



# Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

## 2023 CHAPTER 41

### PART 3

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

##### *Civil proceedings, inquests and police complaints*

#### **43 Tort, delict and fatal accident actions**

- (1) A relevant Troubles-related civil action that was brought on or after the day of the First Reading in the House of Commons of the Bill for this Act may not be continued on and after the day on which this section comes into force.
- (2) A relevant Troubles-related civil action may not be brought on or after the day on which this section comes into force.
- (3) For the purposes of this section an action is a “relevant Troubles-related civil action” if conditions A, B and C are met.
- (4) *Condition A*: the action is to determine a claim arising out of conduct forming part of the Troubles.
- (5) *Condition B*: the action is founded on—
  - (a) tort or delict,
  - (b) a cause of action arising under fatal accidents legislation, or
  - (c) a cause of action arising under the law of any other jurisdiction that corresponds to—
    - (i) tort or delict, or
    - (ii) a cause of action arising under fatal accidents legislation.
- (6) *Condition C*: the time limit for bringing the action was, or would be (in the absence of this section), given in—

*Status: This version of this cross heading 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, Cross Heading: Civil proceedings, inquests and police complaints. (See end of Document for details)*

- (a) the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)),
  - (b) the Foreign Limitation Periods (Northern Ireland) Order 1985 (S.I. 1985/754 (N.I. 5)),
  - (c) the Limitation Act 1980,
  - (d) the Foreign Limitation Periods Act 1984,
  - (e) the Prescription and Limitation (Scotland) Act 1973, or
  - (f) section 190 of the Merchant Shipping Act 1995;
- (including where a court has permitted the action to be brought outside such a time limit).
- (7) Subsection (1) does not stop a relevant Troubles-related civil action from being continued on and after the day on which this section comes into force, if the court of first instance has given a final judgment on, or otherwise finally determined, the matter in dispute before that day (including by a default judgment or a consent order or, in Scotland, by a decree in absence, decree by default or summary decree).
- (8) Where subsection (1) or (2) stops an action from being continued, or brought, on or after the day on which this section comes into force, that subsection—
- (a) does not stop costs proceedings from being continued or begun on or after that day; but
  - (b) otherwise stops the proceedings in the action, and any other related proceedings, from being continued or begun on or after that day.
- (9) This section does not apply to a relevant Troubles-related civil action if, or to the extent that, section 47(1) applies to the action (prohibition of civil claims alleging invalidity of interim custody orders).
- (10) In this section—
- “costs proceedings”, in relation to a relevant Troubles-related civil action, means proceedings to determine or recover costs (in Northern Ireland or England and Wales) or expenses (in Scotland) of the action;
  - “fatal accidents legislation” means—
    - (a) the Fatal Accidents (Northern Ireland) Order 1977 (S.I. 1977/1251 (N.I. 18)),
    - (b) the Fatal Accidents Act 1976, or
    - (c) section 4 of the Damages (Scotland) Act 2011 (asp 7);
  - “matter in dispute”, in relation to a relevant Troubles-related civil action, means the claim (referred to in subsection (4)) which arises out of conduct forming part of the Troubles and which the action is to determine;
  - “other jurisdiction”, in relation to a relevant Troubles-related civil action, means a jurisdiction (whether within or outside the United Kingdom) other than the jurisdiction in which that action is, or would be, brought;
  - “other related proceedings”, in relation to a relevant Troubles-related civil action, means proceedings which relate to, or arise out of the action (including any enforcement action and any appeal), except for costs proceedings;
  - “2008 Mediation Directive” means Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.
- (11) Schedule 9 makes provision for courts to determine whether the prohibitions in this section apply to a civil action.

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- (12) Schedule 10 makes provision about bringing and continuing relevant Troubles-related civil actions if the 2008 Mediation Directive applies to the matter in dispute by virtue of the EU withdrawal agreement.

#### Commencement Information

- II S. 43 in force at 18.11.2023, see s. 63(2)(a)

PROSPECTIVE

#### 44 Inquests, investigations and inquiries

- (1) After section 16 of the Coroners Act (Northern Ireland) 1959 insert—

##### **“16A Death resulting directly from the Troubles: closure of existing inquest**

- (1) This section applies to an inquest into a death that resulted directly from the Troubles that was initiated before 1 May 2024 unless, on that day, the only part of the inquest that remains to be carried out is the coroner or any jury making or giving the final determination, verdict or findings, or something subsequent to that.
- (2) On and after that day, a coroner must not progress the conduct of the inquest.
- (3) As soon as practicable on or after that day, the coroner responsible for the inquest must close the inquest (including by discharging any jury that has been summoned).
- (4) The provision in section 14(1) requiring a coroner to conduct an inquest is subject to this section.

##### **16B Death resulting directly from the Troubles: prohibition of new inquest**

On and after the day on which section 44 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force—

- (a) a coroner must not decide to hold an inquest into any death that resulted directly from the Troubles, and
- (b) the Attorney General or Advocate General for Northern Ireland must not give a direction under section 14 for the conduct of an inquest into any death that resulted directly from the Troubles.

##### **16C Interpretation**

- (1) This section applies for the purposes of sections 16A and 16B and this section.
- (2) A death “resulted directly from the Troubles” if—

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- (a) the death was wholly caused by physical injuries or physical illness, or a combination of both, that resulted directly from an act of violence or force, and
  - (b) the act of violence or force was conduct forming part of the Troubles.
- (3) “Conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).
- (4) An inquest is “initiated”—
- (a) by a coroner deciding to hold the inquest, or
  - (b) by a direction under section 14 being given for the conduct of the inquest.”
- (2) Schedule 11 makes provision about investigations and inquests in England and Wales and inquiries and investigations in Scotland.

#### Commencement Information

**I2** S. 44 in force at 1.5.2024, see [s. 63\(3\)](#)

PROSPECTIVE

## 45 Police complaints

- (1) After section 50 of the Police (Northern Ireland) Act 1998 insert—

### “50A Complaints relating to conduct forming part of the Troubles

- (1) On and after the day on which section 45 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this Part—
- (a) ceases to apply to a complaint (if made before that day), or
  - (b) does not apply to a complaint (if made on or after that day),
- insofar as the complaint relates to conduct forming part of the Troubles.
- (2) On and after the day on which section 45 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, the Chief Constable, the Board, the Director or the Department of Justice is to cease to deal with any complaint referred before that day under section 52(6) insofar as the complaint relates to conduct forming part of the Troubles.
- (3) On and after the day on which section 45 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, the Ombudsman—
- (a) is not to begin any formal investigation of a matter, and
  - (b) is to cease any formal investigation of a matter begun before that day,
- insofar as the matter relates to conduct forming part of the Troubles.
- (4) This section does not prevent the Ombudsman from carrying out a criminal investigation of a Troubles-related offence if—

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- (a) a public prosecution of a person for the offence had been begun before the day on which section 38 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, and
  - (b) the criminal investigation is carried out for the purposes of that prosecution.
- (5) For the purposes of subsection (4)—
  - (a) “public prosecution” means any prosecution other than a private prosecution;
  - (b) a public prosecution of a person for an offence is “begun” when a prosecutor makes the decision to prosecute that person for that offence.
- (6) In this section—
  - “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act);
  - “formal investigation” means an investigation under section 56 (whether resulting from a referral to the Ombudsman, or a decision by the Ombudsman, under section 55).”
- (2) In section 28A of the Police Reform Act 2002 (application of complaints and misconduct provisions to matters occurring before 1 April 2004), after subsection (6) insert—
  - “(6A) On and after the day on which section 45 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this section—
    - (a) ceases to apply to a pre-commencement matter or a matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter was given before that day), or
    - (b) does not apply to a pre-commencement matter or matter to which subsection (5) applies (if the direction under subsection (1) or (4) relating to the matter is given on or after that day),insofar as the matter relates to conduct forming part of the Troubles.
  - (6B) In subsection (6A) “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).”
- (3) After section 47 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 insert—

#### **“47A Complaint or investigation relating to Northern Ireland Troubles**

- (1) On and after the day on which section 45 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 comes into force, this Part—
  - (a) ceases to apply to a complaint or investigation (if the complaint was made, or investigation was begun, before that day), or
  - (b) does not apply to a complaint or investigation (if the complaint is made, or investigation is to begin, on or after that day),insofar as the complaint or investigation relates to conduct forming part of the Troubles.

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(2) In this section “conduct forming part of the Troubles” has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (see section 1 of that Act).”

**Commencement Information**

**I3** S. 45 in force at 1.5.2024, see [s. 63\(3\)](#)

**Status:**

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**Changes to legislation:**

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