

Preservation of Documents (Historical Institutions) Bill

[AS AMENDED AT CONSIDERATION STAGE]

LEGISLATIVE COMPETENCE

At Introduction the Member in charge of the Bill, Mr Alan Chambers, had made the following statement under Standing Order 30:

“In my view the Preservation of Documents (Historical Institutions) Bill would be within the legislative competence of the Northern Ireland Assembly.”

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BILL

TO

Make provision for the preservation of documents relating to certain institutions and residents of those institutions between 1922 and 1995, and to certain children of those residents.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Preservation of relevant documents

1.—(1) A person (“P”) who has in P’s custody or under P’s control a relevant document—

- (a) must not alter, destroy or otherwise dispose of the document,
- 5 (b) must not remove or transfer the document to a place outside of Northern Ireland, and
- (c) must take appropriate measures to ensure that the document is not stolen, lost, destroyed or otherwise damaged.

10 (2) A relevant document is under the control of P if it is in P’s possession or if P has a right to possession of it.

(3) A person who intentionally or recklessly—

- (a) contravenes subsection (1), or
 - (b) causes or permits a contravention of subsection (1),
- is guilty of an offence.

15 (4) Proceedings for an offence under subsection (3) may be instituted only by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(5) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.

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Meaning of “relevant document”

2.—(1) A document is a relevant document if it satisfies the conditions in subsections (2) to (4), but this is subject to subsection (5) and such exceptions as may be prescribed.

5 (2) The first condition is that the document contains relevant information.

(3) The second condition is that the document was created by or on behalf of—

- (a) a relevant institution,
- (b) a person who was a resident of a relevant institution in the relevant period,
- 10 (c) a person in communication with a relevant institution or with a person mentioned in paragraph (b),
- (d) a body with responsibility for the health, welfare or care of women or children, or
- (e) such other person as may be prescribed.

15 (4) The third condition is that the document is likely to be of interest to a person conducting an inquiry or investigation relating to the implementation of the recommendations made by the Truth Recovery Design Panel as set out in a statement to the Assembly made by the First Minister and deputy First Minister acting jointly on 15th November 2021.

20 (5) A document is not a relevant document if a copy of the document or the information it contains is generally available to the public.

(6) In this section and in section 3, “the relevant period” means the period between 1922 and 1995 (both inclusive).

Meaning of “relevant information”

25 3.—(1) Information is relevant information if it falls within subsection (2), (3) or (4).

(2) Information falls within this subsection if it is information about the operation of a relevant institution in the relevant period including information relating to—

- (a) the occupancy of the institution,
- 30 (b) the admission, treatment, care or discharge of residents,
- (c) the management of staff or volunteers,
- (d) the names and addresses of staff or volunteers,
- (e) financial documents, annual accounts or statements of account,
- (f) any inspection of the institution, or
- 35 (g) such other matters as may be prescribed.

(3) Information falls within this subsection if it is information about a resident of a relevant institution in the relevant period including information relating to—

- (a) the resident’s admission to the institution,
- (b) the resident’s departure from the institution,
- 40 (c) travel undertaken by the resident while resident in or on departure from the institution,
- (d) the treatment or care of the resident in the institution,

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- (e) any letter, diary entry, or note created by or sent to the resident in the institution,
 - (f) work undertaken by the resident in the institution,
 - (g) the birth, death or burial of the resident,
 - 5 (h) the birth, death or burial of the resident's child,
 - (i) the resident's parents or relatives, or
 - (j) such other matters as may be prescribed.
- (4) Information falls within this subsection if it is information about accommodation or care provided to a child who was born to a resident of a relevant institution in the relevant period and the information relates to—
- 10 (a) the period in which the mother remained a resident,
 - (b) if the mother ceased to be a resident, any subsequent period in which the mother and child were separated, or
 - (c) such other circumstances as may be prescribed.
- 15 (5) For the purposes of subsection (4)(b), a mother and child were separated if the child was provided with care and accommodation by a person other than the mother, but this is subject to such exceptions as may be prescribed.

Meaning of “relevant institution” etc.

- 20 4.—(1) An institution is a relevant institution if it falls within subsection (2) or (3), but this is subject to such exceptions as may be prescribed.
- (2) An institution falls within this subsection if it was a workhouse within the meaning of the Poor Relief Acts (Northern Ireland) 1838 to 1937.
- (3) An institution falls within this subsection if it was an institution in which a voluntary organisation provided residential accommodation for women or children, took decisions about the women or children and—
- 25 (a) provided services to the women or children related to pregnancy or maternity,
 - (b) provided day-to-day care for the women or children,
 - (c) required the women or children to work (whether with or without pay), or
 - 30 (d) provided such other service as may be prescribed.
- (4) A reference to “a resident of a relevant institution” includes a reference to a child who was provided with residential accommodation in the institution.
- (5) A reference to being a resident of a relevant institution includes a reference to being absent from the institution while under the care of—
- 35 (a) the public body or voluntary organisation which provided residential accommodation for the woman or child in the institution, or
 - (b) a person authorised by that body or organisation.

Offences by bodies corporate etc.

- 40 5.—(1) For the purposes of this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in

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connection with the functions of management as if that member were a director of the body corporate.

(2) If an offence committed by a partnership is proved—

(a) to have been committed with the consent or connivance of a partner, or

5 (b) to be attributable to any neglect on the part of the partner,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In subsection (2) “partner” includes a person purporting to act as a partner.

10 (4) If an offence committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or

15 (b) to be attributable to any neglect on the part of such an officer or member, the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) Proceedings for an offence alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).

20 (6) Proceedings for an offence alleged to have been committed by an unincorporated association (other than a partnership) must be brought in the name of the association (and not in that of any of its members).

(7) Rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate.

25 (8) A fine imposed on a partnership on its conviction for an offence is to be paid out of the partnership assets.

(9) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.

(10) Subsections (5) and (6) are not to be read as prejudicing any liability of a partner, officer or member under subsection (2) or (4).

30 (11) In this section, “offence” means an offence under section 1.

General

Regulations

6. Regulations made under this Act are subject to negative resolution.

Interpretation

35 7. In this Act—

“body” includes an unincorporated body of persons;

“child” means a person who has not attained the age of 18 years;

“document” means anything in which information is recorded in any form;

“prescribed” means prescribed by regulations;

40 “public body” means a body established by or under any statutory provision;

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“regulations” means regulations made by the Department of Health;

“relative” means a grandparent, brother, sister, uncle or aunt, whether by blood (including half-blood), marriage or civil partnership;

5 “rules of court” includes magistrates’ court rules (as well as rules of court as defined in section 21(4) of the Interpretation Act (Northern Ireland) 1954);

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“voluntary organisation” means a body (other than a public body) the activities of which are not carried on for profit.

10 **Commencement**

8. This Act comes into operation on the day after the day on which this Act receives Royal Assent.

Short title

15 **9.** This Act may be cited as the Preservation of Documents (Historical Institutions) Act (Northern Ireland) 2022.

Preservation of Documents (Historical Institutions) Bill

[AS AMENDED AT CONSIDERATION STAGE]

A Bill to make provision for the preservation of documents relating to certain institutions and residents of those institutions between 1922 and 1995, and to certain children of those residents.

Introduced by: Mr Alan Chambers

On: 9 March 2022

As amended at
Consideration Stage: 21 March 2022

Bill Type: Non-Executive Bill

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