



An Bille um Choimisiún Imscrúdúcháin (Claonpháirteachas Fhórsaí Stáit na Breataine), 2023

Commission of Investigation (Collusion of British State Forces) Bill 2023

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHOIMISIÚN IMSCRÚDÚCHÁIN (CLAONPHÁIRTEACHAS
FHÓRSAÍ STÁIT NA BREATAINE), 2023
COMMISSION OF INVESTIGATION (COLLUSION OF BRITISH STATE FORCES)
BILL 2023**

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CONTENTS

Section

1. Interpretation
2. Establishment of Commission of Investigation
3. Matter of Significant Public Concern
4. Terms of Reference of Commission
5. Assistance in obtaining evidence, in particular from outside the State
6. Criminal Proceedings
7. Short title

SCHEDULE

ISSUES FALLING WITHIN MATTER OF SIGNIFICANT PUBLIC CONCERN

ACT REFERRED TO

Commissions of Investigation Act 2004 (No. 23)



**AN BILLE UM CHOIMISIÚN IMSCRÚDÚCHÁIN (CLAONPHÁIRTEACHAS
FHÓRSAÍ STÁIT NA BREATAINE), 2023
COMMISSION OF INVESTIGATION (COLLUSION OF BRITISH STATE FORCES)
BILL 2023**

Bill

5

entitled

An Act to provide for a public inquiry into collusion between British State forces and other persons, between 1968 and 1998, to commit, assist, or prevent prosecution of, offences, including murder, in the island of Ireland.

Be it enacted by the Oireachtas as follows:

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Interpretation

1. In this Act—

“act” includes any omission, and a reference to the commission or doing of an act includes a reference to the making of an omission;

“Act of 2004” means the Commissions of Investigation Act 2004;

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“British State force” means any part of the British military or the Royal Ulster Constabulary;

“collusion” means any unlawful act (or act in breach of rules applicable, by reason of his or her occupation, to the person committing that act) by a member of a British State force or a relevant public official which—

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(a) constituted participation in the commission of an offence by or with another person,

(b) knowingly assisted or was intended to assist in the commission of an offence by another person, or

(c) knowingly assisted or was intended to assist in preventing a prosecution (or preventing a successful prosecution) of another person for the commission of an offence;

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“Commission” means the commission of investigation referred to in *section 2*;

“conditions precedent” means the conditions which, apart from this Act, would be required by section 3(1) and (2) of the Act of 2004 to be fulfilled prior to the making of an order under section 3 of that Act;

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“document”, “evidence” and “investigation” have the same meanings respectively as they

have in the Act of 2004;

“offence” means assault, murder, attempted murder, manslaughter, other unlawful violence, unlawful deprivation of liberty, unlawful intimidation or causing an explosion;

“relevant public official” means an employee or other official of a public authority (other than a British State force) engaged in performing security or military functions in the North of Ireland; 5

“specified Minister” has the same meaning as it has in the Act of 2004.

Establishment of Commission of Investigation

2. (1) Not later than three months after the passing of this Act, the Government shall make an order under section 3 of the Act of 2004 establishing the Commission. 10
- (2) The conditions precedent shall not apply in respect of the order referred to in *subsection (1)*.
- (3) The terms of that order shall be in accordance with *subsection (4)* and the specified Minister in relation to the Commission shall be the Minister for Justice.
- (4) The Commission shall be established to investigate the matter of significant public concern referred to in *section 3* and to make any reports required under the Act of 2004 in relation to its investigation. 15
- (5) The Commission shall consist of three or more members.

Matter of Significant Public Concern

3. (1) The matter of significant public concern which the Commission shall be established to investigate shall be collusion in respect of offences which were committed in the island of Ireland during the period from 1968 to 1998. 20
- (2) Without prejudice to the generality of *subsection (1)*, that matter shall include the issues listed in the *Schedule*.
- (3) The Commission shall not be required to investigate particular instances of collusion which have already been found (by a court of competent jurisdiction or a public inquiry within or outside the State) to have occurred. 25
- (4) The Act of 2004 is amended, insofar only as it applies to the Commission, by the deletion, in *subsection (1)* of *section 5*, of “within the State”.

Terms of Reference of Commission

4. (1) Subject to *subsection (2)*, the terms of reference of the Commission shall be determined in accordance with *section 3*. 30
- (2) For the avoidance of doubt, *section 3(2)* shall not prevent the terms of reference from including issues additional to those listed in the *Schedule*.
- (3) The terms of reference shall be set not later than three months after the passing of this Act. 35

Assistance in obtaining evidence, in particular from outside the State

5. (1) For the purpose of obtaining any document, or for the purpose of obtaining evidence from persons or bodies ordinarily resident or headquartered (as the case may be) outside the State, the Commission may request such assistance, from any person or body within or outside the State which the Commission believes may be able to assist, as the Commission reasonably considers appropriate in order to facilitate the performance of its functions. 5
- (2) For the purpose of the performance of its functions, the Commission may have regard to the content of any report of any inquiry conducted by a public body in the island of Ireland or in Britain, but shall not be bound by the findings or conclusions of any such inquiry. 10
- (3) This section shall not be construed as limiting the powers of the Commission or a member of the Commission under the Act of 2004 insofar as they are exercisable in accordance with international law.

Criminal Proceedings

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6. In respect of the Commission, the references to “criminal proceedings” in sections 32 and 38 of the Act of 2004 shall be construed as including criminal proceedings whether within or outside the State.

Short title

7. This Act may be cited as the Commission of Investigation (Collusion of British State Forces) Act 2023. 20

SCHEDULE

Section 3(2)

ISSUES FALLING WITHIN MATTER OF SIGNIFICANT PUBLIC CONCERN

1. The identification of specific offences in respect of which collusion occurred.
2. The type of collusion which occurred in respect of each such offence. 5
3. The specific factual elements which constituted the collusion which occurred in respect of the offence concerned.
4. The particular British State forces or other authorities or persons who were responsible for the collusion in respect of the offence concerned.
5. When the collusion in respect of the offence occurred. 10
6. Why the collusion in respect of the offence occurred.

An Bille um Choimisiún Imscrúdúcháin
(Claonpháirteachas Fhórsaí Stáit na
Breataine), 2023

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le fiosrúchán poiblí ar chlaonpháirteachas idir fórsaí Stáit na Breataine agus daoine eile, idir 1968 agus 1998, chun cionta, lena n-áirítear dúnmharú, a dhéanamh nó chun cuidiú lena ndéanamh, nó chun ionchúiseamh cionta, lena n-áirítear dúnmharú, a chosc, ar oileán na hÉireann.

An Teachta Peadar Tóibín a thug isteach,
14 Feabhra, 2023

Commission of Investigation (Collusion of
British State Forces) Bill 2023

BILL

(as initiated)

entitled

An Act to provide for a public inquiry into collusion between British State forces and other persons, between 1968 and 1998, to commit, assist, or prevent prosecution of, offences, including murder, in the island of Ireland.

Introduced by Deputy Peadar Tóibín,
14th February, 2023

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