report” insert “, material which it is proposed to include in a final report”

Member's explanatory statement

This amendment is consequential on the amendment of Clause 15(6), and the new subsection (6A) inserted into Clause 15, by other amendments in Lord Caine's name.

- 55 Page 15, line 42, at end insert “or statement of the manner in which a review was carried out”

Member's explanatory statement

This amendment is consequential on the amendment of subsection (2) in Lord Caine's name.

- 56 Page 16, line 4, leave out “Section 20(8)(f) and (g)” and insert “Paragraph 3(2)(d) and (e) of Schedule (No immunity in certain circumstances)”

Member's explanatory statement

This amendment is consequential on material in Clause 20(8) being removed and instead appearing in the new Schedule (No immunity in certain circumstances) by virtue of other amendments in Lord Caine's name.

- 57 Page 16, line 9, leave out “23(1),” and insert “23,”

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

- 58 Page 16, line 11, leave out “23(3)(a)” and insert “23”

Member's explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine's name.

Clause 18

LORD EAMES
BARONESS HOEY

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

Member's explanatory statement

This is a consequential amendment.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

- 59A★ Page 16, line 27, at end insert —
“(4A) If Condition B is not met because P is found by the panel to have knowingly or recklessly made a statement which is false in a material respect, 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.

LORD CAINE

- 60 Page 16, line 35, at end insert “, and
 (b) any other law that might or would prevent a prosecution of P for an offence from being begun or continued (for example, abuse of process—but see paragraph 3 of Schedule (*No immunity in certain circumstances*)).”

Member’s explanatory statement

This provides that the immunity requests panel can ignore any law that would prevent a prosecution, when the panel is deciding when P’s disclosed conduct would tend to expose P to criminal enforcement action in respect of an offence.

LORD EAMES
BARONESS HOEY

- 61 Page 16, line 35, at end insert —
 “(6A) *Condition D*: in relation to immunity for offences causing death, consent of a close family member of the deceased has been given via section 9(1A) or section (*Objections to request for immunity*)(5), or the Chief Commissioner has exercised the discretionary power conferred by section (*Objections to request for immunity*)(3).”

Member’s explanatory statement

This requires, subject to section 12(3), the consent of a close family member of a deceased person to grant consent either via section 9(1A) or section 12(5) prior to the granting of immunity to any person for a troubles-related offence causing death.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

- 61A★ 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.

61B★ 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 Schedule 1A to the Counter-Terrorism Act 2008 or section 13 of the Terrorism Act 2000 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.

61C★ 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 EAMES
BARONESS HOEY

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

Member’s explanatory statement

This is a consequential amendment.

LORD HAIN
LORD BLAIR OF BOUGHTON
BARONESS O’LOAN
LORD MURPHY OF TORFAEN

63 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

Clause 18 - continued

- (d) P seeks financial gain from the incident or incidents for which immunity has been granted.”

Member’s explanatory statement

This amendment gives the ICIR 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

- 64 Page 17, line 22, after “revoked” insert “, except by a court under section (Subsequent convictions: revocation of immunity)”

Member’s explanatory statement

This amendment is in consequence of new Clause (Subsequent convictions: revocation of immunity).

- 65 Page 17, line 31, for “section 19” substitute “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 SUTTIE
BARONESS RITCHIE OF DOWNPATRICK
BARONESS O’LOAN

- 66 Leave out Clause 18

Member’s explanatory statement

This amendment would remove Clause 18 from the Bill, preventing a person from requesting immunity from prosecution as part of the ICIR’s investigations of Troubles-related conduct.

Clause 19

LORD CAINE

- 67 Leave out Clause 19

Member’s explanatory statement

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

Clause 20

LORD CAINE

- 68 Page 18, line 36, leave out subsection (1)

Member's explanatory statement

This amendment leaves out subsection (1) as corresponding provision is included in new Schedule (No immunity in certain circumstances) in Lord Caine's name.

LORD EAMES
BARONESS HOEY

69 Page 18, line 40, at end insert –

“(1A) A person making a request for immunity may be represented by a family member, friend, legal representative or lay representative.”

Member's explanatory statement

This guards against the process becoming a financial drain on the Legal Aid budget, allowing a person to select their own representative who does not need to be legally qualified.

LORD CAINE

70 Page 19, line 19, at end insert –

“(7A) If the Chief Commissioner is unable to exercise some or all of the immunity functions, generally or in particular circumstances, the Chief Commissioner may nominate another person –

- (a) to temporarily exercise the immunity functions so far as the Chief Commissioner is unable to exercise them, and
- (b) to be a temporary member of, and to temporarily chair, the immunity requests panel so far as those functions are panel functions.

(7B) But the Secretary of State may nominate a person under subsection (7A) if the Chief Commissioner is unable to make a nomination.

(7C) A person may not be nominated under subsection (7A) if the person –

- (a) would be disqualified from appointment as a Commissioner by paragraph 7(2) of Schedule 1 (imprisonment, insolvency or disqualification from being a company director), or
- (b) does not hold, and has not held, high judicial office (within the meaning of paragraph 7 of Schedule 1).

(7D) This Act is to apply to the exercise of immunity functions by a person appointed under subsection (7A) as if the functions were being exercised by the Chief Commissioner.

(7E) In this section –

“immunity functions” means –

- (a) the function conferred by subsection (6), and
- (b) panel functions;

“panel functions” means functions of the Chief Commissioner as a member or the chair of the immunity requests panel.”

Member's explanatory statement

This amendment would allow a person to be nominated to act temporarily if the Chief Commissioner is unable to act, whether generally or in particular circumstances (eg. because of a potential conflict of interest), in relation to requests for immunity.

LORD BROWNE OF LADYTON
As an amendment to Amendment 70

- 71 In Subsection (7A) leave out “If the Chief Commissioner is unable to exercise some or all of the immunity functions, generally or in particular circumstances, the Chief Commissioner may” and insert “Immediately on appointment the Chief Commissioner must”

As an amendment to Amendment 70

- 72 In subsection (7A) leave out “person” and insert “Commissioner to act as the Chief Commissioner’s deputy in the event that the Chief Commissioner is unable to exercise some or all of the immunity functions, generally or in particular circumstances”

As an amendment to Amendment 70

- 73 Leave out subsection (7B)

As an amendment to Amendment 70

- 74 Leave out subsection (7C) and insert –
 “(7C) A Commissioner may not be nominated as the Chief Commissioner’s deputy unless –
 (a) the Commissioner holds high judicial office and the Secretary of State has consulted the relevant senior judge, or
 (b) the Commissioner has held a high judicial office.”

LORD CAINE

- 75 Page 19, line 23, leave out paragraphs (b) to (g)

Member’s explanatory statement

This amendment is consequential on the amendment in Lord Caine’s name to leave out subsection (1).

Clause 21

LORD CAINE

- 76 Page 20, line 3, at end insert –
 “(1A) The ICRIR must take reasonable steps to obtain any information which the Commissioner for Investigations knows or believes is relevant to the question of the truth of P’s account.”

Member’s explanatory statement

This amendment would require the ICRIR to take reasonable steps to obtain information in connection with determining the truth of P’s account (see Clause 18(3)).

- 77 Page 20, line 5, after “account” insert “any information obtained under subsection (1A) and”

Member’s explanatory statement

This amendment is consequential on the insertion of the new subsection (1A) by the amendment in Lord Caine’s name.

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

Member’s explanatory statement

Subsection (4) needs to be removed in consequence of the insertion of the new subsection (1A) by the amendment in Lord Caine’s name.

79 Page 20, line 21, leave out from beginning to “about” in line 22 and insert “The Chief Commissioner must give guidance”

Member’s explanatory statement

This would require (instead of allow) guidance to be given under subsection (6); and would require the guidance to be given by the Chief Commissioner (instead of the Secretary of State).

80 Page 20, line 24, leave out “Secretary of State” and insert “Chief Commissioner”

Member’s explanatory statement

This is consequential on the amendment of subsection (6) conferring the function of giving guidance on the Chief Commissioner (instead of the Secretary of State).

81 Page 20, line 29, leave out from beginning to “in” in line 31 and insert “The Chief Commissioner must give guidance about –
(a) the making of decisions”

Member’s explanatory statement

This would require (instead of allow) guidance to be given under subsection (7); and would require the guidance to be given by the Chief Commissioner (instead of the Secretary of State).

82 Page 20, line 36, leave out “when determining the description” and insert “the determination of descriptions”

Member’s explanatory statement

This is consequential on the other amendment of subsection (8) in Lord Caine’s name.

83 Page 20, line 40, at end insert –

“(8A) The immunity requests panel must take account of guidance given under subsection (6) or (8) when exercising functions to which it relates.”

Member’s explanatory statement

This is consequential on the other amendments of subsections (6) and (8) in Lord Caine’s name.

Clause 22

LORD CAINE

84 Page 21, line 11, at end insert –

“(3A) For provision about the nomination of a person to act temporarily instead of the Chief Commissioner, see section 20(7A).”

Member's explanatory statement

This amendment is consequential on the amendment in Lord Caine's name adding subsection (7A) to Clause 20.

After Clause 22

LORD CAINE

85 Insert the following new Clause –

“Personal statements by persons affected by deaths etc

- (1) This section applies in relation to –
 - (a) each review of a death which the ICRIR carries out following a request made under section 9;
 - (b) each review of other harmful conduct which the ICRIR carries out following a request made under section 10;
 - (c) each request for immunity from prosecution that is made under section 18 (whether or not the ICRIR carries out a review following a decision made under section 12(2) or (3), and whether or not the ICRIR has made such a decision).
- (2) The Chief Commissioner must give an eligible person an opportunity to provide a personal statement to the ICRIR.
- (3) If an eligible person provides a personal statement, the Chief Commissioner must give that person an opportunity to supplement the statement.
- (4) In this section “personal statement” means a statement by an eligible person about the way in which, and degree to which, the Troubles-related events have affected and continue to affect –
 - (a) that person, and
 - (b) other relevant persons (if, and to the extent that, the person providing the statement is aware of, and wishes the statement to deal with, the effect on those persons).
- (5) The definitions in subsection (6) are to be used for the purposes of this section in cases where this section applies –
 - (a) in relation to a review of a death which the ICRIR carries out following a request made under section 9, or
 - (b) in relation to a request for immunity from prosecution that is made under section 18 –
 - (i) where the ICRIR carries out a review of a death following a decision made under section 12(2), or
 - (ii) where, if the ICRIR were to carry out a review in connection with the request for immunity, it would be a review of a death following a decision made under section 12(2).
- (6) In any of those cases –

“eligible person” means –

 - (a) each known close family member of the deceased (and Part 1 of Schedule 3 is to apply for the purpose of determining who is a close family member), or

After Clause 22 - continued

- (b) if there are no known close family members, each other known family member of the deceased to whom the Chief Commissioner considers it is appropriate to give an opportunity to provide a personal statement;

and here “known” means known to the ICRIR by virtue of any of its other functions;

“other relevant person” means –

- (a) a member of the family of the person to whose death the review relates;
- (b) a member of the family of any other person killed in the relevant event;
- (c) a person who suffered serious physical or mental harm in the relevant event and has subsequently died;
- (d) members of the family of a person falling within paragraph (c);

“Troubles-related events” means –

- (a) the death to which the review relates, and
- (b) the relevant event (which has the same meaning as in section 15(4)).

- (7) The definitions in subsection (8) are to be used for the purposes of this section in cases where this section applies –
 - (a) in relation to a review of other harmful conduct which the ICRIR carries out following a request made under section 10, or
 - (b) in relation to a request for immunity from prosecution that is made under section 18 –
 - (i) where the ICRIR carries out a review of other harmful conduct following a decision made under section 12(3), or
 - (ii) where, if the ICRIR were to carry out a review in connection with the request for immunity, it would be a review of other harmful conduct following a decision made under section 12(3).

- (8) In any of those cases –

“eligible person” means –

- (a) each known close family member of the injured person (and Part 1 of Schedule 3 is to apply for the purpose of determining who is a close family member), or
- (b) if there are no known close family members, each other known family member of the injured person to whom the Chief Commissioner considers it is appropriate to give an opportunity to provide a personal statement;

and here “injured person” means the person who was caused the physical or mental harm by the other harmful conduct concerned; and “known” means known to the ICRIR by virtue of any of its other functions;

“other relevant person” means –

- (a) a member of the family of any person killed in the relevant event;
- (b) a person who suffered serious physical or mental harm in the relevant event and has subsequently died;
- (c) members of the family of a person falling within paragraph (b);

After Clause 22 - continued

“Troubles-related events” means –

- (a) the other harmful conduct to which the review relates, and
- (b) the relevant event (which has the same meaning as in section 15(5)).”

Member’s explanatory statement

This amendment requires the Chief Commissioner to give individuals affected by a death or other harmful conduct the opportunity to provide personal statements to the ICIR about the effects of the Troubles-related conduct.

86

Insert the following new Clause –

“Publication of personal statements

- (1) This section applies where –
 - (a) an eligible person provides a personal statement in accordance with section *(Personal statements by persons affected by deaths etc)*, and
 - (b) the person notifies the Chief Commissioner that the person wishes the personal statement to be published by the Chief Commissioner.
- (2) The Chief Commissioner must publish the personal statement.
- (3) But that duty does not apply if publication of the personal statement –
 - (a) would breach section 4(1) or 26(2), or
 - (b) would, in the Chief Commissioner’s view, be contrary to the public interest.
- (4) If it is possible to do so, the Chief Commissioner must instead produce an edited version of the personal statement which can be published without –
 - (a) breaching section 4(1) or 26(2), or
 - (b) being, in the Chief Commissioner’s view, contrary to the public interest.
- (5) But the Chief Commissioner must not publish an edited version unless the person who provided the personal statement agrees to the publication of that version.
- (6) The Chief Commissioner does not breach the duties imposed by subsections (2) and (4) if the Chief Commissioner –
 - (a) wishes to publish an edited version in accordance with subsection (4),
 - (b) is not able to obtain the agreement to publication of an edited version from the person who provided the personal statement, and
 - (c) accordingly does not publish the personal statement or any edited version.
- (7) The duties imposed by subsections (2) and (4) do not apply if, and for as long as, section 17(2) or (3) has the effect of suspending the duty to publish any final report that is related to the personal statement.
- (8) If the Chief Commissioner –
 - (a) intends to publish an edited version of the personal statement in accordance with subsection (4), or
 - (b) intends to publish neither –
 - (i) the personal statement because subsection (3) applies, nor

After Clause 22 - continued

- (ii) any edited version of the personal statement because it is not possible to do so in accordance with subsection (4),
- the Chief Commissioner must give to the person who provided the personal statement the reasons for taking that course of action.
- (9) A reference in this section –
- (a) to a personal statement includes anything which supplements a personal statement;
 - (b) to an edited version of a personal statement includes a version of the statement which has been redacted.
- (10) For the purposes of this section a final report is “related to” a personal statement if –
- (a) the statement is provided in a case where section (*Personal statements by persons affected by deaths etc*) applies in relation to –
 - (i) a review which the ICRIR carries out following a request made under section 9 or 10, or
 - (ii) a request for immunity from prosecution where the ICRIR carries out a review following a decision made under section 12(2) or (3), and
 - (b) the final report is the final report of the findings of that review.”

Member’s explanatory statement

This amendment requires the Chief Commissioner to publish a personal statement provided under new Clause (Personal statements by persons affected by deaths etc).

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

86A★ Insert the following new Clause –

“Revocation of immunity

- (1) This subsection 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 subsection 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

LORD CAINE

87 Page 21, line 32, leave out from beginning to end of line 38 and insert –

- “(2) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of Northern Ireland by an individual whose identity is known to the Commissioner, the Commissioner –
- (a) may refer the conduct to the Director of Public Prosecutions for Northern Ireland, and
 - (b) if the conduct is referred, must notify that prosecutor of the offence concerned.
- (2A) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of England and Wales by an individual whose identity is known to the Commissioner, the Commissioner –
- (a) may refer the conduct to the Director of Public Prosecutions (for England and Wales), and
 - (b) if the conduct is referred, must notify that prosecutor of the offence concerned.
- (2B) If the Commissioner for Investigations considers there is evidence that relevant conduct constitutes an offence under the law of Scotland by an individual whose identity is known to the Commissioner, the Commissioner may –
- (a) refer the conduct to the Lord Advocate, and
 - (b) notify that prosecutor of the offence concerned.
- (2C) The Lord Advocate may direct the Commissioner for Investigations to exercise the power of referral and notification in accordance with subsection (2B); and the Commissioner must comply with any direction that is given unless the person concerned has been granted immunity from prosecution under section 18 for the offence concerned.
- (2D) In any case where the Commissioner for Investigations refers conduct to a prosecutor under this section, the Commissioner –”

Member's explanatory statement

This amendment would enable the Lord Advocate to require the Commissioner for Investigations to refer relevant conduct to the Lord Advocate.

88 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.

After Clause 23

LORD CAINE

89 Insert the following new Clause—

“Subsequent convictions: revocation of immunity

- (1) If—
 - (a) a person is convicted of an offence under section (*False statements: offence*),
 - (b) that offence was committed in the course of requesting the ICRIR to grant the person immunity from prosecution under section 18, and
 - (c) the person was granted the immunity from prosecution,
 the court which sentences the person for the offence must revoke that grant of immunity from prosecution.
- (2) If—
 - (a) a person is convicted of a terrorist offence or an offence with a terrorist connection, and
 - (b) the person had been granted immunity from prosecution under section 18 before the offence was committed,
 the court which sentences the person for that offence must revoke every grant of immunity from prosecution under section 18 given to the person before the offence was committed.
- (3) For the purposes of subsection (2) a person is convicted of “a terrorist offence or an offence with a terrorist connection” if—
 - (a) the person is convicted of an offence by a court in Northern Ireland and either—
 - (i) the offence is listed in Schedule 1A to the Counter-Terrorism Act 2008, or
 - (ii) the court determines under section 30(2) of that Act that the offence has a terrorist connection;
 - (b) the person is convicted of an offence by a court in England and Wales and either—
 - (i) the offence is listed in Schedule A1 to the Sentencing Code, or
 - (ii) the court determines under section 69 of the Sentencing Code that the offence has a terrorist connection;
 - (c) the person is convicted of an offence by a court in Scotland and either—
 - (i) the offence is listed in Schedule 1A to the Counter-Terrorism Act 2008, or
 - (ii) section 31 of that Act applies to the offence (offences with a terrorist connection in Scotland).
- (4) Where—
 - (a) an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, and

After Clause 23 - continued

(b) a grant of immunity from prosecution is given at any time during that period,

that grant of immunity from prosecution is to be regarded for the purposes of subsection (2) as having been given before the offence was committed.

- (5) A revocation of immunity under this section—
- (a) has immediate effect;
 - (b) 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 to revoke immunity granted under Clause 18 if a person is subsequently convicted of making a false statement in the course of applying for that immunity (see new clause (False statements: offence) or convicted of a terrorist offence or offence with a terrorist connection.

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

As an amendment to Amendment 89

89A★

After subsection (3)(a)(i) insert—

“(ia) the offence is listed under section 13 of the Terrorism Act 2000, or”

Member's explanatory statement

This amendment is intended to probe the omission of offences under section 13 of the Terrorism Act 2000 (uniform and publication of images) from the proposed new Clause on Subsequent convictions: revocation of immunity in Lord Caine's name.

LORD CAINE

90

Insert the following new Clause—

“False statements: offence

- (1) A person commits an offence by making a false statement to the ICRIIR in connection with any of its functions under sections 18 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;

After Clause 23 - continued

- (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;
 - (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 ICRIIR that is materially false.

Clause 34

LORD CAINE

91 Page 28, line 12, leave out subsection (3)

Member's explanatory statement

This would remove the provision that allows reports or statements about criminal investigations to be produced for a limited period after Clause 34 comes into force. It is no longer needed in consequence of the amendment in Lord Caine's name providing for Clause 34 to come into force on 1 May 2024 (instead of two months after royal assent).

92 Page 28, line 21, leave out subsection (6)

Member's explanatory statement

This is consequential on the other amendment of Clause 34 in Lord Caine's name.

BARONESS O'LOAN
 BARONESS RITCHIE OF DOWNPATRICK
 LORD HOGAN-HOWE

93 Leave out Clause 34

Member's explanatory statement

This amendment would delete the Clause that prohibits criminal investigations other than by ICRIIR.

Clause 35

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

93A★ 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

94 Page 28, line 35, leave out “only”

Member’s explanatory statement

This is consequential on the other amendment of Clause 36 in Lord Caine’s name.

95 Page 28, line 37, leave out “23(2)” and insert “23”

Member’s explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine’s name.

96 Page 29, line 2, leave out “23(3)(a),” and insert “23,”

Member’s explanatory statement

This amendment is consequential on the amendments to Clause 23 in Lord Caine’s name.

97 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)).

Clause 36 - continued

(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 CAINE

98 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

98A★ 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 for Northern Ireland 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.

After Clause 38

LORD FAULKS
LORD GODSON
BARONESS HOEY

99 Insert the following new Clause—

“Authorisation of interim custody orders under the Detention of Terrorists (Northern Ireland) Order 1972

(1) Article 4 of the Detention of Terrorists (Northern Ireland) Order 1972 is to be treated as always having had effect as authorising an interim custody order under that article in relation to a Troubles-related offence to be made by and with the authority of any Minister of the Crown whose signature was required for the making of such an order (and not just by and with the authority of the Secretary of State personally).

After Clause 38 - continued

- (2) Subsection (1) does not revive any criminal conviction quashed before the coming into force of this section.
- (3) But a person whose conviction for any Troubles-related offence (whether or not quashed) or whose detention (whether or not as a consequence of such a conviction) depended, directly or indirectly, on the validity of such an interim custody order is not entitled, by or under any enactment or otherwise, to receive any damages or compensation in respect of that conviction or detention if the only reason for impugning its validity relates to whether the order was made by and with the authority of the Secretary of State, personally.
- (4) Subsection (3) applies irrespective of whether the claim for damages or compensation was made before or after the coming into force of this section.”

Clause 39

LORD BROWNE OF LADYTON

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

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

Member’s explanatory statement*This is consequential on Lord Browne of Ladyton’s amendment to Clause 52, page 41, line 4.*

102 Page 30, line 8, leave out “on or after” and insert “more than three years after”

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

104 Page 30, line 43, at end insert –

“(8A) Where subsection (1) or (2) stops an action from being continued on or after the day on which this section comes into force the Secretary of State must recompense the litigants involved in any such action for all fees and costs which have been incurred in connection with the action.”

BARONESS O’LOAN

BARONESS RITCHIE OF DOWNPATRICK

105 Leave out Clause 39

Member’s explanatory statement*This amendment would delete the Clause that removes the right to civil action from those who have been bereaved or affected by the Troubles.***Clause 40**

LORD CAINE

106 Page 31, line 32, leave out from “before” to end of line 33 and insert “1 May 2024 unless, on that day, the only part of the inquest that remains to be carried out is the coroner or any jury making or giving the final determination, verdict or findings, or something subsequent to that.”

Member's explanatory statement

This would require any inquest initiated before the commencement of Clause 40 to be discontinued on the commencement of that Clause, unless the inquest is at its very final stage (the determination, verdict or findings).

107 Page 31, line 41, leave out from beginning to end of line 12 on page 32

Member's explanatory statement

This would remove new section 16B, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination or verdict) as it will be outside the scope of the amended new section 16A.

108 Page 32, leave out lines 34 to 37

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to new sections 16A and 16B.

109 Page 32, line 42, leave out from beginning to end of line 1 on page 33

Member's explanatory statement

This is consequential on the amendments in Lord Caine's name relating to new sections 16A and 16B.

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

110 Leave out Clause 40

Member's explanatory statement

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

Clause 41

LORD CAINE

111 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 power of investigation is in addition to the power to deal with complaints (already covered by Clause 41).

112 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).)

113 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 Lord Caine'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.

114 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

Clause 41 - continued

- (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.

Clause 44

LORD DODDS OF DUNCAIRN
LORD WEIR OF BALLYHOLME
LORD MORROW

114A★ 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.

114B★ 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.

Clause 44 - continued

- (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.

Clause 45

LORD CAINE

- 115** Page 36, line 20, at end insert –

“(aa) consult relevant organisations in the course of considering each recommendation, and”

Member’s explanatory statement

This requires the Secretary of State, when considering recommendations made in the memorialisation strategy, to consult organisations with expertise in reconciliation or anti-sectarianism.

- 116** Page 36, line 21, leave out “the First Minister and deputy First Minister” and insert “such Northern Ireland departments as the Secretary of State considers appropriate”

Member’s explanatory statement

This provides for the Secretary of State to consult on the proposed response to the memorialisation strategy with appropriate Northern Ireland departments.

Clause 46

BARONESS HOEY

LORD BEW

LORD GODSON

- 117** 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 funding decision by UKRI Councils.”

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.

- 118** Page 37, line 13, at end insert “of the gay and lesbian community’s particular experience of those events, and”

Member's explanatory statement

This addition to subsection (6) ensures that the particular experience of the gay community in Northern Ireland during the Troubles, including its criminalisation, is recorded and assessed through academic research.

After Clause 46

LORD GODSON

118A★ 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) In commissioning the public history, the Secretary of State must seek to achieve the objectives set out in subsections (3) to (6) in relation to the public history.
- (3) The public history should be completed and published within three years of its commissioning.
- (4) 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.
- (5) The public history should not be undertaken as part of the Official History Programme but as part of the legacy programme.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) The Secretary of State must consider on what terms the public historians should approach retired persons in the public service for interviews.

After Clause 46 - continued

- (10) 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.
- (11) 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.
- (12) 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, to decide the scale of resource to be applied and the terms of access to official documents and 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 48

LORD CAINE

119 Page 38, line 17, at end insert –

- “(c) that programme is carried out in a way that promotes –
- (i) reconciliation,
 - (ii) anti-sectarianism, and
 - (iii) non-recurrence of political and sectarian hostility between people in Northern Ireland.”

Member’s explanatory statement

This requires designated persons to have regard to certain (additional) matters when carrying out the Troubles-related work programme.

Clause 49

LORD GODSON

120 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.

Clause 50

LORD CAINE

- 121** Page 39, line 16, at end insert “, and
(b) consult relevant organisations about the proposed designation.”

Member’s explanatory statement

This requires the Secretary of State, before designating a person under Clause 50 in relation to the Troubles-related work programme, to consult organisations with expertise in reconciliation or anti-sectarianism.

Clause 51

LORD CAINE

- 122** Page 39, line 41, at end insert –
““relevant organisation” means an organisation that the Secretary of State considers to have expertise in carrying out, promoting or otherwise facilitating activities that are intended to encourage reconciliation or anti-sectarianism;”

Member’s explanatory statement

This defines a term used in the amendments in Lord Caine’s name related to the Troubles-related work programme under Part 4.

Clause 52

LORD BROWNE OF LADYTON

- 123** Page 41, line 4, leave out subsection (c)

Member’s explanatory statement

This removes the phrase "the actual date of the First Reading", and other consequential amendments replace that phrase with "17 May 2022", which was the date of First Reading. These amendments are intended to provide clarity.

Clause 54

LORD CAINE

- 124** 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.

125 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 Lord Caine’s name.

126 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.

127 Page 45, line 30, second column, 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).

Clause 57

LORD CAINE

128 Page 47, line 30, leave out “Part 3” and insert “section 39”

Member’s explanatory statement

This would provide for only Clause 39 (and the associated amendments in Schedule 12) to come into force two months after royal assent.

129 Page 47, line 32, at end insert –

“(2A) Part 3, except for section 39, comes into force on 1 May 2024.”

Member’s explanatory statement

This would provide for the rest of Part 3 to come into force on 1 May 2024 (instead of two months after royal assent).

Schedule 1

LORD CAINE

- 130** Page 50, line 30, at end insert –
- “~~5A~~(1) The ICRIR must –
- (a) keep proper accounts and proper records in relation to them, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts must be prepared in accordance with any directions that are given by the Treasury.
- (3) The ICRIR must send a copy of each statement of accounts to the Secretary of State and the Comptroller and Auditor General as soon as practicable after the end of the financial year to which the statement relates.
- (4) The Comptroller and Auditor General must –
- (a) examine, certify and report on each statement of accounts,
 - (b) send a copy of each report and certified statement to the Secretary of State, and
 - (c) lay before Parliament a copy of each such report and certified statement.”

Member’s explanatory statement

This would require the ICRIR to keep accounts and provides for the accounts to be laid before Parliament.

- 131** Page 50, line 34, leave out from second “time” to end of line 35 and insert “how many other Commissioners there are to be under section 2(3)(c) (which allows for there to be between one and five of them).”

Member’s explanatory statement

This is consequential on the amendment of clause 2(3)(c) in Lord Caine’s name which allows the ICRIR to have a maximum of 5 other Commissioners. It amends the provision which gives the Secretary of State power to decide the number of other members which the ICRIR has.

- 132** 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.

- 133** 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

Schedule 1 - continued

- (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.

- 134 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.

- 135 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.

- 136 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.

- 137 Page 51, line 28, leave out paragraph (b)

Member’s explanatory statement

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

- 138 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 Lord Caine’s name about consultation when appointing the Chief Commissioner.

- 139 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.

- 140 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.

- 141 Page 52, line 32, after “Commissioner” insert “is for a term which—
(za) is of a duration, not exceeding five years, determined by the Secretary of State,”

Member’s explanatory statement

This would require the Secretary of State to determine the period for which an appointment as a member of the ICRIR lasts - which must not exceed five years.

- 142 Page 52, line 34, leave out “unless and until the person resigns” and insert “until its end, unless the person resigns before its end”

Member’s explanatory statement

This is consequential on the amendment requiring the Secretary of State to determine the period of an appointment as a member of the ICRIR.

- 143 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);
(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.

- 144 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.

Schedule 2

LORD CAINE

145 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).

Schedule 4

LORD CAINE

146 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

147 Insert the following new Schedule –

“NO IMMUNITY IN CERTAIN CIRCUMSTANCES

PART 1

SEXUAL OFFENCE, EXISTING CONVICTION OR ONGOING PROSECUTION

Application of this Part

- 1 This Part of this Schedule applies if –
- (a) a person (P) has requested the ICRIR to grant P immunity from prosecution (the “current request”) under section 18 and conditions A to C are met, but
 - (b) this Schedule prohibits a grant of immunity for an identified possible offence (see paragraphs 2 and 3).

Prohibition of grant of immunity: sexual offences

- 2 (1) A grant of immunity for an identified possible offence is prohibited if it is –
- (a) a sexual offence, or
 - (b) an inchoate offence relating to a sexual offence.
- (2) For the purposes of this paragraph “sexual offence” includes –
- (a) rape;

After Schedule 4 - continued

- (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.
- (3) 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.
- (4) 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 Part of this Schedule (including provision specifying offences which are to comprise, or to be included in, that definition).
- (5) Regulations under this paragraph are subject to negative procedure.

Prohibition of grant of immunity: conviction or ongoing prosecution

- 3 (1) A grant of immunity for an identified possible offence is prohibited if –
- (a) P has a conviction for the identified possible offence,
 - (b) P is being prosecuted for the identified possible offence, or
 - (c) P is being prosecuted for any other offence (whether or not a Troubles-related offence), and the immunity requests panel is satisfied that granting P immunity from prosecution for the identified possible offence would risk having, or would have, a prejudicial effect on that prosecution.
- (2) For the purposes of this paragraph –
- (a) P is “being prosecuted for” an offence if a public prosecution of P for the offence has begun and is continuing;
 - (b) a “public prosecution” means any prosecution other than a private prosecution;
 - (c) a public prosecution of P for an offence “has begun” if a prosecutor has made the decision to prosecute P for that offence;
 - (d) the circumstances in which a public prosecution of P is to be regarded as continuing include circumstances where the trial which forms part of the prosecution ends without P being convicted or acquitted or any other verdict being given and either –
 - (i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or
 - (ii) the prosecution have sought a retrial;
 - (e) the circumstances in which a public prosecution of P is to be regarded as not continuing include –

After Schedule 4 - continued

- (i) circumstances where the trial which forms part of the prosecution ends with P being convicted or acquitted or with another verdict being given, and
- (ii) circumstances where the trial ends without P being convicted or acquitted or any other verdict being given and the period for the prosecution to seek a retrial ends without a retrial having been sought.

Grant of immunity prohibited for all identified possible offences

- 4 (1) If this Schedule prohibits a grant of immunity for all of the identified possible offences, the ICRIR must not grant P immunity from prosecution in relation to the current request.
- (2) Accordingly, section 18(1) and (7) to (16) do not apply in relation to the current request.

Grant of immunity prohibited for some identified possible offences

- 5 (1) This paragraph applies if this Schedule prohibits a grant of immunity for some (but not all) of the identified possible offences.
- (2) The immunity requests panel must not decide under section 18(7) that P should be granted immunity from prosecution for—
- (a) any identified possible offence for which this Schedule prohibits a grant of immunity, or
 - (b) a description of offences that includes any identified possible offence for which this Schedule prohibits a grant of immunity.
- (3) The ICRIR must not grant P immunity from prosecution for any identified possible offence for which this Schedule prohibits a grant of immunity.
- (4) Section 18(7) to (13) have effect subject to this paragraph.

PART 2

NEW REQUEST FOR IMMUNITY AFTER REVOCATION OF PREVIOUS GRANT

- 6 (1) This paragraph applies where—
- (a) under section (*Subsequent convictions: 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 ICRIIR 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 ICRIIR gives P written notice of the outcome of the request in accordance with section 18(13)(a).”

Member’s explanatory statement

This amendment deals with offences for which a person cannot be granted immunity from prosecution. The provision about sexual offences is moved here from Clause 19. It contains provision about previous convictions and current prosecutions (replacing Clause 20(1)). It also deals with cases where a person’s immunity from prosecution is revoked under new Clause (Subsequent convictions: revocation of immunity).

Schedule 8

LORD BROWNE OF LADYTON

148 Leave out Schedule 8

Schedule 9

LORD BROWNE OF LADYTON

149 Page 78, line 19, leave out paragraph (b) and insert –
(b) “17 May 2022”**Member’s explanatory statement**

This is consequential on Lord Browne of Ladyton's amendment to Clause 52, page 41, line 4.

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

Member’s explanatory statement

This is consequential on Lord Browne of Ladyton's amendment to Clause 52, page 41, line 4.

Schedule 10

LORD CAINE

- 151** Page 81, line 6, leave out from “if” to end of line 8 and insert “, on 1 May 2024, a senior coroner was under a duty to conduct the investigation unless, on that day, the only part of the investigation that remains to be carried out is the coroner or any jury making the determination and any findings required by section 10, or something subsequent to that.”

Member’s explanatory statement

This would require any inquest initiated before the commencement of Schedule 10 to be discontinued on the commencement of that Schedule, unless the inquest is at its very final stage (the determination and any findings).

- 152** Page 81, leave out lines 20 to 39

Member’s explanatory statement

This would remove paragraph 2 of the new Schedule 1A, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination and any findings) as it will be outside the scope of the amended paragraph 1 of the new Schedule 1A.

- 153** Page 82, leave out lines 26 to 30

Member’s explanatory statement

This is consequential on the amendments in Lord Caine’s name relating to paragraphs 1 and 2 of new Schedule 1A.

- 154** Page 82, leave out lines 35 to 39

Member’s explanatory statement

This is consequential on the amendments in Lord Caine’s name relating to paragraphs 1 and 2 of new Schedule 1A.

- 155** Page 83, line 20, leave out from “before” to end of line 21 and insert “1 May 2024, unless, on that day, the only part of the inquiry that remains to be carried out is the sheriff making the determination required by section 26, or something subsequent to that.”

Member’s explanatory statement

This would require any inquiry initiated before the commencement of Schedule 10 to be discontinued on the commencement of that Schedule, unless the inquiry is at its very final stage (the determination).

- 156** Page 83, line 27, leave out “the relevant day” and insert “1 May 2024”

Member’s explanatory statement

This is consequential on the amendment in Lord Caine’s name to paragraph 1(1) of Schedule A1.

157 Page 83, line 36, leave out from beginning to end of line 16 on page 84

Member’s explanatory statement

This would remove paragraph 2 of the new Schedule A1, which allows a pre-commencement inquest to continue if it is at an advanced stage. A pre-commencement inquest will now be able to continue if it is at its very final stage (the determination) as it will be outside the scope of the amended paragraph 1 of the new Schedule A1.

158 Page 84, line 45, leave out from beginning to end of line 9 on page 85

Member’s explanatory statement

This is consequential on the amendments in Lord Caine’s name relating to paragraphs 1 and 2 of new Schedule A1.

Schedule 11

LORD CAINE

159 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 is a case where the prisoner could have avoided conviction by obtaining immunity).

160 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;

Schedule 11 - continued

- (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 is a case where the prisoner could have avoided conviction by obtaining immunity).

161 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.

Schedule 12

LORD CAINE

162 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;

“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.

163 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 Lord Caine's name to leave out paragraph 6(3) of Schedule 12).

164 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.”

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 –

Schedule 12 - continued

- “(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.

165

Page 89, line 33, leave out from “subsection” to “a” in line 35 and insert “(4), after paragraph (d) insert—

“(e) ”

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).

166 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 ICIR a “relevant public authority” for the purposes of Part 3 of that Act and enabled it to use investigatory powers).

167 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*

<i>section (Subsequent convictions: revocation of immunity)</i>	<i>revocation of immunity under that Act</i>	<i>making of false statements”</i>
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Member’s explanatory statement

This is in consequence of new Clauses (False statements: offence) and (Subsequent convictions: revocation of immunity).

Northern Ireland Troubles (Legacy and Reconciliation) Bill

REVISED
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

20 June 2023
