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## **Criminal Justice Committee**

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



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# Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

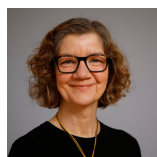


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# Introduction

1. At its [meeting on Wednesday 18 March 2026](#), the Criminal Justice Committee considered a Legislative Consent Memorandum and a supplementary Legislative Consent Memorandum ([LCM-S6-68](#) and [LCM-S6-68a](#)). These were lodged by the Scottish Government in relation to the Northern Ireland Troubles Bill which is currently being considered by the UK Parliament.

# Overview of the Bill

2. 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](#).
3. 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.
4. 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.
5. 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.
6. The Bill is currently at Committee stage in the House of Commons.

# The Scottish Government's LCM and supplementary LCM

7. 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.
8. 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.
9. 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.
10. 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.
11. 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."

# Consideration by the Delegated Powers and Law Reform Committee

12. 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.
13. The DPLRC was content in principle with the delegated powers it considered. However, it wrote to the Scottish Government to ask how the 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.
14. 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.

15. 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.
16. The DPLRC's report on the LCMs raised several issues, including comments relating to the powers exercised by UK Ministers within devolved competence within the Bill. Further details of the Committee's comments are set out in its report.
17. The Cabinet Secretary for Justice and Home Affairs ("the Cabinet Secretary") wrote to the DPLRC about their comments, with a copy of the letter sent to the Criminal Justice Committee. She noted that, as a matter of principle, the Scottish Parliament should have oversight of the use, by UK Ministers, of delegated powers in devolved areas. The Scottish Government also believes that the UK Government should seek the consent of Scottish Ministers in exercising powers in devolved areas, whether that is required by statute or not.
18. She added that, because the Bill’s timetable remains uncertain, how to inform the Parliament of the planned use of the powers identified by the DPLRC will be a matter for the incoming Scottish Government. She stated that, as it stands the powers in this bill would fall outside the scope of the current protocol (SIP2), and in such cases the Scottish Government has undertaken to write to the relevant subject committee and DPLRC to inform them of the UK Government's intention to legislate in a devolved area, and provide details of any consultation by the UK Government and of Scottish Ministers’ response.

## Consideration by the Committee and recommendation

19. At its meeting of 18 March, 2026, the Committee took evidence on the LCMs from Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs and Scottish Government officials.
20. In her opening statement, the Cabinet Secretary set out the background to consideration of the previous and current UK Government bills relating to the Troubles and legacy issues. She noted that, on this occasion, the Scottish Government was recommending consent be given to the relevant provisions as set out in the LCMs under consideration as she believed that the provisions that interact with the powers of the Lord Advocate and issues around immunity from prosecution had been improved.
21. During questioning, members asked the Cabinet Secretary to outline what was the difference between the powers of the new Independent Commission for Reconciliation and Information Recovery to conduct investigations and inquisitorial proceedings. Officials from the Scottish Government stated that these were different processes depending on whether deaths had been caused by conduct forming part of the Troubles or whether these related to wider offences.
22. Members also asked the clauses in the Bill which conferred powers on UK Ministers to act in devolved areas, but make no provision for involvement of the Scottish Minister. The Cabinet Secretary said that her officials had engaged with the Crown Office and Procurator Fiscal Service (COPFS) and COPFS had indicated that there were no known deaths or major injuries to individuals in Scotland that were relevant here.
23. Members also asked about the Scottish Government's engagement with the Scottish Veterans Commissioner, the UK Government and Police Scotland in relation to these LCMs and the Bill. The Cabinet Secretary indicated that she had not personally met with these bodies but that her officials had been in dialogue and that the Minister for Parliamentary Business and Veterans did meet with the Scottish Veterans Commissioner as part of his role.
24. Mr Edward Mountain MSP, who was attending the Committee under Standing Order Rule 12.2.2 declared an interest as a former member of the British Army and set out his personal ties with events that form part of the Troubles. He asked the Cabinet Secretary if the Independent Commission for Reconciliation and Information Recovery would treat both former soldiers and others equally as part of its work, and whether it would protect the interests of military veterans.
25. The Cabinet Secretary and officials explained that the Bill in question was being proposed by the UK Government at Westminster and the interests of the Scottish Government were narrow, relating to issues such as the overlap with the powers of the Lord Advocate. Nevertheless, she and her officials stated that they believed the Independent Commission for Reconciliation and Information Recovery would treat all parties equally and she wanted to see fairness for everyone.
26. Members completed questioning by asking the Cabinet Secretary for details of

when a legislative consent motion would be considered by the Scottish Parliament and what would happen if this Committee did not recommend approval of consent.

27. The Cabinet Secretary confirmed it was her understanding that any legislative consent motion would be taken in the next parliamentary session. She noted, in relation to the initial bill, that the Scottish Parliament had withheld consent but the UK then Government had proceeded in any case.
28. Members then discussed the question of whether to recommend approval to the relevant provisions in the Northern Ireland Troubles Bill during today's meeting, or to make no recommendation and leave this matter to the next session.
29. Members agreed to proceed with the question on approval, but to highlight to a future committee and Parliament the issues and concerns that had been expressed during the evidence session and the need to consider the further information that had been promised by the Scottish Government, such as their discussions with the UK Government and Police Scotland about this Bill.

**30. By division, the Committee agreed with the recommendation of the Scottish Government that consent be given for the relevant provisions in the Northern Ireland Troubles Bill covered by LCM-S6-68 and LCM-S6-68a (FOR 5: Audrey Nicoll, Rona Mackay, Fulton MacGregor, Jamie Hepburn, Katy Clark; AGAINST 2: Liam Kerr, Sharon Dowey; ABSTENTIONS 0).**

31. In subsequent written correspondence, officials in the Scottish Government confirmed that the Bill will carry-over to the next parliamentary session and, while the timetable remains uncertain, Royal Assent is anticipated in October/November. They indicated that the UK Government has said that that the Bill is likely to be subject to a significant number of potentially substantive amendments and, as such, there is no intention to lodge a Motion on Legislative Consent by the end of the current Session.

