

# Supplementary Legislative Consent Memorandum

## Northern Ireland Troubles Bill

### Background

1. This memorandum has been lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs, in accordance with Rule 9B.3.1(a) of the Parliament's Standing Orders. It should be read in conjunction with the Scottish Government's previous Legislative Consent Memorandum (LCM) on this Bill.
2. The Northern Ireland Troubles Bill was introduced by the UK Government in the House of Commons on 14 October 2025. The Bill is available on the UK Parliament website via this link: <https://bills.parliament.uk/bills/4022>.
3. This supplementary LCM relates to the provisions requiring consent which were set out in the [LCM](#) lodged with the Scottish Parliament on 11 December 2025, as well as further provisions for which the requirement to consent remained under consideration. No recommendation on consent was provided in the initial LCM. This supplementary LCM therefore provides a recommendation on consent for all relevant provisions within this Bill.

### Content of the Bill

4. **The Northern Ireland Troubles Bill** repeals and replaces parts of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 ("the Legacy Act" or "the 2023 Act"). Specifically, it:
  - Repeals and replaces Part 2 and certain aspects of Part 3 of the Legacy Act, reforming and renaming the Independent Commission for Reconciliation and Information Recovery (ICRIR) as the Legacy Commission (LC) and reforming its powers to conduct investigations and inquisitorial proceedings. The LC operates UK-wide, including in Scotland on matters within devolved competence.
  - Sets out the LC's structure, membership, principal functions, and oversight arrangements. Core functions include:
    - Investigating conduct causing death or serious harm which formed part of the Troubles.
    - Conducting inquisitorial proceedings into the circumstances of certain deaths caused by conduct forming part of the Troubles.
  - Establishes procedures for investigations by LC investigating officers and inquisitorial proceedings, presided over by a judicial panel member of the LC.

- Makes provision for the Independent Commission on Information Retrieval (ICIR), as agreed under the Stormont House Agreement between the UK and Irish governments.
- Amends arrangements for inquests in Northern Ireland into Troubles-related deaths.
- Requires the LC to produce a historical record of deaths linked to Troubles-related conduct that were not otherwise investigated.

5. For the purposes of the Bill, the “Troubles” are defined in clause 2 as events and conduct related to the constitutional status of Northern Ireland or to political or sectarian hostility between people in Northern Ireland, which took place between 1 January 1966 until 10 April 1998.

## Provisions which require the consent of the Scottish Parliament

6. The [LCM](#) lodged with the Scottish Parliament on 11 December 2025 set out (at paragraphs 7 – 53) the requirement, or not, for the Scottish Parliament’s consent on a number of clauses of the Bill as introduced. The UK Government was in agreement regarding the requirement for consent on these clauses.

7. At the time of lodging the previous LCM, in addition to the aforementioned clauses, the requirement for legislative consent on a number of clauses was still under consideration. Of these remaining clauses, the Scottish Government now considers that the following provisions also require the legislative consent of the Scottish Parliament. The Scottish Government understands that the UK Government is in agreement with the requirement for consent for these clauses.

8. **Clause 13** allows the LC to obtain information from a list of public authorities, including the Security Service, the Secret Intelligence Service, and the Government Communications Headquarters (GCHQ). The purpose of the provision appears to be to facilitate LC functions such as investigations and inquisitorial proceedings. In order to impose duties on other public authorities operating in or in relation to Scotland, and as the duty relates to functions of the LC which are within Scottish Parliament’s legislative competence, in particular in relation to the investigation of deaths in or relating to Scotland, clause 13 requires the consent of the Scottish Parliament. Further, to the extent that it places a duty on the Scottish Ministers to make available information, documents etc. to the LC, clause 13 alters their executive competence and therefore requires consent also for that reason.

9. **Clause 14, with Schedule 3**, sets out a mechanism for the LC to seek information in relation to its functions, including by issuing notices formally requiring the provision of information by the person to whom the notice is issued. Schedule 3 sets out how such notices may be enforced, including penalties for a breach. To the extent that this provision relates to the exercise of the LC’s functions in relation to the investigation of deaths in or as regards Scotland, an LCM is required.

10. **Clause 20** relates to guidance and protocols to be given to the LC relating to information. In particular, clause 20(3) provides for the agreement of information protocols between the LC and relevant authorities, including the Scottish Ministers. It confers a function on the Scottish Ministers (as a relevant authority) of agreeing information sharing protocols with the LC. This provision therefore requires legislative consent on the basis that it alters the executive competence of the Scottish Ministers.

11. **Clause 21** makes provision for the making of regulations by the Secretary of State for Northern Ireland (SSNI) about the LC's holding and handling of information, including about the secure holding, handling, destruction or transfer of that information. To the extent that this power is exercisable in relation to information relating to the LC's functions within the legislative competence of the Scottish Parliament, in particular as such regulations may govern the treatment of information about deaths occurring in or in relation to Scotland, legislative consent is required.

12. **Clause 22** makes provision for the making of regulations by the SSNI governing the treatment of biometric material (DNA profile and fingerprint records) in connection with the LC's functions. Again, to the extent that this power is exercisable in relation to information relating to the LC's functions within the legislative competence of the Scottish Parliament, in particular information about the investigation of deaths, legislative consent is required.

13. **Clause 28** generally relates to the matter of investigation of deaths. Clause 28(10) allows the Lord Advocate to request an LC investigation, where the Lord Advocate has been notified (as a result of LC inquisitorial proceedings) of evidence of conduct potentially amounting to an offence under the law of Scotland. Clause 28(11) allows requests to be made for investigation of a death caused by conduct forming part of the Troubles. The investigation of deaths in as regards Scotland, as well as the criminal law and criminal proceedings as they apply to conduct potentially constituting an offence under Scots law are matters within the legislative competence of the Scottish Parliament. Legislative consent is therefore required.

14. Part 6 of the Bill includes clauses in relation to the Independent Commission for Information Retrieval (ICIR), the new international body being set up under an agreement with the Irish Government. Within this, **clauses 72 to 82** require legislative consent to the extent that they relate to the functions of the ICIR in respect of gathering information about deaths in as regards Scotland, and the publication of reports into such deaths, as the investigation of deaths is a matter within the legislative competence of the Scottish Parliament. **Clause 77** makes provision for the scrutiny of ICIR reports by SSNI, primarily for the purpose of identifying material prejudicial to national security, but also in respect of the identification of content relating to risk to the life or safety of any person (for reasons not necessarily connected to national security). It is considered that provision about scrutiny of reports relating to a death investigated within Scottish jurisdiction, for the purpose of identifying risks to an individual's life or safety, would be within the legislative competence of the Scottish Parliament. As such, that aspect of clause 77 requires legislative consent, notwithstanding that much of that clause expressly concerns the reserved matter of national security.

15. **Clause 83** makes provision for the winding up of the ICIR, including the destruction of information, and enables further provision to be made in regulations made by the SSNI. To the extent that this clause, and regulations, relate to ICIR functions which are within the legislative competence of the Scottish Parliament, legislative consent is required. However, no consent is required in respect of clause 83(7) which requires consultation between the UK and Irish governments, as this is considered to be a reserved provision, relating to inter-governmental engagement regarding an international body.

16. **Clause 85** makes provision for regulations to be made by the SSNI, to amend or repeal enactments in order to return Troubles-related deaths to the jurisdiction of coronial inquests and, in Scotland, Fatal Accident Inquiries (FAI), following the winding up of the LC. Such regulations must also require that the Lord Advocate directs a FAI to be held, in such a case. As the investigation of deaths is a matter within the legislative competence of the Scottish Parliament, clause 85 requires an LCM.

17. **Schedule 4** relates to sensitive information, including national security information. However, paragraphs 2, 3 and 4 of the Schedule also confer functions on “relevant authorities”, which includes the Scottish Ministers. To the extent that Schedule 4 modifies the executive competence of the Scottish Ministers, legislative consent is therefore required.

## Reasons for seeking legislative consent

18. The Scottish Government is recommending that the Scottish Parliament consent to the relevant provisions in this Bill which repeal and replace provisions of the Legacy Act.

19. The Scottish Parliament withheld legislative consent in relation to the Legacy Act<sup>1</sup>. This was on the basis of the Scottish Government’s recommendation that the provisions of that Act were incompatible with the Scottish Government’s views that those who have suffered during the Troubles are able to obtain justice and that those who committed offences during that time are appropriately held to account. The immunity clauses within that Act conferred a discretionary power on the ICIR to grant immunity from prosecution for perpetrators of murder and other serious offences where these offences were committed during the Troubles. The Legacy Act also included provision halting all new or ongoing criminal investigations of troubles-related offences. These provisions were considered to encroach upon the ability of the Lord Advocate to take decisions independently on whether to commence prosecutions (that independence is articulated in section 48(5) of the Scotland Act 1998). The Legacy Act was also later found by the High Court in Northern Ireland<sup>2</sup> to be incompatible with articles of the European Convention on Human Rights, again in part due to the extensive discretion conferred to grant immunity from prosecution, and other provisions barring criminal investigation of troubles-related conduct. Alongside the Bill, the UK Government has laid the Draft Northern Ireland Troubles

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<sup>1</sup> [S6M-09722 | Scottish Parliament Website](#)

<sup>2</sup> *Dillon v Secretary of State for Northern Ireland* [2024] NIKB 11

(Legacy and Reconciliation) Act 2023 (Remedial) Order 2025 before the UK Parliament, which would amend the Legacy Act in accordance with that decision of the High Court.

20. The express restriction on immunity (clause 73(5)) in this Bill aligns more closely with the Scottish Government's aforementioned views vis-à-vis justice for victims of the events of the Troubles. The provisions of this Bill, replacing those of the Legacy Act, around investigations of deaths and investigation into conduct causing serious harm, forming part of the Troubles, is considered to result in a lesser encroachment on the Lord Advocate's role as the independent head of the systems of prosecution of crime and investigation of deaths in Scotland.

21. Further, this Bill enables the SSNI to, by regulations, make provision for winding up the Legacy Commission (clause 25) and the ICIR (clause 83), as well as reverting investigatory powers back to the Scottish FAI system at the direction of the Lord Advocate following the winding up of the LC (clause 85); provisions that do not exist in current legislation.

22. These clauses (alongside clauses 21 and 22 permitting regulations to be made regarding holding and handling of information and treatment of biometric material respectively) confer powers on UK Ministers to act in devolved areas, but make no provision for involvement of the Scottish Ministers. The Scottish Government will not generally recommend legislative consent for such enabling powers without a corresponding statutory requirement to obtain consent from, or, in certain limited circumstances, to consult with, the Scottish Ministers. Further engagement took place at official level with the Northern Ireland Office to explore these clauses' applicability to Scotland.

23. This engagement highlighted the extremely limited applicability of the clauses in Scotland, given there are no known Troubles-related deaths or serious injuries that occurred in Scotland. The relevant clauses do not introduce substantial changes from the current legislative and operational context, apart from introducing scope for a time limitation on the functions of the LC and subsequently reverting relevant powers back to the Lord Advocate. It is the Scottish Government's view that this will in time reduce the impact of Legacy Commission powers in devolved areas, and on the Lord Advocate's independence. In light of the larger context and sensitivities of the Bill, the highly limited applicability of the enabling powers, and given that the Scottish Government is supportive of the overall policy intention of the Bill, the Scottish Government does not consider that consent should be withheld on account of the absence of statutory consent or consult requirements in this instance.

24. In summary, this Bill aligns more closely with the Scottish Government's position regarding victims of Troubles-related events than the provisions within the Legacy Act and reduces the encroachment of the existing legislation on the independence of the Lord Advocate. The Scottish Government therefore recommends that the Scottish Parliament consent to the relevant provisions of the Bill.

## Consultation

25. The UK Government did not consult with Scottish Government in advance of the introduction of the Bill to the UK Parliament. Since introduction, Scottish Government and Northern Ireland Office officials have met on a regular basis.

26. The veterans commissioners for Scotland, Northern Ireland and Wales [have expressed concerns](#) around veteran protections, lawfare and historical narrative revision, reporting that the Bill will create a disparity between how veterans and other parties are treated. However, the latest joint statement from the Veterans Commissioners welcomes an indication from UK Government Ministers that further planned engagements with Ministers and senior officials should result in changes to the legislation that they anticipate will provide enhanced protections for the veterans' community.

27. The Crown Office and Procurator Fiscal Service (COPFS) has provided views on the Bill as introduced, with particular regard to the Bill's impact on the Lord Advocate's role as the independent head of the systems of prosecution of crime and investigation of deaths in Scotland. While COPFS officials acknowledged that provisions of the Bill do encroach upon the independent role of the Lord Advocate, when considered in the context of current UK legislation, the Bill encroaches no further than the existing Legacy Act. In some instances, such as the express removal of immunity (73(5)) and provisions enabling regulations or amendments to revert investigatory powers back to the Lord Advocate following winding up of the Legacy Commission (clause 85), the Bill reduces the Legacy Act's existing impact on the Lord Advocate's independence.

28. The Scottish Government has undertaken verbal engagement with Police Scotland, however a formal record of Police Scotland's views in writing has not been received for incorporation into this supplementary LCM. The Scottish Government will continue to engage with Police Scotland throughout the Bill's passage.

## Financial implications

29. There will be no new expenditure by the Scottish Government associated with this Bill. The UK Government previously indicated that, during the five-year period of operation of the LC (currently ICRIR), the SSNI will spend (on average) £35-£50 million per year in providing resources to the LC and to the designated persons carrying out memorialisation activities. The LC is wholly funded by the Secretary of State using that power. After the period of operation of the LC, the Secretary of State is expected to incur some continuing costs in providing resources to the designated persons, but those costs are not expected to be substantial.

## Post EU scrutiny

30. The Scottish Government has not identified any assimilated law which has been impacted by the Bill.

## Conclusion

31. The Scottish Government recommends that the Parliament consent to the relevant provisions in this Bill, outlined in the initial LCM (where no recommendation on consent was provided) and within this supplementary LCM following further discussion with the UK Government. Namely, Clauses 1 to 17, 19 to 38, 40 to 62, 64 to 70, 72 to 83, 85 to 88, 91 to 98, and Schedules 1 to 6. This Bill would repeal and replace the existing Legacy Act with provisions that align more closely with the Scottish Government's views regarding justice for victims of Troubles-related events and reduce the current Act's impact on the Lord Advocate's independent role.

## Draft motion on legislative consent

32. The draft motion, which will be lodged by the Cabinet Secretary for Justice and Home Affairs, is:

“That the Parliament agrees that the relevant provisions of the Northern Ireland Troubles Bill, introduced in the House of Commons on the 14 October 2025, relating to Clauses 1 to 17, 19 to 38, 40 to 62, 64 to 70, 72 to 83, 85 to 88, 91 to 98, and Schedules 1 to 6, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Scottish Government  
February 2026

This Supplementary Legislative Consent Memorandum relates to the Northern Ireland Troubles Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 20 February 2026

# Northern Ireland Troubles Bill – Supplementary Legislative Consent Memorandum

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