

Status: Point in time view as at 01/05/2024.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 30

PERMITTED DISCLOSURES OF INFORMATION

PART 1

DISCLOSURES THAT ARE “PERMITTED”

Introduction

- 1 Paragraphs 2 to 5 set out which disclosures of information are “permitted” for the purposes of section 30(3).

Commencement Information

- I1** Sch. 6 para. 1 not in force at Royal Assent, see **s. 63(4)**
I2 Sch. 6 para. 1 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Disclosure of any information to the Secretary of State

- 2 A disclosure of any information by the ICRIIR to the Secretary of State is permitted.

Commencement Information

- I3** Sch. 6 para. 2 not in force at Royal Assent, see **s. 63(4)**
I4 Sch. 6 para. 2 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Disclosure of sensitive information to certain recipients

- 3 (1) A disclosure of sensitive information by the ICRIIR to a person listed in subparagraph (2) is permitted if—
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and
 - (b) the disclosure is made after the end of the relevant 10 day period.
- (2) The persons to whom a disclosure is permitted under this paragraph are—
- (a) the Director of Public Prosecutions for Northern Ireland;
 - (b) the Director of Public Prosecutions;
 - (c) the Lord Advocate;
 - (d) a member of the PSNI;
 - (e) a member of a police force in Great Britain;
 - (f) a coroner in Northern Ireland or England and Wales who is—

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- (i) a judge of the High Court in Northern Ireland,
 - (ii) a judge of the High Court in England and Wales,
 - (iii) a county court judge in Northern Ireland, or
 - (iv) a Circuit judge in England and Wales;
 - (g) a sheriff in Scotland, if the disclosure is made in respect of an inquiry into a death being, or to be, held under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).
- (3) In this paragraph “relevant 10 day period” (in relation to a proposed disclosure notified to the Secretary of State) means the period of ten working days beginning with the day on which notification of the proposed disclosure is given under subparagraph (1).
- (4) For that purpose “working day” means any day other than—
- (a) a Saturday or a Sunday,
 - (b) Christmas Day or Good Friday, or
 - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

Commencement Information

I5 Sch. 6 para. 3 not in force at Royal Assent, see **s. 63(4)**

I6 Sch. 6 para. 3 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Disclosure of sensitive information notified in advance to the Secretary of State

- 4 (1) A disclosure of sensitive information by the ICRIR is permitted if—
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and
 - (b) the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is permitted.
- (2) The Secretary of State must respond to a notification by the Commissioner for Investigations under this paragraph within the relevant decision period, by notifying that Commissioner that the proposed disclosure either—
- (a) is permitted, or
 - (b) is prohibited.
- (3) But the Secretary of State may notify the Commissioner for Investigations that the proposed disclosure is prohibited only if, in the Secretary of State’s view, the disclosure of the sensitive information would risk prejudicing, or would prejudice, the national security interests of the United Kingdom.
- (4) If the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is prohibited—
- (a) the Secretary of State must consider whether reasons for prohibiting it can be given without disclosing information which would risk prejudicing, or would prejudice, the national security interests of the United Kingdom; and
 - (b) if they can be given, the Secretary of State must give those reasons to the Commissioner for Investigations.

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- I7** Sch. 6 para. 4 not in force at Royal Assent, see **s. 63(4)**
I8 Sch. 6 para. 4 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Disclosure of protected international information notified in advance to the Secretary of State

- 5 (1) A disclosure of protected international information by the ICRIR is permitted if—
- (a) the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, and
 - (b) the Secretary of State notifies the Commissioner for Investigations that the proposed disclosure is permitted.
- (2) The Secretary of State must respond to a notification by the Commissioner for Investigations under this paragraph within the relevant decision period, by notifying that Commissioner that the proposed disclosure either—
- (a) is permitted, or
 - (b) is prohibited.
- (3) But the Secretary of State may notify the Commissioner for Investigations that the proposed disclosure is prohibited only if, in the Secretary of State’s view, the disclosure of the protected international information would, or would be likely to, damage international relations.

Commencement Information

- I9** Sch. 6 para. 5 not in force at Royal Assent, see **s. 63(4)**
I10 Sch. 6 para. 5 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

The “relevant decision period”

- 6 (1) In paragraph 4 or 5 “relevant decision period” (in relation to a proposed disclosure notified to the Secretary of State) means—
- (a) the period of 60 days beginning with the day on which the Commissioner for Investigations notifies the Secretary of State of the proposed disclosure, or
 - (b) any reasonable longer period which the Secretary of State specifies, in notice given to the Commissioner for Investigations during that 60 day period, as the period which the Secretary of State wishes to take in order to make a decision whether to permit or prohibit the proposed disclosure.
- (2) But if the court directs the Secretary of State to remake a decision—
- (a) on an appeal under paragraph 9, or
 - (b) on any further appeal,
- “relevant decision period” means the period for remaking that decision in compliance with that direction.

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- I11** Sch. 6 para. 6 not in force at Royal Assent, see **s. 63(4)**

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I12 Sch. 6 para. 6 in force at 1.5.2024 by S.I. 2024/584, reg. 2(u) (with regs. 3, 4)

PART 2

DECISIONS TO PROHIBIT DISCLOSURES OF SENSITIVE INFORMATION IN FINAL REPORTS

Application of this Part

- 7 This Part of this Schedule applies if—
- (a) it was proposed to disclose sensitive information in a final report (the “proposed disclosure”),
 - (b) the Commissioner for Investigations notified the Secretary of State of the proposed disclosure in accordance with paragraph 4(1)(a), and
 - (c) the Secretary of State decided to prohibit the proposed disclosure in the final report (the “affected report”).

Commencement Information

I13 Sch. 6 para. 7 not in force at Royal Assent, see s. 63(4)

I14 Sch. 6 para. 7 in force at 1.5.2024 by S.I. 2024/584, reg. 2(u) (with regs. 3, 4)

Affected report to include statement of Secretary of State’s decision

- 8 (1) The affected report must include a statement that the Secretary of State decided to prohibit the proposed disclosure.
- (2) The statement must also set out any reasons for prohibiting the disclosure which the Secretary of State gives in accordance with paragraph 4(4).
- (3) In a case where—
- (a) the affected report includes a statement relating to the proposed disclosure in accordance with this paragraph,
 - (b) an initial appeal is brought against the Secretary of State’s decision not to permit the proposed disclosure, and
 - (c) the Secretary of State remakes the decision in accordance with a direction given by the court,
- a new final report relating to the death or other Troubles-related circumstances must be produced in accordance with section 15.

Commencement Information

I15 Sch. 6 para. 8 not in force at Royal Assent, see s. 63(4)

I16 Sch. 6 para. 8 in force at 1.5.2024 by S.I. 2024/584, reg. 2(u) (with regs. 3, 4)

Initial appeals

- 9 (1) In this Part of this Schedule “initial appeal” means an appeal to the relevant court against the Secretary of State’s decision not to permit the proposed disclosure in the affected report.

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- (2) The function of the relevant court on an initial appeal is to review the Secretary of State's decision not to permit the proposed disclosure.
- (3) In determining an initial appeal, the relevant court must apply the principles applicable on an application for judicial review or, in Scotland, an application to the supervisory jurisdiction of the Court of Session.
- (4) On an initial appeal—
 - (a) the court has the power to quash the Secretary of State's decision;
 - (b) if the court quashes the decision, it must direct the Secretary of State to remake the decision within—
 - (i) the period of 60 days beginning with the day on which the court gives the direction, or
 - (ii) any reasonable longer period which the court specifies (after considering any representations made by a party to the proceedings).
- (5) If the court does not exercise that power to quash the decision, it must dismiss the appeal.

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I17 Sch. 6 para. 9 not in force at Royal Assent, see **s. 63(4)**

I18 Sch. 6 para. 9 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Bringing an initial appeal

- 10
- (1) An initial appeal may be brought by—
 - (a) the person who requested the review to which the affected report relates, or
 - (b) a person who would be eligible to request a review (see paragraph 13(3)).
 - (2) An initial appeal must be brought within the period of 28 days beginning with the day on which the affected report is published under section 17.

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I19 Sch. 6 para. 10 not in force at Royal Assent, see **s. 63(4)**

I20 Sch. 6 para. 10 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with regs. 3, 4)

Further appeal against an initial appeal

- 11
- (1) This paragraph applies if the relevant court has determined an initial appeal.
 - (2) The person who brought the initial appeal may bring an appeal in the appeal court against the determination of the initial appeal (a “further appeal”).
 - (3) But that person may bring the further appeal only with the leave of—
 - (a) the relevant court which determined the initial appeal, or
 - (b) the appeal court.
 - (4) The court may not give such leave unless satisfied that—

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- (a) the further appeal would raise some important point of principle or practice, or
- (b) there is some other compelling reason for the further appeal to be heard.

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- I21** Sch. 6 para. 11 not in force at Royal Assent, see [s. 63\(4\)](#)
I22 Sch. 6 para. 11 in force at 1.5.2024 by [S.I. 2024/584](#), [reg. 2\(u\)](#) (with [regs. 3, 4](#))

Application of the Justice and Security Act 2013

- 12 (1) Any proceedings on an initial appeal or a further appeal (including any proceedings before the Supreme Court) are to be treated as section 6 proceedings (within the meaning of the JSA 2013) for the purposes of sections 8 to 14 of the JSA 2013.
- (2) Sections 8 to 14 of the JSA 2013 apply in relation to proceedings treated as section 6 proceedings by sub-paragraph (1) as if—
- (a) the Secretary of State were the relevant person, and
 - (b) the references to the interests of national security in sections 8, 11 and 13 of the JSA 2013 were references to the interests of national security or the interests of the international relations of the United Kingdom.
- (3) But sections 8 to 14 of the JSA 2013, and rules of court relating to section 6 proceedings, do not prevent an appeal under this paragraph from being considered in the presence of—
- (a) the Commissioner for Investigations,
 - (b) another ICRIR officer nominated by the Commissioner for Investigations, or
 - (c) a legal representative of the ICRIR.

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- I23** Sch. 6 para. 12 not in force at Royal Assent, see [s. 63\(4\)](#)
I24 Sch. 6 para. 12 in force at 1.5.2024 by [S.I. 2024/584](#), [reg. 2\(u\)](#) (with [regs. 3, 4](#))

Interpretation

- 13 (1) In this Part of this Schedule—
- “affected report” has the meaning given in paragraph [7\(c\)](#);
 - “appeal court” means—
 - (a) the Court of Appeal in Northern Ireland,
 - (b) the Court of Appeal in England and Wales, or
 - (c) the Inner House of the Court of Session;
 - “further appeal” has the meaning given in paragraph [11](#);
 - “initial appeal” has the meaning given in paragraph [9](#);
 - “JSA 2013” means the Justice and Security Act 2013;
 - “proposed disclosure” has the meaning given in paragraph [7\(a\)](#);
 - “relevant court” means—
 - (a) the High Court in Northern Ireland,
 - (b) the High Court in England and Wales, or

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- (c) the Outer House of the Court of Session.
- (2) Expressions used in this Part of this Schedule and in sections 9 to 15 have the same meanings in this Part as in those sections.
- (3) For the purposes of bringing an initial appeal a person “would be eligible to request a review” if, at the time of bringing the initial appeal, the person would be entitled to make a request under—
- (a) section 9 for a review of the death to which the affected report relates, or
 - (b) section 10 for a review of the other Troubles-related circumstances to which the affected report relates;
- and, in determining whether the person would be entitled to make the request, the fact that a review has already been requested must be ignored.
- (4) The following provisions apply to a determination (for the purposes of subparagraph (3)) of whether a person would be entitled to make a request under section 9.
- (5) In the case of a request under section 9(2), it is for the relevant court (rather than the Commissioner for Investigations) to decide the person’s entitlement to make the request (and accordingly section 9(7) does not apply).
- (6) In determining for the purposes of this Schedule whether a person is, under Schedule 3, a close family member of D, paragraph 1(2) of Schedule 3 has effect as if the following provision were substituted for paragraph (f)—
- “(f) was a step-parent of D on the day of D’s death or is a step-parent of D on—
 - (i) the day on which the request for the review is made, or
 - (ii) the day when the initial appeal is brought;”.

Commencement Information

I25 Sch. 6 para. 13 not in force at Royal Assent, see **s. 63(4)**

I26 Sch. 6 para. 13 in force at 1.5.2024 by S.I. 2024/584, **reg. 2(u)** (with **regs. 3, 4**)

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