



# Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

## 2023 CHAPTER 41

### PART 3

#### INVESTIGATIONS, LEGAL PROCEEDINGS ETC AND RELEASE OF PRISONERS

##### *Criminal investigations and proceedings*

#### **40 No grant of immunity: restrictions on criminal enforcement action**

- (1) This section applies in relation to a serious or connected Troubles-related offence by a person (P) unless P has been granted immunity from prosecution for the offence under section 19.
- (2) Criminal enforcement action may be taken against P in respect of the offence by P if—
  - (a) the Commissioner for Investigations has referred conduct by P to a prosecutor under section 25 (the “relevant conduct”),
  - (b) the offence by P is—
    - (i) the suspected offence, or one of the suspected offences, notified to the prosecutor under section 25, or
    - (ii) another offence which the relevant conduct constitutes, and
  - (c) the criminal enforcement action is taken in connection with that referral (including any prosecution or conviction which follows from that referral).
- (3) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR’s functions, may arrest or otherwise detain P in connection with the offence by P.
- (4) An ICRIR officer, or another person acting in connection with the exercise of the ICRIR’s functions, may charge P with the offence by P; and a prosecutor may conduct criminal proceedings arising from any such charge.

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**Changes to legislation:** There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, Section 40. (See end of Document for details)

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- (5) If subsection (2) becomes applicable to the offence by P, criminal enforcement action against P in respect of the offence may no longer be taken in accordance with subsection (3) or (4).
- (6) But that does not limit the criminal enforcement action that may be taken in accordance with subsection (2) after it becomes applicable (and, in particular, action previously taken in accordance with subsection (3) or (4) may be continued in accordance with subsection (2)).
- (7) Subsections (2), (3) and (4) only authorise a person to take criminal enforcement action by the exercise of powers which that person has otherwise than by virtue of this section.
- (8) This section has effect subject to section 42(4) (pre-commencement criminal enforcement action).

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**Commencement Information**

**II** S. 40 in force at 1.5.2024, see s. 63(3)

**Changes to legislation:**

There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, Section 40.