

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, PART 1. (See end of Document for details)

SCHEDULES

SCHEDULE 5

NO IMMUNITY IN CERTAIN CIRCUMSTANCES

PART 1

SEXUAL OFFENCE, EXISTING CONVICTION OR ONGOING PROSECUTION

PROSPECTIVE

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 19 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).

Commencement Information

- II** Sch. 5 para. 1 not in force at Royal Assent, see [s. 63\(4\)](#)

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;
 - (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;

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- (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.

Commencement Information

- I2** Sch. 5 para. 2 not in force at Royal Assent, see **s. 63(4)**
- I3** Sch. 5 para. 2(4)(5) in force at 1.12.2023 by **S.I. 2023/1293, reg. 2(j)**

PROSPECTIVE

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—
 - (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

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- (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.

Commencement Information

I4 Sch. 5 para. 3 not in force at Royal Assent, see **s. 63(4)**

PROSPECTIVE

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 ICRIIR must not grant P immunity from prosecution in relation to the current request.
- (2) Accordingly, section 19(1) and (7) to (16) do not apply in relation to the current request.

Commencement Information

I5 Sch. 5 para. 4 not in force at Royal Assent, see **s. 63(4)**

PROSPECTIVE

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 19(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 ICRIIR must not grant P immunity from prosecution for any identified possible offence for which this Schedule prohibits a grant of immunity.
- (4) Section 19(7) to (13) have effect subject to this paragraph.

Commencement Information

I6 Sch. 5 para. 5 not in force at Royal Assent, see **s. 63(4)**

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