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Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 19

NO IMMUNITY IN CERTAIN CIRCUMSTANCES

PART 1

SEXUAL OFFENCE, EXISTING CONVICTION OR ONGOING PROSECUTION

PROSPECTIVE

Application of this Part

- 1 This Part of this Schedule applies if—
- (a) a person (P) has requested the ICRIR to grant P immunity from prosecution (the “current request”) under section 19 and conditions A to C are met, but
 - (b) this Schedule prohibits a grant of immunity for an identified possible offence (see paragraphs 2 and 3).

Commencement Information

- II** Sch. 5 para. 1 not in force at Royal Assent, see [s. 63\(4\)](#)

Prohibition of grant of immunity: sexual offences

- 2 (1) A grant of immunity for an identified possible offence is prohibited if it is—
- (a) a sexual offence, or
 - (b) an inchoate offence relating to a sexual offence.
- (2) For the purposes of this paragraph “sexual offence” includes—
- (a) rape;
 - (b) any offence committed by—
 - (i) sexual assault,
 - (ii) sexual activity, or
 - (iii) causing or inciting another person to engage in sexual activity;
 - (c) any offence relating to indecent images of children.
- (3) For the purposes of this paragraph “inchoate offence relating to a sexual offence” includes an offence of—
- (a) attempting to commit a sexual offence;
 - (b) conspiracy to commit a sexual offence;

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- (c) incitement to commit a sexual offence;
 - (d) aiding, abetting, counselling or procuring the commission of a sexual offence.
- (4) The Secretary of State may, by regulations, make provision about the meaning of—
- (a) “sexual offence”, or
 - (b) “inchoate offence relating to a sexual offence”;
- for the purposes of this Part of this Schedule (including provision specifying offences which are to comprise, or to be included in, that definition).
- (5) Regulations under this paragraph are subject to negative procedure.

Commencement Information

- I2** Sch. 5 para. 2 not in force at Royal Assent, see **s. 63(4)**
- I3** Sch. 5 para. 2(4)(5) in force at 1.12.2023 by **S.I. 2023/1293, reg. 2(j)**

PROSPECTIVE

Prohibition of grant of immunity: conviction or ongoing prosecution

- 3 (1) A grant of immunity for an identified possible offence is prohibited if—
- (a) P has a conviction for the identified possible offence,
 - (b) P is being prosecuted for the identified possible offence, or
 - (c) P is being prosecuted for any other offence (whether or not a Troubles-related offence), and the immunity requests panel is satisfied that granting P immunity from prosecution for the identified possible offence would risk having, or would have, a prejudicial effect on that prosecution.
- (2) For the purposes of this paragraph—
- (a) P is “being prosecuted for” an offence if a public prosecution of P for the offence has begun and is continuing;
 - (b) a “public prosecution” means any prosecution other than a private prosecution;
 - (c) a public prosecution of P for an offence “has begun” if a prosecutor has made the decision to prosecute P for that offence;
 - (d) the circumstances in which a public prosecution of P is to be regarded as continuing include circumstances where the trial which forms part of the prosecution ends without P being convicted or acquitted or any other verdict being given and either—
 - (i) the period for the prosecution to seek a retrial is continuing (without a retrial having been sought), or
 - (ii) the prosecution have sought a retrial;
 - (e) the circumstances in which a public prosecution of P is to be regarded as not continuing include—
 - (i) circumstances where the trial which forms part of the prosecution ends with P being convicted or acquitted or with another verdict being given, and

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- (ii) circumstances where the trial ends without P being convicted or acquitted or any other verdict being given and the period for the prosecution to seek a retrial ends without a retrial having been sought.

Commencement Information

I4 Sch. 5 para. 3 not in force at Royal Assent, see [s. 63\(4\)](#)

PROSPECTIVE

Grant of immunity prohibited for all identified possible offences

- 4
- (1) If this Schedule prohibits a grant of immunity for all of the identified possible offences, the ICIR must not grant P immunity from prosecution in relation to the current request.
 - (2) Accordingly, section 19(1) and (7) to (16) do not apply in relation to the current request.

Commencement Information

I5 Sch. 5 para. 4 not in force at Royal Assent, see [s. 63\(4\)](#)

PROSPECTIVE

Grant of immunity prohibited for some identified possible offences

- 5
- (1) This paragraph applies if this Schedule prohibits a grant of immunity for some (but not all) of the identified possible offences.
 - (2) The immunity requests panel must not decide under section 19(7) that P should be granted immunity from prosecution for—
 - (a) any identified possible offence for which this Schedule prohibits a grant of immunity, or
 - (b) a description of offences that includes any identified possible offence for which this Schedule prohibits a grant of immunity.
 - (3) The ICIR must not grant P immunity from prosecution for any identified possible offence for which this Schedule prohibits a grant of immunity.
 - (4) Section 19(7) to (13) have effect subject to this paragraph.

Commencement Information

I6 Sch. 5 para. 5 not in force at Royal Assent, see [s. 63\(4\)](#)

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PART 2

NEW REQUEST FOR IMMUNITY AFTER REVOCATION OF PREVIOUS GRANT

PROSPECTIVE

- 6 (1) This paragraph applies where—
- (a) under section 26, a court revokes immunity from prosecution granted to a person (P) (the “revoked immunity”),
 - (b) P requests the ICRIR to grant P immunity from prosecution (the “new request”),
 - (c) the new request—
 - (i) is made before the revocation and is not concluded at the time of the revocation, or
 - (ii) is made after the revocation, and
 - (d) conditions A to C in section 19 are met in relation to the new request.
- (2) When dealing with the new request, the duty of the immunity requests panel to decide (under section 19(7)) what immunity should be granted to P has effect subject to sub-paragraphs (3) and (4).
- (3) The panel must not decide that P should be granted immunity from prosecution for any identified possible offence which was also within the scope of the revoked immunity.
- (4) When the panel is determining under section 19(9) or (11)(b) a description of offences for which P should be granted immunity from prosecution, the panel must frame the description so that it does not consist of, or include, one or more offences which were also within the scope of the revoked immunity.
- (5) If the panel decides in accordance with sub-paragraphs (3) and (4) that there are no offences for which P should be granted immunity—
- (a) the panel must decide that P should not be granted immunity from prosecution, and
 - (b) the ICRIR must not grant P immunity from prosecution (and accordingly section 19(1) does not apply).
- (6) For the purposes of this paragraph the new request is “concluded” when the ICRIR gives P written notice of the outcome of the request in accordance with section 19(13)(a).

Commencement Information

I7 Sch. 5 para. 6 not in force at Royal Assent, see s. 63(4)

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