



Northern
Ireland
Office

The Government Response to the first report from the Joint Committee on Human Rights, Session 2024-25 (HC 569, HL paper 88):

Proposal for a Draft Northern
Ireland Troubles (Legacy and
Reconciliation) Act 2023
(Remedial) Order 2024



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(Legacy and Reconciliation) Act 2023
(Remedial) Order 2024

Presented to Parliament pursuant to paragraph 3(2) of Schedule 2 to
the Human Rights Act 1998



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Statement of Summary of Representations on Proposal for a Draft Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2024

Introduction

1. This statement presents a draft Remedial Order to Parliament and the Government's response to representations received on the proposal for a draft Remedial Order laid on 4 December 2024. This includes the Government's response to the Joint Committee on Human Rights' (JCHR) report of 28 February 2025 and representations the JCHR received from Amnesty International, Conor Casey, Professor Richard Ekins and Sir Stephen Laws, the Committee on the Administration of Justice, Dr Robert Craig, JUSTICE, Dr Austen Morgan, the Northern Ireland Human Rights Commission, Baroness O'Loan DBE MRA and Relatives for Justice.
2. On 4 December 2024, the Government laid before Parliament a document containing a draft of a proposed Remedial Order (with the required information) in accordance with paragraph 3(1)(a) of Schedule 2 to the Human Rights Act 1998. The purpose of the Order is to amend the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 ('the 2023 Act') and make consequential amendments to two other enactments. This is further to the February 2024 judgment of the High Court in Northern Ireland, and the September 2024 judgment of the Court of Appeal in Northern Ireland, in Dillon, McEvoy, McManus, Hughes, Jordan, Gilvary, and Fitzsimmons ('Dillon') Application. This Order addresses several incompatibilities found by these courts.
3. This statement contains a summary of the representations and details the changes which have been made to the draft Order as a result and is made in accordance with the requirements of paragraph 3(2) of Schedule 2 to the Human Rights Act 1998.

Representations to the Government

4. This draft Remedial Order forms part of the Government's broader manifesto commitment to repeal and replace the 2023 Act, which was not supported by Northern Ireland parties, victims and survivors. The Government has received a significant volume of correspondence and Parliamentary representations in relation to this commitment, and both officials and Ministers have also met with those impacted by the legislation, including victims and survivors.

5. The Government would like to place on record its thanks to all those who have given their time to share their views and experiences, as it develops legislation which will help Northern Ireland to look forward.
6. The repeal of provisions in relation to immunity was broadly welcomed, particularly by Northern Ireland stakeholders. A number of Parliamentarians questioned whether the removal of these provisions would make recovery of truthful accounts of Troubles-related events more difficult, and the impact it would have on veterans. A Westminster Hall debate took place on 14 July 2025, following a petition which said 'the Government should not make any changes to legislation that would allow Northern Ireland veterans to be prosecuted for doing their duty in combating terrorism as part of 'Operation Banner'.' The Government's position is that the immunity provisions cannot remain for two critical reasons - they do not have the support of victims and survivors, and they have been found to be incompatible with the European Convention on Human Rights (ECHR) which is why they were never commenced.
7. The repeal of the provisions which prevent Troubles-related civil cases being continued or brought was also broadly welcomed, particularly by Northern Ireland stakeholders. There have been some queries on the cost implications of the repeal of these provisions and the broader legacy programme, which the Government has responded to in paragraphs 32-33 of this paper in response to the JCHR report.
8. There has been some criticism over the scope of the draft Remedial Order, including suggestions of including the restoration of Troubles-related inquests in the draft Remedial Order. There has also been some criticism of the inclusion within the draft Remedial Order of the repeal of sections 46 and 47 in relation to Interim Custody Orders, which has been addressed in paragraphs 13-14. The scope of the Order was the subject of a debate in the House of Lords on 26 February 2025, on a motion of regret that the draft Remedial Order does not address all areas of ECHR incompatibility.¹ The House did not divide on the question, as the motion was debated and then withdrawn.
9. Another common theme of representations were requests for further information on the contents and timeline of the primary legislation the

¹ Wednesday 26 February 2025, debate on the motion: That this House regrets that the proposed Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2024 does not address all areas of the 2023 Act identified by the courts as being incompatible with the United Kingdom's obligations under the European Convention on Human Rights. HANSARD Column 4830: [https://hansard.parliament.uk/Lords/2025-02-26/debates/EE62397B-50C8-424C-BB5F-79F627974EC3/NorthernIrelandTroubles\(LegacyAndReconciliation\)Act2023\(Remedial\)Order2024?highlight=interim%20custody%20order#contribution-196273C1-09C7-4B02-B746-295E0B607211](https://hansard.parliament.uk/Lords/2025-02-26/debates/EE62397B-50C8-424C-BB5F-79F627974EC3/NorthernIrelandTroubles(LegacyAndReconciliation)Act2023(Remedial)Order2024?highlight=interim%20custody%20order#contribution-196273C1-09C7-4B02-B746-295E0B607211)

Government has committed to. We recognise that victims and survivors of the Troubles, as well as the wider public in Northern Ireland and beyond, want to see progress on these issues. As well as laying this draft Remedial Order to remove several provisions found to be incompatible by the domestic courts, we are introducing primary legislation concurrently.

10. The Northern Ireland Troubles Bill will deal with areas of incompatibility where a draft Remedial Order simply removing provisions is not sufficient. For example, the Bill will fulfil our promise to allow certain inquests to proceed, it will amend the 2023 Act's disclosure regime so that it is fair and transparent, and it will ensure that in specific circumstances the Legacy Commission can hold public hearings, take sworn evidence from individuals and allow families to have good representation.
11. This is part of a wider package of reforms and changes. The Bill will also fundamentally reform the Legacy Commission, introduce a package of rights and protections for those - including veterans - who engage with legacy processes, and establish an Independent Commission on Information Retrieval jointly with the Irish Government.
12. Other representations were submitted as written evidence to the JCHR and we have responded to their recommendations below.

Sections 46 and 47 on Interim Custody Orders

13. The largest number of representations received on the Remedial Order related to sections 46 and 47, concerning Interim Custody Orders ('ICOs'). The NIO received correspondence on ICOs from six Parliamentarians, including from Tonia Antoniazzi MP in her capacity as the Chair of the Northern Ireland Affairs Committee.² The Government also received representations in Parliament from seventeen different Parliamentarians on twenty-seven separate occasions.³
14. The Government maintains it is a legitimate course of action to repeal sections 46 and 47 via a Remedial Order, a view supported by the JCHR who found this provision in the draft Remedial Order was not *ultra vires* (JCHR report, paragraph 128). However, in context of the clear and demonstrable strength of feeling on the matter, the Government has concluded it would be more appropriate to remove the repeal of Sections 46 and 47 from the Remedial Order and address this matter instead

² Correspondence between Chair of the Northern Ireland Affairs Committee and Secretary of State for Northern Ireland:

<https://committees.parliament.uk/publications/46651/documents/238608/default/>

³ Based on written questions, oral questions and debate contributions starting from the laying of the Order on 4 December 2024 up until 30 May 2025.

through revised primary legislation, which has now been introduced in Parliament.

Response to recommendations in the JCHR's report of 28th February 2025:

15. The Government is grateful to the JCHR for its constructive report on the *Proposal for a Draft Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2024*. The Government is pleased to accept the majority of the Committee's recommendations.
16. ***The Government should amend the Proposed Order so that, when laid in draft, it cites in the preamble which one of the conditions in section 10(1) (a) HRA is met in respect of the declaration of incompatibility made by the Court of Appeal in Northern Ireland. (Recommendation, Paragraph 78)***
17. The Government accepts this recommendation and has amended the draft Remedial Order accordingly.
18. ***We recommend that the Government sets out its 'compelling reasons' for proceeding by way of remedial order in greater detail when it lays its further draft order. (Recommendation, Paragraph 87)***
19. We thank the Committee for this recommendation. The Government has carefully considered the best route forward and determined that, despite introducing primary legislation to repeal and replace the 2023 Act, there are compelling reasons to continue with the draft Remedial Order.
20. The Government has made numerous public statements saying it will lay a draft Remedial Order to correct incompatibilities found by the NI Courts, and has recently reiterated this commitment in the Joint Framework with the Irish Government, published on 19 September 2025.
21. In addition to these commitments, we also believe this approach is essential for providing clarity as quickly as possible, especially on two key issues; the removal of the immunity provisions and the removal of the bar on Troubles-related civil cases (as well as the inadmissibility of evidence in civil cases).
22. Providing clarity on immunity via the Remedial Order allows us to start building trust in the Commission and allows Parliament to focus its scrutiny on the future regime. As the JCHR recognised in the introduction to their report, the legacy of the past continues to have a profound and lasting impact on people in Northern Ireland and beyond. We know that

lots of families and stakeholders were vehemently opposed to the immunity provisions, to the extent that not taking action on this issue (even if it is to remove disappplied and uncommenced provisions) may put any engagement with the Commission at risk.

23. The Government wants to be clear about why the Remedial Order is used in some instances and why primary legislation is used in others. We propose only using the Remedial Order to repeal clauses in cases where the Government is not introducing additional drafting. In the cases where the Government considers that new drafting is appropriate (such as on Interim Custody Orders and criminal conduct by police officers), the Government will repeal and replace these provisions in primary legislation.
24. There are of course some other issues that the Government wants to address, such as reforming the Commission, which could not be included in a Remedial Order because the NI Courts did not make adverse findings on those matters.
25. ***The Government should correct the minor drafting errors we have identified in the Proposed Order and listed in the Appendix to this report before laying a further draft order. (Recommendation, Paragraph 92)***
26. The Government accepts this recommendation and has amended the draft Remedial Order accordingly.
27. ***The Government should clarify why it has chosen not to address the incompatibility of section 45 via the Proposed Order and whether the declaration of incompatibility in relation to that section is subject to appeal to the Supreme Court. If it is not being appealed, it may be appropriate for the forthcoming draft remedial order to be amended to repeal the relevant aspects of section 45, in accordance with the Government's approach to section 41. (Recommendation, Paragraph 103)***
28. The Government is grateful for this opportunity to clarify our approach to section 45 on police misconduct. Section 45 is not subject to appeal to the Supreme Court.
29. We appreciate the Committee raising this matter, and the concern it may cause those seeking certainty over the future of legacy legislation that not all incompatibilities are remedied in this draft Remedial Order. The Government carefully considered this recommendation before concluding that primary legislation is the best vehicle to address this issue, owing to its complexity.

30. Alongside repeal of provisions like section 43 of the Legacy Act by the Proposed Order, the Government should set out its future plans for how legacy cases will be dealt with in a timely fashion going forward, as well as what resources it believes will need to be made available to ensure that this is possible. (Recommendation, Paragraph 108)

31. The primary legislation that the Government has introduced will fulfil our promise to allow inquests that were previously halted by the 2023 Act to proceed, amend the Act's disclosure regime so that it is fair and transparent, and ensure that in specific circumstances the Commission can hold public hearings, take sworn evidence from individuals, and allow families to have effective representation. Strengthening the Commission's independence and powers, whilst enabling it to continue working on behalf of the families who have already sought its help, is crucial.

32. As the Committee identifies, appropriate resources are vital to ensuring that cases can be dealt with in a timely manner. This is why the Government is delivering significant resources, including the £250 million of funding previously committed to in the Stormont House Agreement and New Decade New Approach.

33. The Government recognises that these mechanisms, including inquests and civil proceedings, are resource intensive. The allocation of funding for inquests and civil proceedings is a devolved matter, and their delivery will come from the record settlement of £19.3 billion per year on average over the SR period - the largest settlement in the history of devolution.

34. We recommend that the Government is clearer about its timetable for consultation and bringing forward primary legislation to resolve the remaining matters arising from the Re Dillon case and fulfilling its other pledges on Northern Ireland Legacy, including the restarting of Legacy inquests. As a minimum, we recommend that the Government firmly commits to bringing forward the primary legislation within this Parliament. (Recommendation, Paragraph 126)

35. The Government has now introduced primary legislation.

36. The Government should use the opportunity provided by the forthcoming primary legislation to finally resolve all the outstanding issues in the McKerr group of cases. (Recommendation, Paragraph 139)

37. The Government is confident that the measures we are introducing to strengthen and reform the Commission - as well as the public inquiry into

the killing of Patrick Finucane - will resolve the outstanding issues in the McKerr group of cases. Once these measures have been implemented, we will submit our action report to the Council of Europe and state that we believe we have met all of the conditions to end supervision of these cases.

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

DRAFT STATUTORY INSTRUMENTS

No.

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

Made - - - -

Coming into force

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

- (a) sections 7(3), 12, 19, 20, 21, 22, 39, 41 and 42(1) (relating to immunity from prosecution and the prohibition of criminal enforcement in respect of certain offences),
- (b) section 8 (relating to the exclusion of evidence in civil proceedings),
- (c) section 43(1) (preventing the continuation of certain civil actions that were brought on or after 17th May 2022(e)).

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

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

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

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

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

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

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

Citation, commencement, interpretation and extent

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

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

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

Removal of provision relating to immunity from prosecution etc

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

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

- (a) in subsection (5), omit paragraph (d);
- (b) in subsection (10), omit paragraphs (f) to (h).

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

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

- (a) in subsection (1), omit “or the immunity function”;
- (b) in subsection (2), omit “or the immunity function”.

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

- (a) omit subsection (3);
- (b) in subsection (4), omit the words from “; and subsections” to the end;
- (c) in subsection (11), in the definition of “other material”, omit paragraph (b) and the “and” before it.

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

- (a) in subsection (4)—
 - (i) in paragraph (a), omit the words from “(whether” to “section 12)”;
 - (ii) in paragraph (b), for “request (or subsequent request)” substitute “subsequent request”;
 - (iii) in the words after paragraph (b), for “that” substitute “the subsequent”;

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

- (b) in subsection (5)—
 - (i) in paragraph (a), for “that request (or subsequent request)” substitute “the subsequent request”;
 - (ii) in paragraph (b), omit “, in a case where the ICRIR is carrying out the review following a request,”;
 - (c) in subsection (6)—
 - (i) in paragraph (a), omit the words from “(whether” to “section 12)”;
 - (ii) in paragraph (b), for “request (or subsequent request)” substitute “subsequent request”;
 - (iii) in the words after paragraph (b), for “that” substitute “the subsequent”;
 - (d) in subsection (7), in the words before paragraph (a), for “that” substitute “the subsequent”;
 - (e) in subsection (8), for “that request (or subsequent request)” substitute “the subsequent request”.
- (7) Omit section 12 (reviews in connection with requests for immunity from prosecution).
- (8) In section 13 (conduct of reviews)—
- (a) in subsection (2), omit the words from “, whether” to the end;
 - (b) in subsection (9), omit paragraph (c);
 - (c) in subsection (12), omit paragraph (b).
- (9) In section 16 (consultation on reports)—
- (a) in subsection (1), for the words from “a review” to “section 9 or 10” substitute “any review”;
 - (b) in subsection (2), omit the words from “carried out” to “section 12(2)”;
 - (c) in subsection (3), omit the words from “carried out” to “section 12(3)”.
- (10) In section 17 (issuing and publication of reports)—
- (a) in subsection (2), omit “If the review was carried out following a request made under section 9 or 10,”;
 - (b) omit subsections (3) to (6);
 - (c) in subsection (7), omit “, or statement of the manner in which a review was carried out,”;
 - (d) omit subsections (8) and (9).
- (11) In section 18 (reports: general provision)—
- (a) in subsection (2)—
 - (i) in paragraph (a), omit “and (3)”;
 - (ii) omit paragraph (b) and the “or” before it;
 - (b) in subsection (4), omit “, or the statement is not to be published,”;
 - (c) in subsection (5)(b), omit “or statement of the manner in which a review was carried out”;
 - (d) for subsection (7) substitute—
- “(7) For the purposes of this section—
- (a) the circumstances in which a public prosecution of P is to be regarded as continuing include circumstances where the trial which forms part of the prosecution ends without P being convicted or acquitted or any other verdict being given and either—

- (i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or
 - (ii) the prosecution have sought a retrial;
- (b) the circumstances in which a public prosecution of P is to be regarded as not continuing include—
 - (i) circumstances where the trial which forms part of the prosecution ends with P being convicted or acquitted or with another verdict being given, and
 - (ii) circumstances where the trial ends without P being convicted or acquitted or any other verdict being given and the period for the prosecution to seek a retrial ends without a retrial having been sought.”.

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

(13) Before section 23 insert—

“Personal statements”.

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

- (a) in subsection (1), omit paragraph (c);
- (b) in subsection (5), omit paragraph (b) and the “or” before it;
- (c) in subsection (7), omit paragraph (b) and the “or” before it.

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

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

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

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

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

- (a) in the heading, for “No grant of immunity:” substitute “Serious or connected Troubles-related offences:”;
- (b) in subsection (1), omit the words from “unless” to the end.

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

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

- (a) in subsection (1), for “any of sections 38 to 41” substitute “section 38 or 40”;
- (b) in subsection (2), for “sections 39 to 41” substitute “section 40”;
- (c) in subsection (4), omit “or 41”;
- (d) in subsection (5), for “, 40 or 41” substitute “or 40”.

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

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

- (a) “immunity function”;
- (b) “immunity requests panel”.

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

- (a) in paragraph 4, omit sub-paragraph (4);
 - (b) in paragraph 13, omit sub-paragraph (2).
- (25) In Schedule 3 (family members) in paragraph 7—
- (a) in sub-paragraph (1), for “15 or 17” substitute “16”;
 - (b) in sub-paragraph (2)(b)(ii), omit “or section 17(4)”;
 - (c) in sub-paragraph (3), for “15 or 17” substitute “16”.
- (26) Omit Schedule 5 (no immunity in certain circumstances).
- (27) In Schedule 12 (prisoner release) omit—
- (a) paragraph 2(2);
 - (b) paragraph 3(2).
- (28) In Schedule 13 (amendments) omit paragraph 11.

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

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

Removal of bars on bringing civil claims relating to the Troubles

- 4.—(1) The 2023 Act is amended as follows.
- (2) For the italic heading before section 43 substitute “Inquests and police complaints”.
 - (3) Omit section 43 (tort, delict and fatal accident actions).
 - (4) Omit Schedule 9 (determination of whether the prohibition on civil actions applies).
 - (5) Omit Schedule 10 (civil actions to which the 2008 Mediation Directive applies).
 - (6) In Schedule 13 (amendments), omit Part 2.

Amendments of other enactments

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

Date

Secretary of State for Northern Ireland
Northern Ireland Office

SCHEDULE

Article 5

Amendments of other enactments

Prescription and Limitation (Scotland) Act 1973

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

Limitation Act 1980

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

Foreign Limitation Periods Act 1984

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

Merchant Shipping Act 1995

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

Northern Ireland (Sentences) Act 1998

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

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

(a) for subsection (6A) substitute—

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

(b) omit subsection (6B).

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

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

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

(b) omit sub-paragraph (A2).

(a) 1973 c. 52.

(b) Section 23C was inserted by paragraph 12 of Schedule 13 to the 2023 Act.

(c) 1980 c. 58.

(d) Section 27D was inserted by paragraph 13 of Schedule 13 to the 2023 Act.

(e) 1984 c. 16.

(f) Section 4A was inserted by paragraph 14 of Schedule 13 to the 2023 Act.

(g) 1995 c. 21.

(h) Section 190(7) was inserted by paragraph 17 of Schedule 13 to the 2023 Act.

(i) 1998 c. 35.

(j) Section 3 was amended by paragraph 2 of Schedule 12 to the 2023 Act.

(k) Paragraph 2 was amended by paragraph 3 of Schedule 12 to the 2023 Act.

Sentencing Act 2020

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

Foreign Limitation Periods (Northern Ireland) Order 1985

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

Limitation (Northern Ireland) Order 1989

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

(a) 2020 c. 17.

(b) Section 379 was amended by paragraph 11 of Schedule 13 to the 2023 Act. There are other amendments but none are relevant.

(c) S.I. 1985/754 (N.I. 5).

(d) Article 5A was inserted by paragraph 15 of Schedule 13 to the 2023 Act.

(e) S.I. 1989/1339 (N.I. 11).

(f) Article 73A was inserted by paragraph 16 of Schedule 13 to the 2023 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

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

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

- (a) sections 7(3), 12, 19, 20, 21, 22, 39, 41 and 42(1) (relating to immunity from prosecution and the prohibition of criminal enforcement in respect of certain offences) are incompatible with articles 2 and 3 of the Convention;
- (b) section 8 (relating to the exclusion of evidence in civil proceedings) is incompatible with articles 2, 3 and 6 of the Convention;
- (c) section 43(1) (preventing the continuation of certain civil actions that were brought on or after 17 May 2022) is incompatible with article 6 of the Convention.

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

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

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

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

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

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

EXPLANATORY MEMORANDUM TO
THE NORTHERN IRELAND TROUBLES (LEGACY AND RECONCILIATION)
ACT 2023 (REMEDIAL) ORDER 2025

[2025] No. [XXXX]

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by The Northern Ireland Office and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Human Rights.

2. Declaration

- 2.1 Rt. Hon. Hilary Benn, Secretary of State at the Northern Ireland Office, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Sharon Carter, Deputy Director for Legacy at the Northern Ireland Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Steven Squire-Law at the Northern Ireland Office (email: legacy.group@nio.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This order will remove a number of provisions from the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 ('the Act') which were found – by the High Court in Northern Ireland and the Court of Appeal in Northern Ireland – to be incompatible with the European Convention on Human Rights. More details on the findings on the court are to be found in Section 6.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland, England, Wales, and Scotland.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland, England, Wales, and Scotland.

5. Policy Context

What is being done and why?

- 5.1 The Act was introduced by the previous government in June 2022 and received Royal Assent in September 2023. It stopped Troubles-related criminal investigations, civil cases and inquests and, in their place, created a new independent body - the Independent Commission for Reconciliation and Information Recovery ('the ICRIIR')

- which is tasked with carrying out reviews of Troubles-related deaths and serious injuries.

What was the previous policy, how is this different?

- 5.2 The High Court in Northern Ireland, in Dillon, McEvoy, McManus, Hughes, Jordan, Gilvary, and Fitzsimmons Application and In the matter of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and the Secretary of State for Northern Ireland [2024] NIKB 11 declared the following provisions of the Act incompatible with Convention rights:
- Sections 7(3), 12, 19-22, 39 and 42(1) – provisions on immunity from prosecution;
- Sections 8 - inadmissibility of material provided to, or obtained by, the ICRIR in civil and coronial proceedings;
- Section 41- prohibition of criminal enforcement action for other offences;
- Section 43(1) - prohibition on continuing certain civil actions brought between May 2022 and November 2023.
- 5.3 So far as section 43 is concerned, the Court of Appeal went further than the High Court and found that section 43(2) was also incompatible with Convention rights. This is the prohibition on bringing certain civil actions after November 2023.
- 5.4 The Government is committed to repealing and replacing the Legacy Act, and to implementing legacy mechanisms that are compliant with human rights and are supported by communities across Northern Ireland. It is absolutely clear that changes to the Act are necessary to ensure it is human rights compliant, and the Government is committed to bringing forward a remedial order under the Human Rights Act as soon as possible, to give more families confidence to engage with the ICRIR.
- 5.5 The Act halted Troubles-related criminal investigations, prosecutions, civil cases and some inquests. Civil cases were halted from the point at which the Bill was introduced in May 2022. In their place, the Act established the ICRIR as the sole body responsible for investigating Troubles-related deaths and serious injuries; its primary role being to recover as much information as possible. As part of its range of powers, the ICRIR could grant immunity from prosecution for Troubles-related offences if individuals provided information that was deemed - by the ICRIR - to be true to the best of their knowledge and belief.
- 5.6 This Order would make amendments to the Act to remove the provisions listed above which have been found by the High Court in Northern Ireland and the Court of Appeal in Northern Ireland to be in breach of the ECHR (and make necessary consequential changes).

6. Legislative and Legal Context

How has the law changed?

- 6.1 The proposed Remedial Order would amend the Act to ensure that certain provisions which have been found by the High Court in Northern Ireland and the Court of Appeal in Northern Ireland to be in breach of the ECHR are removed.

The High Court in Northern Ireland made declarations pursuant to section 4 of the Human Rights Act 1998 (c. 42) that:

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

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

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

6.2 In addition, on section 43, the Court of Appeal in Northern Ireland found that subsection (2) (preventing the bringing of certain civil actions on or after 18th November 2023) is also incompatible with article 6 of the Convention.

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

6.4 Article 3 removes section 8 of the Act, which provides for the inadmissibility in certain proceedings of material obtained or produced by the ICIR in the exercise of its functions. The ICIR is established by, and its functions are set out in, section 2 of the Act.

6.5 Article 4 removes section 43 of the Act, which prohibits (i) the continuation of certain civil actions which were brought on or after 17th May 2022, being the date of the Act's first reading as a Bill in the House of Commons, and (ii) the bringing of certain civil actions on or after the day the section came into force. Consequential to that, it removes all of Schedules 9 and 10, and Part 2 of Schedule 12, from the Act.

6.6 Article 5 introduces the Schedule, which makes amendments to various other enactments consequential on the amendments made by Articles 2 and 4.

Why was this approach taken to change the law?

6.7 A Remedial Order is an order made under section 10 of the Human Rights Act that amends primary or subordinate legislation that has been found by domestic courts to be incompatible with Convention rights. Although the provisions declared incompatible with the ECHR by the High Court in Northern Ireland have also been disapplied, the Government considers it important to remove all these provisions from the statute book swiftly.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Government has not conducted a separate consultation exercise as it would not be proportionate to do so for targeted amendments which are required to implement court judgments

8. Applicable Guidance

8.1 The Government will not be publishing guidance on this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because this Order is required to implement court judgments.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public, private or voluntary sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This Order is laid pursuant to the power in section 10 of the Human Rights Act 1998 and will be of special interest to the Joint Committee on Human rights.

12. European Convention on Human Rights

- 12.1 The Secretary of State for Northern Ireland has made the following statement regarding Human Rights:

“In my view the provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2025 are compatible with the Convention rights.”

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).

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