

**NORTHERN IRELAND TROUBLES (LEGACY AND RECONCILIATION) BILL –
MEMORANDUM LAID BEFORE THE ASSEMBLY UNDER STANDING ORDER 42A
(4)(b)**

Background

1. This memorandum has been laid before the Assembly by the Minister of Justice under paragraph (4)(b) of Standing Order 42A.

2. Standing Order 42A Legislative Consent Motions details the procedure for seeking the agreement of the Assembly to the United Kingdom Parliament considering provisions of a Bill that deals with a devolution matter. Paragraph (2) of Standing Order 42A prescribes that a legislative consent memorandum shall be laid in respect of any devolution matter for which a legislative consent motion is proposed. Under paragraph (4) of Standing Order 42A, the Minister whom the devolution matter concerns shall, normally not later than 10 working days after the relevant day, either—

(a) lay a legislative consent memorandum before the Assembly; or

(b) lay a memorandum before the Assembly explaining why a legislative consent motion is not sought.

3. The Secretary of State for Northern Ireland wrote to me on 16 May 2022 to advise that the provisions in the Northern Ireland Troubles (Legacy and Reconciliation) Bill, which is currently before Parliament, impacted on devolution matters and would therefore engage the LCM process. The letter noted that it was not possible at that time to commence the legislative consent process given the absence of an Executive. I did not, therefore, regard this correspondence to be a formal request to progress an LCM. However, given the uncertainty around when an Executive might be formed and the likelihood of a further Assembly election, I am putting on record that I am not minded to seek a legislative consent motion.

4. This memorandum is in respect of the clauses in the Bill insofar as they relate to the Department of Justice, namely clauses contained in Parts 1, 2, 3, and 5 of the Bill. It is not possible to seek the agreement of the Assembly under Standing Order 42A on

this occasion and, as noted above, there is no Executive in place to seek agreement. Even if it were possible to bring an LCM to the Executive, however, I am opposed to the provisions made in the Bill and would, therefore, not be in a position to recommend that the Executive or the Assembly agree to an LCM.

Summary of the Bill and its policy objectives

5. The Northern Ireland Troubles (Legacy and Reconciliation) Bill was introduced to the House of Commons on 17 May 2022. The current version of the Bill can be found at [Northern Ireland Troubles \(Legacy and Reconciliation\) Bill - Parliamentary Bills - UK Parliament](#).

6. The principal purpose of the Bill is to address the legacy of the Northern Ireland Troubles and promote reconciliation by establishing an Independent Commission for Reconciliation and Information Recovery (ICRIR), limiting criminal investigations, legal proceedings, inquests and police complaints, extending the prisoner release scheme in the Northern Ireland (Sentences) Act 1998, and providing for experiences to be recorded and preserved and for events to be studied and memorialised.

Provisions which deal with a Devolution Matter

7. The provisions relating to the establishment of the ICRIR, limiting criminal investigations, police complaints, legal proceedings, and inquests touch on matters that fall within the remit of the Department of Justice. The Bill also contains provisions relating to memorialisation and oral history, which fall outside of my Department's remit.

8. The purpose of the Bill is to end all current legacy investigations, inquests and civil proceedings and set up a new ICRIR to review legacy cases involving deaths and other 'harmful conduct'. The Bill also provides for immunity from prosecution for those who cooperate with the ICRIR.

Reasons for not seeking a legislative consent motion

9. Ordinarily the Executive would be asked by the relevant Minister to agree to the policy content of provisions, to these provisions being carried in a Westminster Bill and to consent by the Assembly being sought - in the absence of an Executive this is not possible.

10. In addition, I am opposed to the provisions set out in the Bill. I have expressed concerns that the proposals do not meet the needs of victims, may not comply with human rights obligations, are unlikely to be workable, could undermine the rule of law, and represent an interference in the devolved justice system that risks undermining public confidence in it.

Engagement with the UK Government

11. I have expressed my concerns to successive Secretaries of State about the provisions and in my evidence to the NI Affairs Committee on 21 June 2022. I also advised the previous Secretary of State of the potential implications of any breach of the Sewell Convention in relation to the Bill.

Engagement with the Executive and the Committee for Justice

12. There has not yet been an opportunity for me to engage with Executive colleagues or the Justice Committee about the Bill.

Conclusion

13. I am opposed to the Bill and advocate instead discussion and agreement on an alternative approach.



**NAOMI LONG MLA
MINISTER OF JUSTICE**

26 October 2022