



Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

2023 CHAPTER 41

PART 2

THE INDEPENDENT COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY

Immunity from prosecution

19 Immunity from prosecution

- (1) The ICIR must grant a person (P) immunity from prosecution if conditions A to C are met.
- (2) *Condition A:* P has requested the ICIR to grant P immunity from prosecution.
- (3) *Condition B:* the immunity requests panel is satisfied that the ICIR is in possession of an account (“P’s account”) that—
 - (a) has been given by P,
 - (b) describes conduct by P which is, or includes, conduct forming part of the Troubles (“P’s disclosed conduct”), and
 - (c) is true to the best of P’s knowledge and belief.
- (4) P’s account may consist of, or include, information which has previously been given by P (whether directly to the ICIR or otherwise) if, or to the extent that, the immunity requests panel is satisfied that the information is true to the best of P’s knowledge and belief.
- (5) *Condition C:* the immunity requests panel is satisfied that P’s disclosed conduct would tend to expose P—
 - (a) to a criminal investigation of, or
 - (b) to prosecution for,

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Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, Cross Heading: Immunity from prosecution. (See end of Document for details)*

- one or more particular serious or connected Troubles-related offences identified by the panel (the “identified possible offences”).
- (6) In deciding whether condition C is met, the immunity requests panel must disregard—
 - (a) the effects of sections 38 to 41, 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 5).
 - (7) Where conditions A to C are met, the immunity requests panel must decide whether P should be granted—
 - (a) specific immunity from prosecution,
 - (b) general immunity from prosecution, or
 - (c) specific and general immunity from prosecution.
 - (8) “Specific immunity from prosecution” is immunity from prosecution for all of the identified possible offences.
 - (9) “General immunity from prosecution” is immunity from prosecution for all serious or connected Troubles-related offences which are within a description determined by the immunity requests panel.
 - (10) In that case, the description of offences must—
 - (a) be framed by reference to P’s disclosed conduct, and
 - (b) consist of, or include, all of the identified possible offences.
 - (11) “Specific and general immunity from prosecution” is immunity from prosecution for—
 - (a) all of the identified possible offences, and
 - (b) all serious or connected Troubles-related offences which are within a description determined by the immunity requests panel.
 - (12) In that case, the description of offences must be framed by reference to P’s disclosed conduct.
 - (13) The ICRIR—
 - (a) must give P written notice of the outcome of P’s request for immunity from prosecution; and
 - (b) must (where the outcome is that P is to be granted immunity) grant P—
 - (i) specific immunity from prosecution,
 - (ii) general immunity from prosecution, or
 - (iii) specific and general immunity from prosecution,
 as decided by the immunity requests panel.
 - (14) Immunity from prosecution may not be revoked, except by a court under section 26.
 - (15) A reference in any other provision of this Act to an offence for which a person (P) has been granted immunity from prosecution is a reference to an offence which is within the scope of—
 - (a) specific immunity from prosecution,
 - (b) general immunity from prosecution, or
 - (c) specific and general immunity from prosecution,
 that has been granted to P in accordance with this section.

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(16) Section 39 sets out the effects of a grant of immunity from prosecution.

(17) This section is subject to Schedule 5.

Commencement Information

I1 S. 19 not in force at Royal Assent, see [s. 63\(4\)](#)

I2 [S. 19\(17\)](#) in force at 1.12.2023 for specified purposes by [S.I. 2023/1293, reg. 2\(j\)](#)

PROSPECTIVE

20 Requests for immunity: procedural matters

- (1) A request by a person (P) for a grant of immunity that is made after the end of the fifth year of the period of operation of the ICRIR is not valid unless, when the request is made, the ICRIR is carrying out a review that relates to—
 - (a) relevant conduct by P, or
 - (b) other conduct which relates to, or is otherwise connected to, relevant conduct by P (including where the other conduct forms part of the same event as relevant conduct by P).
- (2) The Secretary of State may make rules about the procedures for—
 - (a) making requests for grants of immunity from prosecution;
 - (b) dealing with requests for grants of immunity from prosecution.
- (3) Subject to any rules, the Chief Commissioner is to determine the procedures for—
 - (a) making requests for grants of immunity from prosecution;
 - (b) dealing with requests for grants of immunity from prosecution.
- (4) A request for a grant of immunity is not valid if it is not made in accordance with any applicable procedure that—
 - (a) is in rules, or
 - (b) has been determined by the Chief Commissioner.
- (5) It is for the Chief Commissioner to decide whether a request that has been made is valid.
- (6) Rules under this section are to be made by statutory instrument; and a statutory instrument containing the rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) 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.
- (8) But the Secretary of State may nominate a person under subsection (7) if the Chief Commissioner is unable to make a nomination.

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- (9) A person may not be nominated under subsection (7) if the person—
- (a) would be disqualified from appointment as a Commissioner by paragraph 8(3) 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 8 of Schedule 1).
- (10) This Act is to apply to the exercise of immunity functions by a person appointed under subsection (7) as if the functions were being exercised by the Chief Commissioner.
- (11) In this section—
- “immunity functions” means—
- (a) the function conferred by subsection (5), and
 - (b) panel functions;
- “panel functions” means functions of the Chief Commissioner as a member or the chair of the immunity requests panel.
- (12) For the purposes of this section “relevant conduct by P” is conduct by P forming part of the Troubles that is relevant to P’s request for immunity from prosecution.

Commencement Information

I3 S. 20 not in force at Royal Assent, see [s. 63\(4\)](#)

PROSPECTIVE

21 Determining a request for immunity

- (1) This section applies if a person (P) makes a request under section 19 for the ICRIR to grant P immunity from prosecution.
- (2) 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.
- (3) In forming a view on the truth of P’s account, the immunity requests panel must take into account any information obtained under subsection (2) and any other information in the possession of the ICRIR that is relevant (including information which P has previously given to a person other than the ICRIR).
- (4) That includes information obtained through—
 - (a) any review carried out under section 13, or
 - (b) any investigation that has previously been carried out by any other person.
- (5) Where—
 - (a) it would have been possible for the ICRIR to carry out a review under section 12 in consequence of P’s request for immunity from prosecution, and
 - (b) the ICRIR did not decide to carry out the review,
 that does not prevent the immunity requests panel from forming a view on the truth of an account given by P.

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- (6) The Chief Commissioner must give guidance about when conditions B and C set out in section 19(3) to (5) are met.
- (7) The Chief Commissioner may, in particular, give guidance about ascertaining—
- (a) whether an account of a person’s conduct is true to the best of a person’s knowledge and belief;
 - (b) whether conduct is possible criminal conduct;
 - (c) whether information is an account of possible criminal conduct.
- (8) The Chief Commissioner must give guidance about—
- (a) the making of decisions in accordance with section 19(7) whether P should be granted—
 - (i) specific immunity from prosecution,
 - (ii) general immunity from prosecution, or
 - (iii) specific and general immunity from prosecution;
 - (b) the determination of descriptions of offences for the purposes of—
 - (i) a grant of general immunity from prosecution (see section 19(9)), or
 - (ii) a grant of specific and general immunity from prosecution (see section 19(11)).
- (9) The immunity requests panel must take account of guidance given under subsection (6) or (8) when exercising functions to which it relates.
- (10) In this section—
- “P’s account” has the same meaning as in section 19;
 - “possible criminal conduct” means conduct that would tend to expose a person—
 - (a) to a criminal investigation of, or
 - (b) to prosecution for,
- a Troubles-related offence.

Commencement Information

14 S. 21 not in force at Royal Assent, see s. 63(4)

PROSPECTIVE

22 The immunity requests panel

- (1) The immunity requests panel is to consist of—
- (a) the Chief Commissioner, and
 - (b) two ICIR officers nominated by the Chief Commissioner.
- (2) The immunity requests panel is to be chaired by the Chief Commissioner.
- (3) The Chief Commissioner—
- (a) may remove an ICIR officer from the panel;

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- (b) may nominate a different ICRIR officer to be a temporary member of the panel if an ICRIR officer who is a member of the panel is unable to act (and is not removed from the panel).
- (4) For provision about the nomination of a person to act temporarily instead of the Chief Commissioner, see section 20(7).
- (5) An ICRIR officer may not become or remain a member of the panel (under subsection (1) or (3)) unless the officer—
 - (a) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least ten years' standing,
 - (b) satisfies the judicial-appointment eligibility condition on a ten-year basis (see Part 2 of the Tribunals, Courts and Enforcement Act 2007), or
 - (c) is an advocate or solicitor in Scotland of at least ten years' standing.
- (6) In employing and seconding persons to be ICRIR officers, the ICRIR must ensure that the ICRIR officers include at least two persons who are qualified to serve on the panel in accordance with subsection (5).
- (7) The functions conferred on the immunity requests panel (whether by this Act or otherwise) are to be treated as functions of the ICRIR exercisable by the immunity requests panel on behalf of, and in the name of, the ICRIR.

Commencement Information

I5 S. 22 not in force at Royal Assent, see [s. 63\(4\)](#)

VALID FROM 01/05/2024

23 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 19 (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

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- (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 19—
 - (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
 - (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 16(2)).
- (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 19—
 - (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—

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- (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);

“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 16(3)).

Commencement Information

I6 S. 23 not in force at Royal Assent, see [s. 63\(4\)](#)

VALID FROM 01/05/2024

24 Publication of personal statements

- (1) This section applies where—
 - (a) an eligible person provides a personal statement in accordance with section 23, 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 30(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 30(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—

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- (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 18(2) to (4) 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
 - (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 23 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.

Commencement Information

I7 S. 24 not in force at Royal Assent, see [s. 63\(4\)](#)

Status:

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