

Criminal Justice Committee
Wednesday 18 March 2026
11th Meeting, 2025 (Session 6)

Legislative consent memoranda on the Northern Ireland Troubles (UK Parliament legislation)

Note by the Clerk

1. On 11 December 2025, a Legislative Consent Memorandum (LCM), [LCM-S6-68](#) was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs in relation to the UK Government's Northern Ireland Troubles Bill ("the Bill").
2. A supplementary LCM relating to the Bill, [LCM-S6-68a](#) was lodged on 20 February 2026.
3. Both the LCM and supplementary LCM have been referred to the Criminal Justice Committee.

Northern Ireland Troubles Bill

4. The Bill was introduced by the UK Government in the House of Commons on 14 October 2025. The Bill and associated documents can be viewed on the [UK Parliament website](#).
5. The Bill contains nine parts (98 clauses) and 6 schedules. Its provisions extend to Scotland, England, Wales and Northern Ireland with the exception of sections 71 and 84, 89 and 90 which extend only to Northern Ireland.
6. The Bill repeals and replaces parts of the [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#) ("the Legacy Act" or "the 2023 Act"). 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, 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.
7. The LCM sets out that 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, and are defined in the Bill as events which took place between 1 January 1966 until 10 April 1998.
8. The Bill is currently at Committee stage in the House of Commons.

Legislative consent procedure

9. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or to alter the legislative competence of the Parliament or the executive competence of the Scottish Government, without the consent of the Scottish Parliament. Consent is given by means of a resolution of the Parliament in the chamber.
10. Under Chapter 9B of the Standing Orders, the Scottish Government must lodge a legislative consent memorandum (LCM) in relation to each UK Parliament Bill that contains a provision (“relevant provision”) that would require the Parliament’s consent under the Convention. Sometimes the Scottish Government may be required to lodge one or more supplementary LCMs during the passage of a Bill. It is also possible for an LCM to be lodged by an individual MSP.
11. Every LCM lodged is referred to a lead committee for scrutiny, and may also be referred to other committees. If the Bill confers power on the Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee (DPLRC) must also consider the LCM and may report on it to the lead committee.
12. Once the lead committee has reported, the Scottish Government normally lodges a motion on legislative consent for consideration in the Chamber. Such a motion may give consent to relevant provision in the Bill, refuse consent to such provision, or a mixture of the two. A draft of the motion is normally included in the LCM.

The Scottish Government’s LCM and supplementary LCM

13. The initial [LCM](#) was lodged on 11 December 2025 and sets out (at paragraphs 7 to 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.

14. The [supplementary LCM](#) relates to the provisions requiring consent which were set out in the initial LCM, as well as further provisions for which the requirement to consent remained under consideration. These provisions are set out in **paragraphs 8 to 17 of the supplementary LCM**. The Scottish Government understands that the UK Government is in agreement with the requirement for consent for these clauses.
15. **No recommendation on consent was provided in the initial LCM. The supplementary LCM therefore provides a recommendation on consent for all relevant provisions within the Bill. These are 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.**
16. The Scottish Government's reasoning for recommending consent to the above clauses is set out in **paragraphs 18 to 24 and paragraph 31 of the [supplementary LCM](#)**.
17. The Scottish Government's draft motion on legislative consent is as follows:

“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.”

Scrutiny by DPLR Committee

18. The LCM and supplementary LCM were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on 10 March 2026. The [DPLRC's report](#) was also published on 10 March 2026.
19. The DPLRC was content in principle with the delegated powers it considered. However, it [wrote to the Scottish Government](#) to ask how it intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State in relation to the following clauses:
 - **Clause 21(1)**: Regulations about the holding and handling of information;
 - **Clause 22(1)**: Biometric material Contact;
 - **Clause 25 (1)**: Conclusion of the Legacy Commission's work;
 - **Clause 59(7)**: Legal representation and other expenses
 - **Clause 60(1)**: Regulations about procedure and evidence;
 - **Clause 74 (5)**: Requests by families for information;
 - **Clause 81(4)**: Legal privileges;
 - **Clause 83(3)&(4)**: Conclusion of the ICIR's work; and

- **Clause 85(1):** Inquests directed by Law Officers after winding up of Legacy Commission.

20. The DPLRC's question focuses on those clauses which confer powers solely on the Secretary of State and which may be exercised within devolved competence. The DPLRC's position in relation to such powers is that, in general:

(a) The Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence.

(b) Where such powers are exercised by the Secretary of State in devolved areas, there is no formal means by which the Scottish Parliament can scrutinise such regulations or be notified that they had been laid before the UK Parliament.

(c) If such powers contain a requirement for the Scottish Ministers' consent when exercised within devolved competence, the Scottish Parliament can scrutinise the Scottish Ministers' consent decision.

The Committee will scrutinise powers conferred on UK Ministers not subject to a requirement for Scottish Ministers' consent and may suggest matters for the lead committee to consider.

(d) As a minimum, powers when exercised by the Secretary of State in devolved areas should be subject to the process set out in the SI Protocol 2 where the powers is within the scope of that protocol.

21. In relation to **clause 81(4) – Legal Privileges** the DPLRC also [wrote to the UK Parliament's Delegated Powers and Regulatory Reform Committee](#) regarding an apparent discrepancy between the UK Government's Delegated Powers Memorandum ("DPM") and the Bill in relation to this power. While the [Delegated Powers Memorandum](#) for the Bill states that the negative procedure is appropriate, the Bill contains no parliamentary procedure.

22. The relevant extracts from the DPLRC report are included in the **Annexe**.

Evidence session

23. At this meeting, the Committee will take evidence on the LCM and supplementary LCM from the Cabinet Secretary for Justice and Home Affairs and her officials.

Decision

24. After hearing from the Cabinet Secretary, the Committee will be invited to decide what recommendation to make to the Parliament – in particular, whether to recommend agreement to the Scottish Government's draft motion.

Report

25. The Committee is required to report to the Parliament on the LCM and supplementary LCM. One option is for the Committee to agree to consider a

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draft report, in private, at its next meeting. Alternatively, it could delegate responsibility to the Convener to finalise the wording of a short report reflecting the outcome of today's meeting.

Clerks to the Committee
March 2026

Annexe: extract from the DPLRC's report on the LCM and supplementary LCM

Delegated Powers

12. The UK Government has published a [Delegated Powers Memorandum](#) ("DPM"). As is normal for UK Bills, the Scottish Government has not published a DPM. The Scottish Government's view on the Bill's clauses is set out in the LCM and the sLCM.

Powers exercised by UK Ministers within devolved competence

13. The amended Bill confers some powers on UK Ministers which may be exercisable within devolved competence. The Committee's position in relation to such powers has been that, in general:

(a) The Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence.

(b) Where such powers are exercised by the Secretary of State in devolved areas, there is no formal means by which the Scottish Parliament can scrutinise such regulations or be notified that they had been laid before the UK Parliament.

(c) If such powers contain a requirement for the Scottish Ministers' consent when exercised within devolved competence, the Scottish Parliament can scrutinise the Scottish Ministers' consent decision.

The Committee will scrutinise powers conferred on UK Ministers not subject to a requirement for Scottish Ministers' consent and may suggest matters for the lead committee to consider.

(d) As a minimum, powers when exercised by the Secretary of State in devolved areas should be subject to the process set out in the [SI Protocol 2](#) where the power is within the scope of that protocol.

Clause 21(1) - Regulations about the holding and handling of information

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Provision

14. Under the Bill, the Legacy Commission may gather and hold information in connection with its principal functions, which include the investigation of conduct forming part of the Troubles which caused death or harm.

15. Clause 21(1) is a power enabling the Secretary of State to make regulations about the holding and handling of information by the Legacy Commission, including information identified as sensitive (i.e. relating to national security), prejudicial information or protected international information.

Committee consideration

16. The UK Government explains in its DPM that the power to make provision on the holding of information by the Legacy Commission addresses detailed matters better suited to secondary legislation. It also explains that this approach ensures transparency given the sensitivity of the issues and allows future amendments to reflect the evolving Government standards on information protection, with appropriate scrutiny and speed.

17. The DPM explains that the regulations are subject to the negative procedure, which it considers appropriate as they concern procedural matters on handling information and are expected to follow established practice set out in existing regulations, memoranda of understanding and service level agreements for other bodies.

18. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.

19. In terms of its exercise, like the other substantive powers in the Bill, this power is conferred solely on the Secretary of State. It is capable of being exercised within the Scottish Parliament's legislative competence (in relation to the investigation of deaths in or as regards Scotland) but makes no provision for the involvement of the Scottish Ministers or Parliament.

20. In paragraph 22 of the sLCM, the Scottish Government explains that it will not generally recommend legislative consent for such enabling powers without a corresponding statutory requirement to obtain consent from, or to consult with, the Scottish Ministers.

21. However, it goes on to explain that the Scottish Government's further engagement with the UK Government has confirmed that the clauses in question have very limited relevance in Scotland, as there are no known Troubles related deaths or serious injuries that occurred in Scotland. The Scottish Government considers that the clauses largely maintain the current legislative and operational position, aside from allowing a future time limit on the Legacy Commission's functions, after which powers would return to the Lord Advocate. Given what the Scottish Government considers to be the wider context and sensitivities of the Bill, the very limited applicability of the powers in Scotland, and its support for the Bill's overall intent, the Scottish Government's view is that legislative consent should not be withheld due to the absence of statutory consent or consultation requirements for exercise of the powers.

22. The Committee accepts the explanation that exercise of the power will have a limited impact on the devolved matter of the investigation of deaths in Scotland. Accordingly, it is content with the above justification for not seeking statutory consent or consultation requirements.

23. The Committee nonetheless [has asked the Scottish Government](#) how it intends to facilitate scrutiny by the Scottish Parliament of the exercise of the power within legislative competence, in line with the Committee's approach to similar delegated powers in recent Bills, and with its general position on the exercise of devolved delegated powers.
24. **The Committee is content with the power in principle and that it is subject to the negative procedure.**
25. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 22(1) - Biometric material

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Provision

26. This is a power to make regulations to prevent any particular collection of biometric material (e.g. DNA) being destroyed, so that it can be kept for the purposes of Legacy Commission investigations.
27. The power applies only to biometric material collected before 31 October 2013. Regulations made under the power must require periodic review by the Legacy Commission of the need to retain the material and must require the material to be destroyed after the conclusion of the Legacy Commission's work.

Committee consideration

28. The UK Government explains in its DPM that this power is necessary to ensure the Legacy Commission can retain and access biometric data necessary for Article 2 ECHR compliant investigations into Troubles related incidents. The DPM explains that the use of the power will be limited to retention for investigative purposes, subject to regular review, and that all material will be destroyed once the Legacy Commission is wound up. It further explains that, because the data has been collected under multiple statutory powers and is held across different databases, secondary legislation is the most appropriate mechanism to manage its retention and destruction. The DPM adds that the regulation making power allows the Secretary of State to retain required biometrics without delaying the implementation of Northern Ireland's new biometric retention regime.
29. Regarding the choice of parliamentary procedure, the UK Government emphasises that the power is for a limited category of biometric material to be retained in prescribed circumstances, for a prescribed purpose and for a limited amount of time. As such, it considers that the negative procedure allows for an appropriate level of scrutiny.

30. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
31. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
32. **The Committee is content with the power in principle and that it is subject to the negative procedure.**
33. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 25 (1) - Conclusion of the Legacy Commission's work

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Provision

34. This is a power to wind up the Legacy Commission, if the Secretary of State is satisfied that the need for the exercise of the Legacy Commission's functions has ceased. Regulations made under the power can provide for the transfer of the Legacy Commission's property, rights and liabilities on winding up, and may also repeal or amend primary legislation, including particular provisions of the Bill.
35. When considering making regulations under the power, the Secretary of State must consult the Legacy Commission and any other persons the Secretary of State considers appropriate, and take into account the annual reports produced by the Legacy Commission, and its reports on the performance of its functions. Before making the regulations, the Secretary of State must also publish a report summarising the consultation responses, and explaining why they are satisfied that the need for the exercise of the Legacy Commission's functions has ceased.

Committee consideration

36. The UK Government explains in its DPM that providing a regulation making power allowing the Secretary of State to provide for the winding up of the Legacy Commission is necessary, appropriate and proportionate to ensure flexibility over how the body is dissolved and the consequences of doing so. The DPM highlights that the power is a limited and tightly constrained Henry VIII power to amend, or repeal specified provisions of primary legislation relating to the Legacy Commission, which the UK Government considers essential to enable an effective and orderly winding up, including making consequential provision.
37. The DPM also explains that the affirmative procedure is considered to provide an appropriate level of scrutiny, given the scope and nature of the power.

38. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
39. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
40. **The Committee is content with the power in principle and that it is subject to the affirmative procedure.**
41. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 59(7) - Legal representation and other expenses

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Provision

42. This is a power enabling the Secretary of State to make regulations governing the award of legal representation costs and other expenses in relation to inquisitorial proceedings. Regulations made under this power may set out how applications for awards are to be made, how the amount of the award is to be determined, and may impose conditions on the granting of awards, including the types of conditions the Legacy Commission itself may impose. The regulations may also confer discretion on judicial panel members in relation to these matters.

Committee consideration

43. The UK Government explains in its DPM that this approach aligns with the Inquiries Act 2005 ("the 2005 Act") and considers it appropriate to create a framework setting out the process within which applications are to be made. It further adds that detail on the form, content and specific activities for eligible funding is better set out in regulations rather than in primary legislation.
44. The DPM explains that the regulations should be subject to the negative procedure, as Parliament will already have conferred broad discretion to award funding through clause 59, and the regulations will merely supplement that framework with detailed provision. The DPM also notes a strong similarity to section 41 of the 2005 Act, which is also subject to the negative procedure.
45. When exercising this power, the Secretary of State must consult the Legacy Commission. There is no requirement in the Bill that the Secretary of State consults the Scottish Ministers before exercising this power.

46. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
47. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
48. **The Committee is content with the power in principle and that it is subject to the negative procedure.**
49. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 60(1) - Regulations about procedure and evidence

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Provision

50. This is a power enabling the Secretary of State to make regulations about procedure and evidence in relation to inquisitorial proceedings. Regulations made under this power may set rules governing how such proceedings are to be conducted and how evidence shall be handled.

Committee consideration

51. The DPM explains that it is appropriate for the Secretary of State to set procedural rules for inquisitorial proceedings to ensure consistency and effective participation and that such regulations should be subject to the negative procedure, aligning with section 41 of the 2005 Act.
52. The DPM also highlights that similarly the 2005 Act confers a broad discretion on an inquiry panel to determine how a public inquiry should be conducted but notes that this flexibility operates alongside the mandatory procedural requirements set out in the Inquiry Rules 2006, which apply to all inquiries.
53. When exercising this power, the Secretary of State must consult the Legacy Commission. There is no requirement in the Bill that the Secretary of State consults the Scottish Ministers before exercising this power.
54. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
55. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.

56. **The Committee is content with the power in principle and that it is subject to the negative procedure.**
57. The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.

Clause 74 (5) - Requests by families for information

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Provision

58. Part 6 of the Bill makes provision about the Independent Commission on Information Retrieval (“ICIR”), a new international body which is being set up under an agreement between the UK and Irish Governments. The ICIR will receive information about certain deaths (such as those not under live investigation by the Legacy Commission) and, following requests from family members of persons whose deaths resulted from the Troubles, will write reports detailing such information.
59. Clause 74(6) confers a power enabling the Secretary of State to make regulations to extend the two year request period, specified in subsection (4), during which families can ask the ICIR for information about a death within its remit.

Committee consideration

60. The UK Government explains in its DPM that the request period provides legal certainty for families seeking information and allowing it to be extended by regulations is necessary so that decisions on the appropriate length of the period can be taken later. The DPM states that the affirmative procedure is an appropriate and proportionate level of parliamentary scrutiny given the scope and nature of the power, which allows the request period to be extended.
61. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
62. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
63. **The Committee is content with the power in principle and that it is subject to the affirmative procedure.**
64. The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of

exercise of the power within legislative competence by the Secretary of State.

Clause 81(4) – Legal privileges

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: no procedure mentioned

Provision

65. This is a power enabling the Secretary of State to make regulations conferring additional privileges and immunities on the ICIR, and on its members, staff and members of their households. Regulations made under this power may confer certain specified privileges and immunities set out in the International Organisations Act 1968 (“the 1968 Act”) and may provide for the cases in which, and the extent to which, such privileges and immunities are to apply, together with any modifications to them. The regulations may also make provision for the waiver of any specified privileges and immunities.

Committee consideration

66. The UK Government explains in its DPM that conferring privileges and immunities by delegated legislation follows established procedure for similar international bodies, such as the Independent Monitoring Commission and the Independent Commission on the Location of Victims’ Remains. It is explained in the DPM that the scope of any privileges and immunities is already constrained by the 1968 Act and the regulations would simply specify which of those apply to the ICIR. The UK Government considers that these detailed matters are more appropriately dealt with in secondary legislation. The DPM also states that the negative procedure provides a proportionate level of parliamentary scrutiny, however, no Parliamentary procedure is mentioned on the face of the Bill.

67. The Committee accepts that delegation of the power is appropriate, and it considers that the negative procedure would be appropriate. However, given the apparent discrepancy between the DPM and the Bill, the Committee seeks clarification on the intended Parliamentary procedure and has [drawn this matter to the attention of the House of Lords Delegated Powers and Regulatory Reform Committee](#).

68. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.

69. **The Committee is content with the power in principle and has [highlighted the issue regarding the relevant Parliamentary procedure to the Delegated Powers and Regulatory Reform Committee](#).**

70. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of**

exercise of the power within legislative competence by the Secretary of State.

Clause 83(3)&(4) - Conclusion of the ICIR's work

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Provision

71. Clause 83 provides for the ICIR's work to be concluded at the end of its operational period, and for its records and other information held to be destroyed.
72. The operational period begins when this Part of the Bill comes fully into force, and ends 6 months after the end of the period of two years beginning with the coming into force date. Clause 83(3) enables the Secretary of State to amend the ICIR'S operational period by regulations, allowing that 6 month period to be increased or decreased.
73. The Secretary of State also has a power under clause 83(4) to make regulations providing for the winding up of the ICIR after the end of its operational period. Regulations made under this power may provide for the transfer of the ICIR's property, rights and liabilities on winding up, and may repeal or amend provisions of Part 6 of the Act, subject to specific exceptions.

Committee consideration

74. The UK Government explains in its DPM that the regulation making power to wind up the ICIR is intended to provide the Secretary of State with the necessary flexibility and discretion, as the detailed arrangements for dissolving the body are not considered appropriate for the face of the Bill. The UK Government describes this as an appropriate and proportionate power for managing the practical and administrative steps involved in bringing the ICIR to an end.
75. The power includes a limited Henry VIII power to amend Part 6 of the Bill which relates to the ICIR, its functions and associated matters. The UK Government considers the inclusion of this Henry VII power essential, given that primary legislation may otherwise restrict the Secretary of State's ability to make suitable provision for winding up the body. They emphasise that the power to amend or repeal primary legislation is tightly confined to Part 6 and cannot be used more broadly.
76. Before exercising the power to wind up the ICIR, the Secretary of State must consult the Government of Ireland and any other persons they consider appropriate. However, there is no requirement in the Bill for the Secretary of State to consult with the Scottish Ministers before exercising this power.
77. Regulations under this power are subject to the affirmative procedure, which the UK Government considers to provide an appropriate level of parliamentary

scrutiny given the significance of the winding up arrangements and the presence of a limited Henry the VIII power.

78. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
79. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
80. **The Committee is content with the power in principle and that it is subject to the affirmative procedure.**
81. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 85(1) - Inquests directed by Law Officers after winding up of Legacy Commission

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Provision

82. Clause 85(1) confers a power enabling the Secretary of State to make regulations to repeal or amend relevant coronial or inquiry legislation for the purpose of enabling and requiring inquests (or inquiries in Scotland) into deaths caused directly by conduct during the Troubles. Such inquests or inquiries may only be enabled or required after the winding up of the Legacy Commission, and at the direction of the relevant law officer. The regulations may also specify the circumstances in which the inquest or inquiry is to be enabled or required.

Committee consideration

83. The UK Government explains in its DPM that it considers it appropriate for law officers to be able to direct Troubles related inquests after the Legacy Commission has been wound up. While the Legacy Commission will undertake reviews into the Troubles related deaths during its operation, there may be exceptional cases where new evidence emerges, such as the discovery of a body, requiring further inquests to meet obligations like those under Article 2. The UK Government notes that this is very unlikely given the time elapsed since the events covered by the Bill, but believes the power is necessary to ensure an inquest can be held if such circumstances arise.
84. The DPM further states that the affirmative procedure is considered an appropriate and proportionate level of Parliamentary scrutiny given the scope and nature of the regulation making power, which allows specifying the circumstances

in which an inquest or inquiry may be held after the Legacy Commission has closed.

85. The Committee accepts that delegation of the power is appropriate, and is content with the choice of parliamentary procedure.
86. Regarding exercise of the power by the Secretary of State, paragraphs 19 - 23 apply equally to this power, with the Committee having put the same question to the Scottish Government.
87. **The Committee is content with the power in principle and that it is subject to the affirmative procedure.**
88. **The Committee [has also asked the Scottish Ministers](#) how the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of exercise of the power within legislative competence by the Secretary of State.**

Clause 91(2) - Consequential provision

Power conferred on: the Secretary of State and the Scottish Ministers

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure for amending or repealing primary legislation, otherwise negative procedure

Provision

89. Clause 91(2) confers a power by regulations to make provision that is consequential on the Act, including provision to amend or repeal primary legislation.
90. In addition, paragraph 14(1) of Schedule 2 enables regulations under clause 91(2) to make provision in consequence of designated Legacy Commission officers having the powers and privileges of a constable, including provision on exemptions, information disclosure, conferral of functions, alignment with police ranks, and the application (with or without modifications) of legislation.

Committee consideration

91. The UK Government explains in its DPM that this power is necessary because it is not possible to identify in advance all consequential amendments required to ensure the effective operation of the Legacy Commission. The power may be used to amend primary or secondary legislation, whenever passed. Where exercised by the Scottish Ministers, it is subject to the limits of devolved competence.
92. In terms of its scope, this is a standard power to make provision consequential on the Bill. If the Parliament is content to give its consent for the substantive provisions in the Bill, it would be reasonable and appropriate for it also to consent to the taking of standard ancillary powers to give it full effect. As such, the

Committee is content with the power in principle and with the choice of parliamentary procedure, which is again standard for consequential powers.

93. The Committee is also content that the power is exercisable within legislative competence either by the Secretary of State or by the Scottish Ministers. . The power is limited to making provision which is consequential on the Bill. On the basis of information provided by both governments about the substantive powers in the Bill, exercise of the consequential amendments power appears unlikely to have a significant devolved impact.
94. **The Committee is content with the power in principle and that it is subject to the affirmative procedure when amending or repealing primary legislation, and otherwise to the negative procedure.**

Clause 97(3) and (4) Commencement, transitional and savings provision

Powers conferred on: the Secretary of State (power to make transitional or saving provision only on the Scottish Ministers)

Powers exercised by: Regulations

Parliamentary Procedure: No procedure

Provision

95. Clause 97(3) confers a power on the Secretary of State to bring different provisions of the Bill into force at different times, except those commencing automatically at or two months after Royal Assent.
96. Clause 97(4) enables the Secretary of State or the Scottish Ministers (insofar as within devolved competence) to make transitory, transitional, or saving provisions in connection with the commencement of any provision of the Act.

Committee consideration

97. The DPM states that these powers are justified on the basis that the Bill contains a wide range of measures, including establishing a new statutory body, and staged commencement offers necessary flexibility.
98. These are standard provisions and as is usual for commencement regulations, or regulations which make ancillary provision in connection with commencement, no parliamentary procedure applies. The Committee is therefore content with this power.
99. **The Committee is content with these powers in principle and that they are not subject to any parliamentary procedure.**