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The Northern Ireland Decommissioning (Amendment) Bill

Bill 63 of 2001-2

This Bill is designed to amend the *Northern Ireland Decommissioning Act 1997*. This legislation gave the Secretary of State power to make a decommissioning scheme which would provide an amnesty for those decommissioning weapons in accordance with it. The Bill will extend the period of amnesty, initially until 27 February 2003, but with power for the Secretary of State to extend the period annually by order until 27 February 2007. The Bill is due to have its Second Reading on 18 December.

Oonagh Gay

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Summary of main points

Decommissioning of paramilitary weapons has been under debate in Northern Ireland for several years. The meaning of the term in a number of official documents is set out Part I of this paper. Material on the implementation of the political aspects of the Belfast Agreement is set out in a separate Parliament and Constitution Centre standard note.¹

The *Northern Ireland Arms Decommissioning Act 1997* implemented a decommissioning scheme proposed by the Mitchell Commission report of 22 January 1996. This Act was passed by the then Conservative Government. The Act provided for decommissioning schemes to be made by the Secretary of State to enable decommissioning to take place in the context of an amnesty. The powers to issue schemes were designed to be extended on a yearly basis until 27 February 2002. An independent International Commission on Decommissioning was established by agreement between the British and Irish Governments on 27 August 1997 to oversee the decommissioning process.

Following the Belfast Agreement of April 1998, there continued to be problems with the implementation of the decommissioning proposals. The Mitchell Review of November 1999 led to a report from the International Commission and an IRA statement announcing that they would appoint an interlocutor to the Commission. This preceded devolution to Northern Ireland in December 1999. Devolution was suspended in February 2000, but direct rule was ended once more in May 2000. The lack of progress on decommissioning led the First Minister, David Trimble, to step down on 30 June 2001. Following two short periods of suspension of devolution, the International Commission reported progress with the IRA on decommissioning, and Mr Trimble was re-elected on 6 November 2001, together with the new Deputy First Minister Mark Durkan of the SDLP.

The Bill is designed to extend the life of the amnesty period under section 2 of the 1997 Act to an initial period of 27 February 2003, with a maximum period of 27 February 2007.

¹ Cm 3883 *Northern Ireland: Political Developments since May 2000* 14 December 2001

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I Background

The meaning of the term ‘decommissioning’ in terms of paramilitary weapons has been defined in a number of key documents relating to the Northern Ireland peace process.

A. The Downing Street Declaration 1993

Paragraph 10 of the joint declaration issued by the former Prime Minister, John Major, and the then Taoiseach, Albert Reynolds, on 15 December 1993 (the “Downing Street Declaration”) stated that:

The British and Irish governments reiterate that the achievement of peace must involve a permanent end to the use of, or support for, paramilitary violence. They confirm that, in these circumstances, democratically mandated parties which establish a commitment to exclusively peaceful methods and which have shown that they abide by the democratic process are free to participate fully in democratic politics and to join in dialogue in due course between the governments and the political parties on the way ahead.

On 22 February 1995 the Framework Document *Frameworks for the Future* was published. Part I [*A Framework for Accountable Government in Northern Ireland*] was produced by the British Government proposing new democratic institutions in Northern Ireland; Part II [*A New Framework for Agreement*] was a joint paper by the British and Irish Governments offering proposals for relationships within the island of Ireland and between the two Governments. Part II represented the proposals of both the British and Irish Governments, and developed proposals in Annex B of Part I. It emphasised that the document was "not a rigid blueprint to be imposed" but was offered for consideration. The guiding principles were set out in paragraph 10 of Part II, which included the following:

iii) that agreement must be pursued and established by exclusively democratic, peaceful means, without resort to violence or coercion;

The problem of decommissioning arms received increased attention following the launch of the document. At the initial meeting between Sinn Fein and Government officials on 9 December, Sinn Fein was told that 'disposal' of arms would be necessary for full involvement in inter-party talks. At subsequent meetings with the Ulster Democratic and Progressive Unionist parties (with links to Unionist paramilitaries) on 15 December, British officials stressed the need for the removal or disposal of arms. On 27 January 1995, the Republic's Taoiseach Mr Bruton and the Deputy Prime Minister, Mr Spring, held their first formal meeting with Sinn Fein.

On 7 February 1995 the Dail agreed to lift the state of emergency established in the Republic since 1976. On 26 February, Sir Patrick Mayhew, then Secretary of State for Northern Ireland, reiterated that there had to be 'substantial progress' on arms decommissioning before the accession of Sinn Fein to substantive talks. Early in 1995 the UUP security

spokesman Ken Maginnis, submitted a plea for an internationally-led disarmament commission to Mr Major.

B. The Washington Principles

In a speech in Washington on 7 March, Sir Patrick Mayhew set out what became known as the Washington Principles for entry into substantive negotiations:

- a) A willingness in principle to disarm progressively;
- b) A common practical understanding of the modalities, that is to say, what decommissioning would actually entail;
- c) In order to test the practical arrangements and to demonstrate good faith, the actual decommissioning of some arms as a tangible confidence building measure and to signal the start of a process.²

Sir Patrick Mayhew invited the four main constitutional parties³ to bilateral talks on the Framework Document on 13 April. On 24 April, the British Government announced that sufficient basis existed for the entry of Ministers into exploratory dialogue with Sinn Fein. According to the Northern Ireland Office press release⁴, Sinn Fein said that they would discuss in a serious and constructive manner any issue which the Government wished to raise including decommissioning of arms, but had also said that they wished to raise issues concerning demilitarisation.⁵ The talks between Sinn Fein and Michael Ancram, who was then minister at the Northern Ireland Office, took place on 10 May 1995, followed by an 'informal' meeting between Sir Patrick Mayhew and Gerry Adams at an investment conference in Washington on 17 May.

There was increasing evidence of Dublin's concern that the decommissioning issue had created an impasse in the summer of 1995. In June, Sinn Fein withdrew from the exploratory talks at Stormont in protest at the Government's refusal to treat Sinn Fein on the same level as the other four main parties. It reiterated that weapons could only be decommissioned as part of an overall political settlement. In July it became known that Michael Ancram and Sir Patrick Mayhew had spoken privately to Sinn Fein - twice to urge decommissioning.⁶

In August, the Government denied claims by the former Taoiseach, Albert Reynolds, that the disposal of weapons by the IRA had not been raised as an issue during negotiations on the Downing Street Declaration.⁷ Gerry Adams warned in the course of a speech on the dangers facing the peace process that the IRA had not "gone away".⁸ Following the

² Press statement by Secretary of State for Northern Ireland 7/3/95

³ DUP, UUP, Alliance and SDLP

⁴ 24/4/95 'Minister to join exploratory dialogue with Sinn Fein

⁵ ie. the withdrawal of British troops

⁶ *Belfast Telegraph* 24/7/95 "Ancram defends talks move"

⁷ *Guardian* 11/8/95 "Reynold's memory fails on arms issue"

⁸ *Belfast Telegraph* 14/8/95 "Sinn Fein chief vows no change on arms issue"

ceasefire anniversary on 1 September, the IRA issued a statement noting that it would not decommission its weapons "either through the front door or the back door".⁹ There were indications however at the end of August that Sinn Fein would consider an international body to oversee decommissioning. Attempts to hold an Anglo-Irish summit intensified in the autumn of 1995, but disagreements over decommissioning appeared to delay the summit.

An Anglo-Irish communique of 28 November 1995 announced the launching of a new 'twin-track' process to make progress in parallel with the decommissioning issue and on all party negotiations. The political track was to invite parties for intensive preparatory talks for the proposed all party talks, and the decommissioning track was the establishment of an international body to provide an 'independent assessment' of the decommissioning issue. The Communique stated that the two Governments had the firm aim of launching all party talks by the end of February 1996.

In his statement to the Commons on 29 November 1995, John Major said that the Government stood by the three [Washington] criteria for decommissioning. He noted that the British and Irish Governments had an acknowledged difference of opinion on the timing of disarmament, but had decided not to allow that difference to stand in the way of forward movement.¹⁰ The IRA issued a statement on 7 December which reiterated that it would not disarm before all party talks. Invitations to all Northern Ireland political parties were issued on 1 December 1995 inviting them to participate in preparatory talks to establish all party negotiations in accordance with the Communique.¹¹

C. The Mitchell Commission and the Six Principles

The International Body ("the Mitchell Commission) was chaired by Senator George J Mitchell, (United States) and the other participants were General John de Chastelain [Canada] and Mr Harri Holker [Finland]. It held a series of meetings and received evidence from all sides. It reported on 22 January 1996. It noted everyone "everyone with whom we spoke agrees in principle with the need to decommission" (para. 17). It found that each side of the argument reflected a core of reasonable concern which deserved to be understood and addressed by the other side (para. 29):

30. Those who insist on prior decommissioning need to be reassured that the commitment to peaceful and democratic means by those formerly supportive of politically motivated violence is genuine and irreversible, and that the threat or use of such violence will not be invoked to influence the process of negotiations or to change any agreed settlement.

31. Those who have been persuaded to abandon violence for the peaceful political path need to be reassured that a meaningful and inclusive process of negotiation

⁹ *Times* 2/9/96 "IRA gives blunt warning on weapons 'surrender'"

¹⁰ HC Deb. c1200-1201

¹¹ Northern Ireland Press Office 1/12/95 "Twin track strategy"

is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

However, it considered it was not realistic for decommissioning to take place before the beginning of all-party talks:

34. The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now urge. Such an approach represents a compromise. If the peace process is to move forward, the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

It proposed six principles for participants in the all party talks:

19. To reach an agreed political settlement and to take the gun out of Irish politics, there must be commitment and adherence to fundamental principles of democracy and non-violence. Participants in all-party, negotiations should affirm their commitment to such principles.

20. Accordingly, we recommend that the parties to such negotiations affirm their total and absolute commitment:

a. To democratic and exclusively peaceful means of resolving political issues;

b. To the total disarmament of all paramilitary organisations;

c. To agree that such disarmament must be verifiable to the satisfaction of an independent commission.

d. To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;

e. To agree to abide by the terms of agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and

f. To urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.

The report considered "as progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence" (para. 35).

The Mitchell Commission thought that the details of decommissioning should receive a high priority in all party negotiations, and that decommissioning by paramilitary organisations should be mutual. It noted that there was no equivalence between the weapons of the paramilitaries and those held by security forces, but in the context of building mutual confidence the Commission welcomed the commitment of the Governments, as stated in paragraph nine of the Communiqué "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces" (para 54).

The Commission also noted that the process of decommissioning should not require any party to be seen to surrender (para 39). Decommissioning should take place according to the satisfaction of an independent commission appointed by the British and Irish Governments "on the basis of consultations with the other parties to the negotiating process" (para 40). The decommissioning process "should result in the complete destruction of armaments in a manner that contribute to public safety" (para 42) but should not expose individuals to prosecution (para 47). The decommissioning process had to be mutual, offering the "parties another opportunity to use the process of decommissioning to build confidence one step at a time during negotiations" (para 50). In his statement to the House on 24 January, John Major welcomed the report and the six principles (HC Deb. c.355).

On 9 February 1996, the IRA ceasefire ended with a bomb in Docklands, killing two people. Further bombs were discovered in London in subsequent weeks. The British and Irish Governments refused to meet Sinn Fein until there was a new ceasefire. On 28 February Mr Major and John Bruton held talks at 10 Downing Street, and an Anglo/Irish communique was issued, regretting the end of the ceasefire, and agreeing that the resumption of Ministerial talks with Sinn Fein required the restoration of the ceasefire.

Both governments agreed to conduct "intensive multilateral consultations" before all party negotiations on 10 June. The Communique stated that all participants on the all party negotiations in June would need to "make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. They would also have to address, at that stage, its proposals on decommissioning"(para 12). Finally, the two Governments called on Sinn Fein and the IRA "to make Sinn Fein's participation in the process of such negotiations possible"(para 12).

On 21 March 1996 John Major made a statement on the arrangements for all-party negotiations:¹² He noted that Sinn Fein had currently excluded itself from negotiations by the ending of the IRA ceasefire, but it could make itself eligible to participate "through the unequivocal restoration of the ceasefire". (c.498) He emphasised that the Mitchell proposals on decommissioning would be addressed at the beginning of the talks: (c.498)

The negotiations need to take place in an atmosphere of confidence. As I told the House on 28 February, all parties will need to make clear at the beginning of negotiations their total and absolute commitment to the principles of democracy and non-violence set out in the Mitchell report and to address, also at the beginning of negotiations, Senator Mitchell's proposals on decommissioning. There can be no backing away from that. Equally, there must be confidence that, as the negotiations proceed, they will be comprehensive and address all legitimate issues.

¹² : (HC Deb. c.497-8)

II *The Northern Ireland Arms Decommissioning Act 1997*¹³

This Act received royal assent on 27 February 1997, before the general election of May 1997. It was supported by then Labour Opposition and had an unopposed second reading.¹⁴ It set out the framework for a decommissioning scheme, following the principles of the Mitchell Report.¹⁵ Section 2 set out the amnesty period:

2. - (1) A decommissioning scheme must identify a period during which firearms, ammunition and explosives may be dealt with in accordance with the scheme ("the amnesty period")
- (2) The amnesty period must end before-
 - (a) the first anniversary of the day on which this Act is passed, or
 - (b) such later day as the Secretary of State may by order from time to time appoint.
- (3) A day appointed by an order under subsection (2)(b) must not be-
 - (a) more than twelve months after the day on which the order is made, or
 - (b) more than five years after the day on which this Act is passed.
- (4) An order under subsection (2)(b) shall be made by statutory instrument; and no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

Section 3 of the Act provided that:

- (1) A decommissioning scheme must make provision for one or more of the following ways of dealing with firearms, ammunition and explosives (and may make provision for others)-
 - (a) transfer to the Commission mentioned in section 7, or to a designated person, for destruction;
 - (b) depositing for collection and destruction by the Commission or a designated person;
 - (c) provision of information for the purpose of collection and destruction by the Commission or a designated person;
 - (d) destruction by persons in unlawful possession.
- (2) In subsection (1) "designated person" means a person designated by the Secretary of State or, in the case of firearms, ammunition or explosives transferred or collected in the Republic of Ireland, a person designated by the Minister for Justice of the Republic.

The scheme is issued by the Secretary of State. A decommissioned article is not admissible in evidence in criminal proceedings and may not be tested for forensic

¹³ The full text of the 1997 Act is available from the HMSO website at <http://www.legislation.hmso.gov.uk/acts/acts1997/97007--a.htm#1>

¹⁴ HC Deb 9 December 1996 c22-89

¹⁵ The Act allowed anyone acting in accordance with a decommissioning scheme to hand in arms and explosives to do so without risk of prosecution, the whole process being overridden by an independent commission

purposes. The Act also allowed the Secretary of State to make payments to the Commission. These powers in s7 are not dependent on the time limits relating to decommissioning schemes. Section 8 makes separate provision for decommissioning schemes in England, Wales and Scotland.

Similar legislation was passed in the Republic of Ireland.¹⁶ This legislation was not time limited, unlike the UK Act, which stated that the appointed day to end an amnesty period could not be more than five years from the passage of the 1997 Act. The Act set the amnesty period for one year, but provided the power for it to be renewed by order, one year at a time, for up to five years. No practical implementation of the 1997 Act began before the general election of 1997. On 26 August 1997 the British and Irish Governments signed the agreement establishing the International Commission on Decommissioning and General John de Chastelain was appointed Chairman. The existence of the Commission is therefore dependent not on the 1997 legislation but on this international agreement, which is not time-limited.

Both Governments issued decommissioning schemes which were announced on 29 June 1998.¹⁷ Decommissioning schemes can be set up and anyone acting in accordance with a decommissioning scheme can hand in arms and explosives and benefit from an amnesty in respect of the offences set out in the schedule to the 1997 Act. The British scheme is non statutory but both schemes are designed to be consistent with each other.¹⁸ The Act set the amnesty period for one year, but provided the power for it to be renewed by order, one year at a time, for up to five years.

The Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 1998 was debated in the House of Commons on 11 March 1998¹⁹ and in the House of Lords on 19 March 1998.²⁰ *The Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 1999* extended the period until 24 February 2000.²¹ A similar order extended the period until 22 May 2000 in February,²² and the period was extended to 21 May 2001 by the *Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) (No 2) Order*.²³ The final decommissioning order under the *Northern Ireland Arms Decommissioning Act 1997* was debated in both Houses just before the Easter recess 2001.²⁴ As with previous orders under the 1997 Act, it was not opposed by the Opposition.

¹⁶ *Decommissioning Act 1997*. The Irish Act sets out the decommissioning scheme in statutory regulations

¹⁷ *Northern Ireland Office PN 29 June 1998* 'Decommissioning Schemes Introduced'. The scheme is reproduced in Appendix 1

¹⁸ See Adam Ingram, then junior NIO minister, during the debate on the 1997 Order in the second standing committee on delegated legislation 11 March 1998

¹⁹ SC Deb 11.3.98

²⁰ HL Deb 19.3.98 c881-890

²¹ SI 1999 no 454. The Order revoked the 1998 Order which had extended the amnesty period until 27 February 1999. It was debated in the Commons at HC Deb 22 February 1999 c131-152

²² HC Deb 14 February 2000 c718-739

²³ HC Deb 16 May 2000 c287=305

²⁴ *Northern Ireland Arms Decommissioning Act (Amnesty Period) Order 2001* no 1622

The 1997 Act provides for a day appointed by order to end an amnesty period, but the legislation states that the appointed day must not be more than five years after the passing of the 1997 Act. The last day is 27 February 2002. The latest order extended the period to that date. There was some concern expressed that a shorter deadline should have been set.²⁵ The junior minister, Adam Ingram, representing the new Secretary of State for Northern Ireland, Dr John Reid stated that the target date for decommissioning remained June 2001.²⁶ On 5 May 2000 the Prime Minister and the Taoiseach had stated that 'remaining steps necessary to secure full implementation of the Agreement can be reached by June 2001'.²⁷

The Loyalist Volunteer Force began decommissioning on 18 December 1998, but until the IRA announcement in October 2001, no other group had made a decommissioning initiative. The Commission verified and destroyed guns and explosives for the LVF.

III Multi-Party Talks in 1997-8

On 16 May, after the Labour victory in the May 1997 General Election, the new Prime Minister, Tony Blair, made a speech offering contact with Sinn Fein in advance of a ceasefire but emphasising that Northern Ireland was likely to remain part of the United Kingdom.²⁸ On 25 June 1997 Mr Blair made a statement about Northern Ireland giving background to an aide-memoire issued to Sinn Fein and setting out the government position on decommissioning.²⁹ The aide-memoire stated that:

The talks participants are currently addressing the issue of decommissioning. The Government has always made it clear that it wants to resolve this rapidly to the satisfaction of the participants so that it does not block the substantive political negotiations. Realistically, this can only be on the basis of implementing all aspects of the Mitchell report. It is working with the Irish Government to secure agreement among the participants to move forward rapidly on this basis. As mutual progress is made on political issues and decommissioning, this can create growing mutual trust and confidence on all sides.

Any agreement on decommissioning seems likely to include a commitment by each participant to work constructively and in good faith to implement all aspects of the Mitchell report; an independent commission to be established in parallel with the launch of substantive political negotiations; a dedicated committee of the Plenary to advance all aspects of the Mitchell report; and a review mechanism for progress across the spectrum of the negotiations.

²⁵ HC Deb 2 April 2001 c141-2 (David Trimble) HL Deb 3 April 2001 c729-30

²⁶ HC Deb 2 April 2001 c135

²⁷ Cited by Mr Ingram at HC Deb 2 April 2001 c134

²⁸ *Guardian* 17.5.97 "Peace in their time?". See also *Scotsman* 17.5.97 "A last chance for Sinn Fein?"

²⁹ HC Deb 25.6.97 c847-860

In his statement on 25 June 1997 Mr Blair said that detailed talks would start in September and would be finished by May 1998, with or without the participation of Sinn Fein³⁰.

On 19 July the IRA announced the restoration of its ceasefire and on 29 August the new Northern Ireland Secretary Mo Mowlam announced that she had decided to invite Sinn Fein to enter the talks process since in her opinion they now met the requirements of the *Northern Ireland (Entry to Negotiations) Act 1996*.³¹ On 14 September Sinn Fein affirmed its commitment to the Mitchell principles of democracy and non-violence.³²

On 24 September 1997 Mo Mowlam was able to announce the start of substantive negotiations on the multi-party talks³³. At the same time the Independent Commission on decommissioning, chaired by General John de Chastelain, was launched by the two governments³⁴.

On 7 October the British government published its opening statements on Strands One and Two of the multi-party talks. Conclusions of intensive consultations were put to a Review Plenary session at the beginning of December. The British and Irish governments put forward a series of Propositions on Heads of Agreement together with an accompanying Joint Statement, noting that they formed only a basis for discussion. They included the following:

Effective and practical measures to establish and consolidate an acceptable peaceful society, dealing with issues such as prisoners, security in all its aspects, policing and decommissioning of weapons.

A draft decommissioning scheme presented to the participants in the talks was published on 6 March 1998.

³⁰ *Times* 26.6.97 "Blair delivers ultimatum on IRA ceasefire"

³¹ *Northern Ireland Office Press Notice* 29.8.97 "Statement by the Secretary of State" (encl)

³² *Times* 10.9.97 "Sinn Fein vows to turn its back on use of force"

³³ *Northern Ireland Office Press Notice* 24.9.97 "Secretary of State announces launch of substantive negotiations"(encl)

IV The Good Friday Agreement

A. Background

Full details of the Agreement are set out in Library Research Paper 98/57 *Northern Ireland: Political Developments since 1972*. A standard note updates developments since the Agreement.³⁵ This part concentrates on the decommissioning aspects.

The Belfast Agreement (“the Good Friday Agreement”) of 10 April 1998 was published as *the Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland*.³⁶ The Agreement stated that participants reaffirmed their commitment to the total disarmament of all paramilitary organisations and confirmed their intention to work to achieve the decommissioning of all paramilitary arms within two years in the context of the implementation of the overall settlement³⁷:

1. Participants recall their agreement in the Procedural Motion adopted on 24 September 1997 "that the resolution of the decommissioning issue is an indispensable part of the process of negotiation", and also recall the provisions of paragraph 25 of Strand 1 above.
2. They note the progress made by the Independent International Commission on Decommissioning and the Governments in developing schemes which can represent a workable basis for achieving the decommissioning of illegally-held arms in the possession of paramilitary groups.
3. All participants accordingly reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement.
4. The Independent Commission will monitor, review and verify progress on decommissioning of illegal arms, and will report to both Governments at regular intervals.
6. Both Governments will take all necessary steps to facilitate the decommissioning process to include bringing the relevant schemes into force by the end of June.

The *Report of the Independent International Commission on Decommissioning*, published in 2 July 1999 noted that:

³⁴ Cm 3753 September 1997

³⁵ Parliament and Constitution Centre *Northern Ireland: Political Developments since May 2000* 14 December 2001

³⁶ *The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland* Cm 3883 April 1998 It is available at the Northern Ireland Office website at <http://www.nio.gov.uk/issues.htm>

³⁷ *ibid.* Chapter 7

The Decommissioning Acts passed in both jurisdictions in 1997 specified that the decommissioning of paramilitary arms by the Commission required the destruction of those arms.

Working with parties that have actual or alleged links with paramilitary groups, the Commission assessed that two decommissioning methods would be acceptable to the paramilitary groups and the two Governments. These were *information leading to the discovery of arms* and *destruction of arms by the paramilitary group concerned, with verification provided by the Commission*. The two methods were confirmed in a Scheme and Regulations issued by the Governments in June 1998. The work of the Commission since then has been to put these methods into effect.

It went on to say:

In accordance with the Scheme and Regulations, the Commission foresees the process of decommissioning following a reasonably predictable agenda. We therefore envision the following steps:

- (1) The designation of a point of contact who can speak authoritatively for the paramilitary group;
- (2) Discussions with the designated point of contact regarding:
The scheme to be used (i.e., self destruction with Commission verification, or information leading to the discovery of arms by the Commission);
Modalities (i.e., types and amounts of arms, location of the decommissioning event, timing, etc.);
- (3) Agreement to proceed with a specific event or events;
- (4) Execution of the decommissioning event(s);
- (5) Destruction of any residue; and
- (6) Reporting to the Governments.

B. The Mitchell Review

A formal review of the Belfast Agreement was announced on July 20, known as the Mitchell Review, after Senator Mitchell. On 17 November 1999 there was an IRA statement announcing that they would appoint an interlocutor to the Decommissioning Commission when power had been devolved to an inclusive Executive.

Mr Mandelson, then Secretary of State for Northern Ireland, announced the results of the Mitchellreview on 22 November 1999:³⁸

In July, my right hon. Friend the Prime Minister and the Taoiseach asked former Senator George Mitchell to facilitate a review of the implementation of the Good Friday agreement. The review was to focus on breaking the deadlock over

³⁸ HC Deb 22 November 1999 c345

devolution and decommissioning, which has prevented progress for many months.

Senator Mitchell concluded his review last Thursday, after 11 weeks of intensive negotiations. I would like to pay tribute to his balanced, persistent approach, which was at all times good-humoured, evidently fair and respected on all sides. For nearly five years he has devoted his time and energy to helping to resolve the most intractable of problems. Whatever now happens in the coming days, the whole House will want to join me in thanking the senator for a job extremely well done.

The review has not produced a single text like the Good Friday agreement. Instead, it has concentrated on building trust and confidence by means of a number of important steps forward rather than waiting for one giant leap that might never be made.

As a result, last week saw a series of statements by the Decommissioning Commission headed by General de Chastelain, by the parties, by the IRA, by the British and Irish Governments, and by the senator. None of these was in itself decisive. But cumulatively, I believe that these statements, together with the further steps that are planned, have created the conditions in which the agreement can now be fully implemented.

Power was devolved to Northern Ireland on 2 December 1999. A report from the Commission on 10 December 1999 expressed optimism about the prospect of decommissioning by paramilitaries in both communities.³⁹

However, the lack of progress on decommissioning by February 2000 led to suspension of devolution, by an order under the *Northern Ireland Act 2000*. The text of the reports issued by the Independent Commission on 31 January and 11 February can be found from the Northern Ireland Office website⁴⁰

The 31 January statement noted ‘But our sole task is decommissioning and to date we have received no information from the IRA as to when decommissioning will start’. The statement of February 11 expressed the belief, based on contacts with the interlocutor, that the IRA would ‘initiate a comprehensive process to put arms beyond use, in a manner to ensure maximum public confidence... this commitment on the basis described above, holds out the real prospect of an agreement which would enable it to fulfil the substance of [the Commission’s] mandate.’ However suspension of devolution came into effect that day.

C. Return of devolution in May 2000

Devolution returned to Northern Ireland on May 30 2000. The IRA announced on 6 May 2000 that it was ready to begin a process which would ‘completely and verifiably’ put its arms beyond use. This followed a statement on 5 May by the British and Irish

³⁹ available from <http://www2.nio.gov.uk/991210c-nio.htm>

⁴⁰ www.nio.gov.uk

Government on the progress on implementing the Agreement.⁴¹ In a joint statement on 6 May the British Prime Minister and the Irish Taoiseach announced the appointment of President Martti Ahtisaari and Cyril Ramaphosa as a team to inspect IRA weapons dumps. The then Northern Ireland Secretary, Peter Mandelson, made a statement to the House on 8 May stating that he would bring forward the order restoring devolution. He summarised developments as follows:⁴²

In the context of the Governments' implementing what they have agreed, the IRA committed itself to:

"a process that will completely and verifiably put arms beyond use".

Not maybe. Not might. But will.

It went on

"We will do it in such a way as to avoid risk to the public and misappropriation by others and ensure maximum confidence".

In the same context, the IRA committed itself to "pursue our respective political objectives peacefully".

The statement further committed the IRA to resume contact with the Independent International Commission on Decommissioning, under General John de Chastelain. It noted that the IRA's arms are "silent and secure", and that there is no threat to the peace process from the IRA.

In addition, the statement committed the IRA to put in place within weeks a confidence building measure to confirm that their weapons remain secure. Independent inspectors will scrutinise a number of arms dumps and report to the de Chastelain Commission. It will be an ongoing process, with regular re-inspections.

It is important that we now hear, in similar terms, from the main loyalist organisations.

Since the IRA made their statement, my rt hon Friend the Prime Minister and the Taoiseach have announced that Mr Martti Ahtisaari, the former President of Finland, and Mr Cyril Ramaphosa, the former Secretary General of the African National Congress and now a prominent businessman in South Africa, both widely respected international figures, have agreed to head the inspections. I am pleased to be able to announce that they will pay their first visit to Belfast next Monday, and I am grateful to them for their speedy response at such short notice.

Madam Speaker, I regard the IRA statement as a very significant development.

For the first time, there is a commitment to put weapons completely and verifiably beyond use, in a context which is realistic rather than simply aspirational. A real prospect of actually achieving decommissioning - no longer just talking about it, or setting conditions for it which make its realisation less likely.

There is a more clearcut assurance of the IRA's peaceful intentions than we have ever heard before. And, as an earnest of these intentions, there is an unprecedented willingness to allow independent third parties to inspect arms

⁴¹ *Northern Ireland Information Service* 5 May 2000 'Statement by the two Governments- Hillsborough Castle'. See also 5 May 2000 'Letter by the two Governments issued to party leaders'

⁴² HC Deb 8 May 2000 c502-3

dumps containing weapons, explosives and detonators and vouch for their continuing security. An essential element of the scheme is that the process should be continuous, to provide reassurance that dumps have not been tampered with, and weapons have not been removed, between inspections.

The Rt Hon Member for Upper Bann has acknowledged the significance of the IRA statement, and the fact that it appears to break new ground. Not surprisingly, he wishes to examine it carefully, and weigh its implications.

That is entirely understandable. He will also want to be confident, as I will, that, in moving forward with the Agreement, the traditions and concerns of the unionist people will be respected and dealt with sensitively, ever much as the traditions and concerns of nationalists.

I believe all friends and supporters of responsible forward-looking unionism will conclude that the proposals I have outlined today, buttressed by the weekend's statement by the IRA, provide the conditions on which he can lead his party back into government.

On the basis of such a positive response to these proposals, not only from his party but all the pro-Agreement parties, I can confirm to the House that I will bring forward the necessary order to restore the Northern Ireland Assembly and its Executive by 22 May.

In this event, I feel hopeful and confident that the ultimate prize - stable, inclusive government in Northern Ireland and an unbreakable peace - will at long last be within our grasp.

On 27 May David Trimble secured sufficient UUP approval to re-enter the power-sharing executive. Devolution returned to Northern Ireland on 30 May 2000.⁴³

On 25 June 2000 the Independent International Commission on Decommissioning informed the two Governments that they had completed an initial inspection of several IRA weapons dumps and had ensured that the weapons could not be used without it becoming aware that this had happened. On 26 October they issued a further report confirming that a reinspection of arms dumps had taken place. A 22 December report noted the importance of substantive engagement with the IRA representative. Another meeting took place with the IRA in early March⁴⁴ with a further report being issued by the Commission on 22 March 2001.⁴⁵ This expressed optimism about the possibility of decommissioning, while admitting that little progress had been made.⁴⁶ The foot and mouth crisis postponed meetings of the Ulster Unionist Council where the First Minister, David Trimble, was expected to come under further pressure. On 8 May Mr Trimble handed a post-dated resignation letter to the Speaker of the Assembly, which committed him to resignation on 30 June 2001, if decommissioning had not occurred by that date.

⁴³ *Northern Ireland Act 2000 (Restoration of Devolved Government) Order 2000 SI 2000/1445*

⁴⁴ BBC News 14 March 2001 'IRA meets arms body'

⁴⁵ Available from the Northern Ireland Office website <http://www2.nio.gov.uk/010322dc-nio.htm>

⁴⁶ *Irish Independent* 29 March 2001 'Report on IRA guns fails to impress unionists'

Following the general election, Mr Trimble carried out his resignation promise. The July report from the Independent International Commission on Decommissioning noted:⁴⁷

3. The commitments given us to date notwithstanding, we must report that no decommissioning by the IRA, UVF and the UFF have yet started, although each of those groups has re-affirmed the circumstances under which they might do so...

10. We have been unable to meet either of the decommissioning target dates called for by the Agreement or by the Governments: respectively 22 May 2000 and June 2001. Some people have said that they believe our inability to engineer a start to decommissioning has called into question our usefulness to the process and suggest we now withdraw from it. Others have urged us to remain engaged and to continue to press paramilitary groups to begin decommissioning. We have given both those views careful consideration.

11. Given the conditions the IRA, the UVF and the UFF say they require before they will put their arms beyond use, we believe we cannot influence that activity by making demands or by setting deadlines. But we will continue to do what we can to implement our mandate through continuing contact and discussion with each of the three paramilitary groups, insisting that the objectives of the legislation calling for arms to be rendered permanently inaccessible or permanently unusable are respected. We will do so mindful that this contentious issue must be resolved as soon as possible.

On 6 August 2001 the Independent International Commission on Decommissioning issued the following statement:

1. In a recent meeting with the Commission, the IRA representative proposed a method for putting IRA arms completely and verifiably beyond use.
2. We are satisfied that this proposal meets the Commission's remit in accordance with the Governments' scheme and regulations.
3. Based on our discussions with the IRA representative, we believe that this proposal initiates a process that will put IRA arms completely and verifiably beyond use.

The two Governments published a further scheme the same day;⁴⁸

1. The decommissioning scheme to which the IICD report referred is attached⁴⁹.
2. The existing scheme, made in 1998, does not cover all the possibilities allowed for under the Northern Ireland Arms Decommissioning Act 1997. In their

⁴⁷ Report of the Independent International Commission on Decommissioning

⁴⁸ NIO Press release 6 August 2001 'Two Governments published further decommissioning scheme'

⁴⁹ The scheme is available from <http://www.nio.gov.uk/pdf/dscheme.pdf> and is reproduced in Appendix 1. The new scheme supplements the 1998 version

statement of 5th May 2000, the British and Irish Governments asked the IICD to consider whether there were any further proposals for decommissioning schemes which offered the Commission "greater scope to proceed in more effective and satisfactory ways with the discharge of its basic mandate".

"3. Towards the end of the last week, the IICD told the two Governments that it would, in the Commission's view, be helpful if there were to be a scheme to meet the general situation in which arms are made permanently inaccessible or permanently unusable, and therefore put completely beyond use. Such a scheme meets the basic legal requirements of the 1997 Act, and the Secretary of State has therefore signed the necessary order.

4. It is understood that the Irish Government has made similar regulations, which will be laid before the Dail tomorrow.

The new scheme provided that the period during which arms may be dealt with in accordance with the scheme would end, as before, on 26 February 2002. Press reports indicated that the new scheme changes the emphasis from physical decommissioning to putting the weapons permanently beyond use.⁵⁰

The IRA announced that they were withdrawing their decommissioning proposals on 14 August.⁵¹ This was apparently due to disappointment with the temporary suspension of the Assembly on 10-11 August, which avoided the need for the election of a First and Deputy First Minister by 12 August. On 14 August Dr Reid expressed his disappointment:⁵²

On September 21 the Secretary of State again suspended devolution for a day, using the same procedures as in August.⁵³ On 12 October the Secretary of State specified the UDA, the UFF and LVF as no longer maintaining their ceasefire.⁵⁴

D. International Commission Announcement in October 2001

On Monday 22 October Gerry Adams and Martin McGuinness made statements indicating that they had asked the IRA to begin the decommissioning process. On 23 October the independent International Commission on Decommissioning made the following statement:⁵⁵

1. On 6th August 2001 the Commission reported that agreement had been reached with the IRA on a method to put IRA arms completely and verifiably beyond use.

⁵⁰ *Irish Times* 7 August 2001 'Arms commission has played a crucial role in North's peace process'

⁵¹ Text in *Guardian* 15 August 2001 'What the IRA said'

⁵² NIO Press Notice 14 August 2001 'Secretary of State responds to IRA announcement'

⁵³ *Northern Ireland Act 2000 (Suspension of Devolved Government) (no2) Order 2001 SI 2001/3230; Northern Ireland Act 2000 (Restoration of Devolved Government) (No 2) Order 2001 SI 2001 3231*

⁵⁴ Northern Ireland Office Press Release 12 October 2001 'Government specifies UDA, UVF and LVF' <http://www.nio.gov.uk/press/011012b.htm> *Northern Ireland (Sentences) Act 1998 (Specified Organisations) Order 2001 SI 2001 3411*

⁵⁵ <http://www.nio.gov.uk/pdf/iicd1001.pdf>

This would be done in such a way as to involve no risk to the public and avoid the possibility of misappropriation by others.

2. We have now witnessed an event -- which we regard as significant -- in which the IRA has put a quantity of arms completely beyond use. The materiel in question includes arms, ammunition and explosives.

3. We are satisfied that the arms in question have been dealt with in accordance with the scheme and regulations. We are also satisfied that it would not further the process of putting all arms beyond use were we to provide further details of this event.

4. We will continue our contact with the IRA representative in the pursuit of our mandate.

The IRA move and the IICD statement were welcomed by the British government. Commentators believed that the new war against terrorism since September 11 and suspected IRA involvement with Farc terrorists in Colombia had hastened the initiative.⁵⁶ Dr Reid made a statement to the Commons on 24 October.⁵⁷

Yesterday's events opened up opportunities, which we need to seize, and also challenges, which we need to face in three areas. First, the political institutions that are the democratic core of the Belfast agreement--the Assembly, the Executive, the North-South Ministerial Council and the British-Irish Council--should now be restored to full operation as quickly as possible, and should operate in a stable and uninterrupted way. The decision of the leader of the Ulster Unionist party earlier today to put Ministers back into government is a helpful step in creating a new dynamic.

Secondly, we need to press on with the implementation of the Good Friday agreement in all its aspects. I have placed in the Library of the House the Government's fuller response to the Decommissioning Commission's report. I should mention in particular that we will complete the implementation of the Patten report, including the review of the new arrangements to which we are already committed and the introduction of legislation to amend the Police (Northern Ireland) Act 2000 to reflect more fully the Patten recommendations.

We intend shortly to publish an implementation plan for the criminal justice review and to draft legislation to be introduced during the current Session. We will undertake a progressive rolling programme of security normalisation, reducing levels of troops and installations in Northern Ireland as the security situation improves. Our aim is to secure as early a return as possible to normal security arrangements. That is the task that now confronts us in the period ahead.

I can today announce a step in that direction. The IRA's action in putting weapons beyond use has wide political significance. It also, in itself, makes a contribution to the improvement that we all want to see in the security situation.

In the immediate aftermath of yesterday's event, I have discussed the situation with my security advisers, including the Chief Constable and the General Officer Commanding, Northern Ireland. There is, of course, a significant continuing

⁵⁶ *Guardian* 24 October 2001 'Weakened rebels pledge to fight on'

⁵⁷ HC Deb 24 October 2001 c303-4

threat from republican and loyalist dissidents. Notwithstanding that, the Chief Constable confirms that yesterday's developments represent a real improvement. We therefore intend, as an immediate response to yesterday's development, to demolish the observation tower on Sturgan mountain in South Armagh; work on this has already started today. We will demolish one of the observation towers on Camlough mountain in South Armagh; work on this is starting today. In addition, we will demolish the supersangar at Newtownhamilton police station adjacent to the helicopter landing site; work on that will begin tomorrow. We will also demolish the Magherafelt army base; work on that will begin tomorrow. All of this done on the advice of a Chief Constable whose integrity and knowledge of these matters is unsurpassed in the House.

In response, the Shadow Secretary for Northern Ireland, Quentin Davies, said:⁵⁸

Does the right hon. Gentleman not agree therefore that it would be highly desirable to negotiate some kind of co-ordinated and programmed process leading to full decommissioning? Does he consider that General de Chastelain's remit is sufficient to allow him to negotiate such a package? If not, will he consider other ways of achieving the same objective? Will he now give the House a clear answer to the question to which the Prime Minister did not give a clear answer when he was asked it earlier today, both by my right hon. Friend the Leader of the Opposition and the right hon. Member for Upper Bann (Mr. Trimble)? What happens--we hope that this is not the case--if decommissioning is not completed by February next year when General de Chastelain's remit runs out? It is only common sense to make contingency plans for that eventuality. Can the right hon. Gentleman assure us that that has been done, even if he does not want to tell us what those plans are?

Dr Reid noted:⁵⁹

The hon. Gentleman repeated a question that is perhaps based on a misunderstanding and which he said my right hon. Friend the Prime Minister did not answer to his satisfaction. The remit of the de Chastelain commission does not finish in February. Its remit stems from the two Governments themselves. What finishes in February is the legislative framework that enables decommissioning to take place. That is an important distinction. General de Chastelain will therefore remain for as long as the two Governments wish him to do so.

David Trimble and Mark Durkan were elected as First Minister and Deputy First Minister in the Northern Ireland Assembly on 6 November.⁶⁰ This followed the re-designation of three members of the Alliance Party as Unionists, required in order for Mr Trimble to

⁵⁸ c305

⁵⁹ c307

⁶⁰ See the Assembly debate on 6 November at <http://www.niassembly.gov.uk/record/011106.htm> for full details

achieve sufficient support among Assembly members designated as Unionist.⁶¹ The two Sinn Fein ministers, Martin McGuinness and Bairbre de Brun remained part of the Executive. Other aspects of the Good Friday (Belfast) Agreement have been in operation. The British Irish Council met on 30 November in Dublin, followed by a meeting of the North-South ministerial council. Mr Trimble no longer opposed the involvement of the two Sinn Fein ministers in the ministerial council.⁶² He won a vote in the Ulster Unionist Council on 1 December, which would otherwise have required the UUP to review its position in the Executive in March 2002 if decommissioning had not occurred by then.⁶³

The Secretary of State for Northern Ireland made a statement on 6 November in relation to the timing of elections for the Assembly:⁶⁴

I have throughout the last few days been mindful of the statutory responsibility to propose a date for the election of the next Assembly, which I assumed on Saturday night when the six week period expired without a First and Deputy First Minister having been elected.

Above all, it is essential that I should fulfil my responsibilities in this regard in a sensible and reasonable way, taking account of all relevant factors including today's developments. Now that a First and Deputy First Minister have been elected, there is every prospect of continuing stable institutions.

Having this afternoon consulted all the parties, I see no reason for the next Assembly elections to be any earlier than 1 May 2003, the date which has already been set by Parliament in the Northern Ireland Act 1998

An attempt by the DUP in November to challenge the decision of the Secretary of State by judicial review was not upheld by the High Court in Belfast.⁶⁵ The DUP had argued that the election of Mr Trimble and Mr Durkan was unlawful, as having taken place after the statutory six week period. Mr Reid announced a review of the Assembly's operations and wider electoral arrangements. on 3 November, following an unsuccessful attempt to elect the First and Deputy First Minister on 2 November:⁶⁶

Yesterday's events highlighted concerns which had already been expressed about some of the Assembly's procedures. To address these and other concerns, I intend that a review should now be convened as soon as possible, as provided in para 36

⁶¹ BBC News 6 November 2001 'Trimble re-elected as Northern Ireland First Minister'

⁶² BBC News 30 November 2001 'Leader hail Anglo-Irish summit'. For background see PCC standard notes *Northern Ireland: Political Developments since May 2000* 14 December 2001.

⁶³ *Newsletter* 3 December 2001 'We'll be back say critics as Trimble wins again'

⁶⁴ Northern Ireland Office Press Notice 'Reid's response to the election of Trimble and Durkan'

⁶⁵ *Newsletter* 8 November 2001 'Judgment today on DUP move'. See also statement by John Reid at <http://www.nio.gov.uk/press/011105b.htm> and *Irish News* 9 November 2001 'DUP wins first round in election legal battle'

⁶⁶ *Northern Ireland press notice* 3 November 2001 Statement by Dr John Reid at <http://www.nio.gov.uk/press/011103s.htm> Mr Trimble and Mr Durkan had failed to gain sufficient votes in a cross-community vote.

of Strand One of the Belfast Agreement. I shall have more to say about the timescale for this in the near future.

It will look at the need for adjustments to electoral arrangements, the Assembly's procedures and any other Strand One issues where changes might, in the light of experience, be justified in the interests of efficiency and fairness.

The review will involve all parties in the Assembly and the Government. Adjustments, which must be consistent with the fundamental principles of the Agreement, will require cross-community support in the Assembly.

Brigadier Tauno Nieminen left the Independent International Decommissioning Commission on 31 October, having served since its inception in 1997.

V The Northern Ireland Decommissioning (Amendment) Bill of 2001-2

In order for the decommissioning scheme to continue under the 1997 Act, amending legislation is necessary to extend the life of decommissioning schemes and amnesty. This Bill has two clauses only, and provides for the extension of the amnesty period fixed by section 2 of the *Northern Ireland Arms Decommissioning Act 1997*. Clause 1 of the Bill amends section 2 of the 1997 Act to extend the initial maximum period of an amnesty to end at midnight on 26 February 2001. The Secretary of State is given power to appoint at later date for the amnesty period to end, as explained in the *Explanatory Notes* to the Bill:

Subsection (3)

7. This subsection amends section 2(3)(b) of the 1997 Act. Under section 2(2)(b) of the Act the Secretary of State has the power by order to appoint from time to time a later date before which the amnesty period must end. Section 2(3) of the Act provides that such later date must be not more than (a) twelve months after the order is made, or (b) five years after the 1997 Act was passed. Subsection (3) of this Bill does not affect the condition set out in (a), but it substitutes 27 February 2007 for the five-year period set out in (b). The effect of this is to extend the Secretary of State's order-making power for a further five years beyond the expiry of the current period.

Clause 1(4) provides as follows:

(4) If this section comes into force after 26th February 2002, a scheme which would at any time have been a decommissioning scheme for the purposes of the Northern Ireland Arms Decommissioning Act 1997, had this section come into force on that date, is to be treated as having been such a scheme at that time.

The Bill is expected to come into effect on royal assent. The Secretary of State for Northern Ireland has signified his view that the provisions of the Bill are compatible with rights under the European Convention of Human Rights.

There is no need for the Government of the Republic of Ireland to pass similar legislation, as the legislation for a decommissioning scheme which it introduced to the Dail in 1997 was not time limited.

The Opposition, supported by Mr Trimble, have put down a reasoned amendment, opposing the second reading of the Bill:⁶⁷

NORTHERN IRELAND ARMS DECOMMISSIONING (AMENDMENT) BILL:

Second Reading. [*Until 10.00 p.m.*]

Mr Iain Duncan Smith

Mr David Trimble

Mr Quentin Davies

Mr Crispin Blunt

Mr Patrick McLoughlin

David Maclean

That this House declines to give a Second Reading to the Bill because it provides for such an extended deadline for decommissioning which it does not believe will be conducive to the completion as soon as possible of the process which is already more than a year overdue.

⁶⁷ Taken from Order of Business Monday 17 December 2001, available from <http://www.publications.parliament.uk/pa/cm200102/cmagenda/ob011217.htm>

Appendix 1 Decommissioning Schemes

The schemes made under the 1997 Act are set out below.⁶⁸

Decommissioning Scheme based on Section 3(1)(c) and (d) of the Northern Ireland Arms Decommissioning Act 1997

Introduction

This is a decommissioning scheme within the meaning of section 1 of the Northern Ireland Arms Decommissioning Act 1997 (“the 1997 Act”), made by the Secretary of State to facilitate the decommissioning of firearms, ammunition and explosives (“arms”) in Northern Ireland. It comes into force on 30 June 1998 and, accordingly, a person can start to act in accordance with the scheme from that date.

2. It makes provision for the decommissioning of arms by one or a combination of the following methods in section 3(1)(c) and (d) of the 1997 Act: the provision of information for the purpose of collection and destruction by the Commission; and destruction by persons in unlawful possession.

3. Words and phrases used in this scheme bear the same meaning as in the 1997 Act save where the contrary is expressly stated.

4. In this scheme,

(i) “the Commission” means the Independent International Commission established by agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland made on 26th August 1997 and, as regards the functions of the Commission in paragraphs 16, 17, 21, 22 and 23 of this scheme, includes any person duly authorised by the Commission to perform on its behalf the functions of the Commission;

(ii) “proscribed organisation” means an organisation specified in Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1996; and

(iii) “contact person” means a person who has given notice to the Commission in accordance with paragraph 7.

5. For the purposes of section 2(1) of the 1997 Act, the period during which arms may be dealt with in accordance with the scheme (“the amnesty period”) begins on 30 June 1998 and ends on [26 February 2002]⁶⁹.

⁶⁸ Source: Northern Ireland Office

⁶⁹ The extent of the amnesty period is currently constrained by section 2(3) of the Northern Ireland Arms Decommissioning Act 1997 and The Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2001 (S.I. 2001/1622).

Provision of information by the Commission

6. The Commission may provide a person who seeks information in relation to the decommissioning of arms and the application of this scheme with such information as it considers appropriate.

Notice of intention to decommission arms

7 A person who proposes to decommission arms on behalf of a proscribed organisation in accordance with this scheme shall, before doing any other act leading to decommissioning, give notice to the Commission of the proposal, in accordance with arrangements decided by the Commission.

A person starts to act in accordance with this scheme once the Commission is satisfied that such notice:

is given on behalf of a proscribed organisation, and

provides the Commission with sufficient information to indicate a clear intention to decommission specified arms.

8. He will continue to act in accordance with the scheme only if he complies with all the requirements of this scheme and the arrangements provided for by it.

9. A person who gives notice to the Commission in accordance with paragraph 7 above (“the contact person”) shall provide the Commission with such information as it may require for the purpose of making arrangements for decommissioning, and such information may include-

the name of the proscribed organisation proposing to decommission the arms,

the location where it is proposed that the arms should be collected by the Commission or destroyed by the person proposing to decommission them,

the number or quantity and type of the arms and information about their age and condition,

an indication as to whether the arms will require to be moved to the location referred to above,

if the arms are to be collected by the Commission, the day on which and the time at which it is proposed the arms can be collected, and

any other information required by the Commission.

10. The Commission shall keep a record of all the information provided in accordance with paragraph 9.

Non-disclosure of information

11. A person who has provided information to the Commission in accordance with this scheme shall not intentionally disclose that information to any person who is not acting with him without the agreement of the Commission nor do anything which affects the accuracy of the information which has been provided. If he subsequently becomes aware of any matter which affects the accuracy of the information provided, he shall inform the Commission as soon as practicable. The Commission shall keep a record of any such information provided to it.

Making of arrangements by the Commission for the purpose of decommissioning arms and ensuring public safety

12. The Commission may make such arrangements as it considers appropriate to facilitate the decommissioning of arms in accordance with this scheme including requiring compliance with any conditions necessary on grounds of public safety.

13. Persons who are acting with the contact person on behalf of the proscribed organisation, act in accordance with this scheme if they comply with all the requirements of the scheme and the arrangements provided by it.

14. Nothing shall be done with arms in respect of which contact has been with the Commission under paragraph 7 above which is not necessary in order to comply with arrangements made or conditions imposed by the Commission.

Locations at which decommissioning of arms may take place

15. The locations at which the decommissioning of arms may take place shall be determined in accordance with arrangements made by the Commission.

Movement of arms

16. The movement of any arms for the purpose of decommissioning them to a location determined under paragraph 15 by a person other than the Commission shall be in accordance with arrangements made by the Commission and subject to compliance with any conditions imposed by the Commission.

17. Without prejudice to the generality of paragraph 16, the conditions which the Commission may impose may relate to:

the location to which arms may be moved,

the quantity of arms which may be moved at any one time,

the method of transportation to be used, and

the condition in which the arms may be transported including the requirement that there shall be no movement of arms by public transport, movement of primed explosives or movement of loaded firearms.

The Commission may, on grounds of public safety, prohibit the movement of specified arms or specified types of arms.

18. The Commission shall keep a record of any conditions imposed in accordance with paragraph 17.

19. Where the Commission has agreed the conditions on which movement may take place, it may give to a person moving arms in accordance with this scheme a document stating that the arms described in the document are being moved by the person under arrangement made by the Commission. A copy shall be retained by the Commission.

20. A person moving arms in accordance with this scheme shall inform the Commission of the arrival of the arms at the location agreed with the Commission unless the Commission has taken part in the movement of the arms in question or is already at the location when the arms arrive there.

Destruction of arms by the Commission

21. Where information has been provided for the purpose of collection and destruction by the Commission, the Commission shall

carry out, or arrange to have carried out, an evaluation of the arms involved to determine their stability and whether it is safe to move or destroy them,

collect or supervise the collection of the arms and, if appropriate, their movement to another location for destruction, and

destroy, or supervise the destruction of the arms and dispose, or supervise the disposal, of any resulting residue.

22. Where arms are to be destroyed by persons in unlawful possession

the person or persons concerned shall destroy the arms in accordance with arrangements made with the Commission, and

the Commission shall dispose, or supervise the disposal, of any resulting residue.

23. Destruction of arms by the Commission shall mean:

in the case of firearms, them being rendered unusable as weapons by methods such as cutting, bending, chipping, stamping and grinding and the disposal of the residue;

in the case of ammunition or explosives, their burning, firing, discharge, detonation or disposal by other means.

24. Before destroying any arms, the Commission shall log details of the arms including:

in the case of firearms, the number, type and make (if known),

in the case of ammunition or explosives, the quantity, make (if known) and, in the case of ammunition, the calibre,

the name of the proscribed organisation by whom the arms are being decommissioned, and

such particulars of the decommissioning process (including the date, time and location and relevant events or processes) as the Commission considers necessary to ensure a complete record of the decommissioning process.

Where arms are destroyed by a person other than the Commission and without the Commission's supervision in accordance with this scheme the person shall make a record containing the information specified in this paragraph (other than the particulars of the decommissioning process referred to above) and shall give the information to the Commission. Where necessary and to the extent possible the Commission will verify the information given to it by a person who has destroyed arms by examining any residue resulting from the destruction.

Presence of persons at decommissioning events

25. Where arms are decommissioned in accordance with this scheme, the Commission may allow the person or persons decommissioning them, or an intermediary of that person or persons, to be present at the collection and destruction of the arms or the disposal of any resulting residue subject to compliance by the person or persons with any conditions imposed by the Commission.

In this paragraph "intermediary", in relation to a person, means a person authorised by the first mentioned person to act on the person's behalf, being an authorisation notice of which has been given to the Commission.

Confidentiality

26. The Commission shall ensure that all information received by it in relation to the decommissioning process is kept confidential and that any records maintained by the Commission are kept secure. Disclosure of information received by the Commission may occur where disclosure is necessary:

for reasons of public safety,

to confirm the legitimate participation in the decommissioning process by those eligible to do so,

to fulfil the Commission's duty to report to the two Governments.

[Signed]

ADAM INGRAM

For and on behalf of the Secretary of State

Northern Ireland Office

29 June 1998

Decommissioning Scheme based on Section 3(1) of the Northern Ireland Arms Decommissioning Act 1997

Introduction

1. This is a decommissioning scheme within the meaning of section 1 of the Northern Ireland Arms Decommissioning Act 1997 ("the 1997 Act") made by the Secretary of State to facilitate the decommissioning of firearms, ammunition and explosives ("arms") in Northern Ireland. It supplements the scheme made by the Secretary of State on 29 June 1998 and it comes into force on 3 August 2001.

2. The scheme makes provision for the decommissioning of arms in accordance with section 3 of the 1997 Act by making them permanently inaccessible or permanently unusable.

3. The period during which arms may be dealt with in accordance with the scheme ends with 26 February 2002.

4. Unless the contrary intention appears, expressions used in the scheme have the same meaning as in the 1997 Act, and-

(a) "the Commission" means the independent International Commission established by agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland made on 27 August 1997 and includes any person authorised by the Commission to perform functions on its behalf;

(b) "proscribed organisation" means an organisation specified in Schedule 2 to the Terrorism Act 2000;

(c) "contact person" means a person who has given notice to the Commission on behalf of a proscribed organisation of a proposal to make arms permanently inaccessible or permanently unusable.

Provision of information by the Commission

5. The Commission may provide to a person who seeks it such information in relation to the making of arms permanently inaccessible or permanently unusable in accordance with this scheme as it considers appropriate.

Notice of intention to decommission arms

6.(1) Notice of a proposal to make arms permanently inaccessible or permanently unusable must be given to the Commission by a contact person in accordance with arrangements determined by the Commission before any other act leading to decommissioning is undertaken.

(2) Decommissioning under this scheme may only begin if the Commission is satisfied that the notice-

- (a) is given on behalf of a proscribed organisation, and
- (b) contains sufficient information to indicate a clear intention to make specified arms permanently inaccessible and permanently unusable.

Information provided to the Commission

7.(1) A contact person must provide the Commission with such information as it may require in relation to a proposal to make arms permanently inaccessible and permanently unusable.

(2) A person who provides information to the Commission under paragraph (1) must not-

- (a) intentionally disclose any of it, without the Commission's consent, to a person who is not acting with him;
- (b) subject to paragraph (3), do anything which affects its accuracy.

(3) The Commission must be informed as soon as possible of any matter which may affect the accuracy of information provided under paragraph (1).

(4) The Commission must keep a record of information provided under paragraph (1).

Arrangements for decommissioning

8.(1) The Commission may make such arrangements with a contact person or a person acting with him as it considers appropriate to facilitate the making of arms permanently inaccessible or permanently unusable.

(2) The arrangements referred to in paragraph (1) may include conditions considered necessary on grounds of public safety.

(3) A person acting to make arms permanently inaccessible or permanently unusable in accordance with this scheme must comply with the arrangements and conditions referred to in paragraphs (1) and (2).

Locations at which decommissioning of arms may take place

9. The locations at which the making of arms permanently inaccessible or permanently unusable may take place are to be determined in accordance with arrangements made by the Commission with the contact person or a person acting with him.

Movement of arms

10.(1) Where arms are moved for the purpose of making them permanently inaccessible or permanently unusable to a location determined by a person other than the Commission, such movement must be in accordance with arrangements made by the Commission and subject to any conditions considered necessary on grounds of public safety.

(2) The conditions referred to in paragraph (1) may include conditions about-

- (a) the location to which arms may be moved,
- (b) the quantity of arms which may be moved at a time,
- (c) the method of transportation, and
- (d) the condition in which arms may be moved, including conditions that arms must be unloaded, explosives must be unprimed and that public transport must not be used.

(3) Where arms are moved in accordance with arrangements made under paragraph (1), the Commission may give to any person moving them a document showing that they are moved for the purpose of making them permanently inaccessible or permanently unusable in accordance with this scheme.

(4) The Commission must keep a record of any arrangements made under paragraph (1), any conditions imposed on grounds of public safety and any document issued under paragraph (3).

(5) The Commission must be informed of the arrival of any arms moved under paragraph (1).

Records of decommissioned arms

11.(1) Where arms are made permanently inaccessible or permanently unusable in accordance with this scheme, the Commission must-

- (a) make a record of the arms containing such information as it considers necessary, or
- (b) arrange for the contact person or a person acting with him to provide it with such a record.

(2) The Commission must take such steps as are necessary to verify the information contained in a record provided under paragraph 1(b).

Method of making permanently inaccessible or permanently unusable

12. The method by which arms are to be made permanently inaccessible or permanently unusable, so that they are completely beyond use, is to be

determined by the Commission after consultation with the contact person or a person acting with him.

John Reid

Secretary of State for Northern Ireland
2 August 2001

Appendix 2: Statistics relating to security and paramilitary activity in Northern Ireland

Table 1 sets out official figures, collated by the RUC/PSNI, for the number of deaths connected with the civil disturbances in Northern Ireland since 1969. Since 1969 there have been a total of 3,321 deaths recorded in Northern Ireland, of which 2,364 were of civilians.

Table 2 gives similar information for injuries connected with the security situation. Since the start of the troubles more than 40,000 people have been injured: of these, more than 26,000 have been civilians. Civilians, in these statistics, include paramilitaries and others who might not always be considered to be civilians in the usual sense.

Table 3 sets out the number of casualties as a result of paramilitary-style attacks since 1973. These cover incidents recorded by the police and would include those colloquially referred to as punishment beatings, assaults or shooting. In the majority of cases these are carried out by paramilitaries. Since the cease-fires, the pattern of violence has changed. With the exception of a minority of assaults and a number of murders of alleged drug dealers, guns have largely been replaced with beatings involving baseball bats, pick axe handles or iron bars, often resulting in serious injuries.⁷⁰

All statistics have been taken from the Police Service in Northern Ireland's website and these have been updated with information to end November 2001 from the PSNI.

⁷⁰ Police Service NI

Table 1

Deaths due to the Northern Ireland security situation

	RUC/PSNI#	UDR/RIR	Army	Civilian	Total
1969	1	0	0	13	14
1970	2	0	0	23	25
1971	11	5	43	115	174
1972	17	26	105	322	470
1973	13	8	58	173	252
1974	15	7	30	168	220
1975	11	6	14	216	247
1976	23	15	14	245	297
1977	14	14	15	69	112
1978	10	7	14	50	81
1979	14	10	38	51	113
1980	9	9	8	50	76
1981	21	13	10	57	101
1982	12	7	21	57	97
1983	18	10	5	44	77
1984	9	10	9	36	64
1985	23	4	2	26	55
1986	12	8	4	37	61
1987	16	8	3	68	95
1988	6	12	21	55	94
1989	9	2	12	39	62
1990	12	8	7	49	76
1991	6	8	5	75	94
1992	3	2	4	76	85
1993	6	2	6	70	84
1994	3	2	1	56	62
1995	1	0	0	8	9
1996	0	0	1	14	15
1997	4	0	1	17	22
1998	1	0	1	53	55
1999	0	0	0	7	7
2000	0	0	0	18	18
2001 to 30.11	na	na	na	na	14
Total					
1968 – 30.6. 2001	302	203	452	2,364	3,314
1968-	na	na	na	na	3,321
30.110					
1					

includes Reserve

Source: Police Service NI www.psni.police.uk/stats/deaths2.shtml

Table 2

Persons injured as a result of the security situation in Northern Ireland 1968 to 2001

	RUC/ RUCR	UDR/RIR	Army	Civilians	Total
1968	379	0	0	0	379
1969	711	0	54	0	765
1970	191	0	620	0	811
1971	315	9	381	1,887	2,592
1972	485	36	542	3,813	4,876
1973	291	23	525	1,812	2,651
1974	235	30	453	1,680	2,398
1975	263	16	151	2,044	2,474
1976	303	22	242	2,162	2,729
1977	183	15	172	1,017	1,387
1978	302	8	127	548	985
1979	165	21	132	557	875
1980	194	24	53	530	801
1981	332	28	112	878	1,350
1982	99	18	80	328	525
1983	142	22	66	280	510
1984	267	22	64	513	866
1985	415	13	20	468	916
1986	622	10	45	773	1,450
1987	246	12	92	780	1,130
1988	218	18	211	600	1,047
1989	163	15	175	606	959
1990	214	24	190	478	906
1991	139	56	197	570	962
1992	148	18	302	598	1,066
1993	147	27	146	504	824
1994	170	6	120	529	825
1995	370	5	8	554	937
1996	459	2	53	905	1,419
1997	357	14	136	730	1,237
1998	384	17	69	1094	1,564
1999	395	16	20	553	984
2000	446	2	25	589	1,062
2001 to 30.11	na	na	na	na	1,412
Total 1968 to 2000	9,750	549	5,583	28,380	44,262#

#45,674 total 1968 to 30 Nov 2001

Table 3

Casualties as a result of paramilitary-style attacks: 1973 to 2001

	Shootings			Assaults*			Total Casualties (Shootings and Assaults)
	Total	By Loyalist Groups	By Republican Groups	Total	By Loyalist Groups	By Republican Groups	
1973	74	21	53	n/a	n/a	n/a	n/a
1974	127	43	84	n/a	n/a	n/a	n/a
1975	189	50	139	n/a	n/a	n/a	n/a
1976	98	36	62	n/a	n/a	n/a	n/a
1977	126	28	98	n/a	n/a	n/a	n/a
1978	67	17	50	n/a	n/a	n/a	n/a
1979	76	25	51	n/a	n/a	n/a	n/a
1980	77	26	51	n/a	n/a	n/a	n/a
1981	80	14	66	n/a	n/a	n/a	n/a
1982	80	22	59	n/a	n/a	n/a	n/a
1983	31	9	22	n/a	n/a	n/a	n/a
1984	26	6	20	n/a	n/a	n/a	n/a
1985	32	11	21	n/a	n/a	n/a	n/a
1986	41	24	17	n/a	n/a	n/a	n/a
1987	124	67	57	n/a	n/a	n/a	n/a
1988	66	34	32	56	21	35	122
1989	161	65	96	51	23	28	212
1990	106	60	46	68	21	47	174
1991	76	40	36	62	22	40	138
1992	133	72	61	74	36	38	207
1993	85	60	25	41	35	6	126
1994	122	68	54	70	38	32	192
1995	3	3	0	217	76	141	220
1996	24	21	3	302	130	172	326
1997	72	46	26	156	78	78	228
1998	72	34	38	144	89	55	216
1999	73	47	26	134	90	44	207
2000	136	86	50	126	72	54	262
2001 to 25.11	174	113	61	128	81	47	302
2001 to 30.11	176	na	na	134	na	na	310

* Beatings