

EXPLANATORY MEMORANDUM ON THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF IRELAND ESTABLISHING THE INDEPENDENT REPORTING COMMISSION

Title of the Treaty

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing the Independent Reporting Commission.

Command Paper Number: 9334

Subject Matter

The Fresh Start Agreement was reached on 17 November 2015 following a series of talks between the United Kingdom Government, the five largest parties in the Northern Ireland Assembly, and the Government of Ireland on matters for which they have responsibility, in accordance with the three-stranded approach confirmed in the 1998 Belfast Agreement.

The Fresh Start Agreement strongly reaffirms support for the rule of law, places fresh obligations on Northern Ireland's elected representatives to work together on their shared objective of ridding society of all forms of paramilitary activity and groups, and commits to a concerted and enhanced effort to combat organised crime and cross border crime. The Fresh Start Agreement includes a series of measures to end paramilitarism and tackle organised crime, including the establishment of a new Independent Reporting Commission (IRC).

The IRC will report on progress towards ending continuing paramilitary activity connected with Northern Ireland, report on the implementation of the relevant measures of the three administrations; and consult with a wide range of statutory and agencies, communities and civic society organisations.

This Agreement establishes the IRC as an independent, international body, through agreement between the Government of the United Kingdom and the Government of Ireland. It also sets out the functions, duties and membership of the IRC and

provides for the conferral by legislation of immunities, privileges and inviolabilities on the IRC.

The Agreement requires that the Commission shall not do anything which might put at risk the safety or life of any person; prejudice the national security interests of the United Kingdom or Ireland; have a prejudicial effect on any proceedings which have, or are likely to be, commenced in a court of law; or have a prejudicial effect on the prevention, investigation, detection or prosecution of crime.

Ministerial Responsibility

The Rt Hon James Brokenshire MP, Secretary of State for Northern Ireland, has responsibility for: overseeing the Northern Ireland devolution settlement, representing Northern Ireland interests at the United Kingdom Government level and United Kingdom Government interests in Northern Ireland, and for reserved and excepted matters, as set out in the Northern Ireland Act 1998.

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for United Kingdom policy relating to the United Kingdom's relations with Ireland.

Policy Considerations

General

Provision for the IRC has been made in the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016, however further supporting legislation giving full effect to this Agreement is required. Secondary legislation will therefore be laid before Parliament in September 2016 and will make provision, including conferring certain privileges and immunity on members of the Commission, members of staff of the Commission and agents of the Commission, and require the Secretary of State to lay reports of the Commission before parliament and to arrange for them to be published.

It is intended that reports of the IRC will inform future Northern Ireland Executive Programme for Government priorities and commitments through to 2021.

Finance

The anticipated cost of the IRC is likely to be in the region of £6million. These costs will be borne by the United Kingdom Government and the Government of Ireland. The United Kingdom Government has given a commitment under the Fresh Start Agreement to provide up to £3m over four years as its contribution to establishing and funding the Commission. A full impact assessment for the Commission will be published before 14 September.

Reservations and Declarations

Not applicable.

Implementation

This Agreement shall enter into force on the date on which the United Kingdom Government and the Government of Ireland exchange notifications confirming completion of any procedures required by their law for the entry into force of the Agreement.

The One-in Two-out Rule has been considered as part of the process of concluding the Agreement, but is not applicable.

Consultation

This Agreement was negotiated by the Northern Ireland Office on behalf of the United Kingdom Government, with the Department of Justice and Equality and the Department of Foreign Affairs and Trade in Ireland. The Northern Ireland Office discussed with other relevant United Kingdom Government Departments in negotiating the Agreement and shared the terms of the Agreement with the five largest parties of the Northern Ireland Assembly.

Signed:



The Right Honourable James Brokenshire MP

The Secretary of State for Northern Ireland

Dated this 13th day of September 2016