

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of  
**Justice**

An Roinn Dlí agus Cirt

Männystrie O tha Laa

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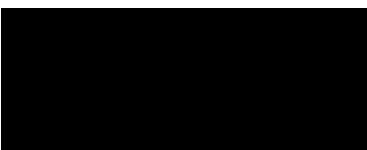
Dear Caroline,

**JUSTICE BILL: SHARING TEXT OF PLANNED AMENDMENTS TO  
REHABILITATION OF OFFENDERS LEGISLATION**

Further to the sharing of the text of the first two sets of planned amendments to the Justice Bill with Committee members for biometric and restorative justice service provisions, I am pleased to now be able to share the text of the amendments relating to reform of rehabilitation periods.

I trust that the Committee will find this helpful

Best Regards,



**DAVID GRAHAM  
DALO**

**Enc: Appendix A – Rehabilitation of Offenders Amendments**

## JUSTICE BILL

### CONSIDERATION STAGE

#### *Rehabilitation of offenders*

After clause 28 insert—

#### *‘Rehabilitation of offenders*

#### **Rehabilitation periods for convictions**

**28A.**—(1) Article 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (“the 1978 Order”) is amended in accordance with subsections (2) to (11).

(2) In paragraph (1), in sub-paragraphs (b) and (d) and in the second sub-paragraph (e), for “thirty months” substitute “10 years”.

(3) For paragraph (2) substitute—

“(2) For the purposes of this Order, the rehabilitation period for a sentence begins with the date of the conviction in respect of which the sentence was imposed and ends—

(a) in the case of a sentence specified in the first column of Table A—

(i) at the end of the period specified in the second column of that Table, or

(ii) where the person on whom the sentence was imposed was aged under 18 at the date of conviction, at the end of the period specified in the third column of that Table;

(b) in the case of a sentence specified in the first column of Table B, at the end of the period specified in the second column of that Table;

(c) in the case of a sentence specified in any of paragraphs (3) to (8A), at the time specified in that paragraph;

but (in the case of sub-paragraphs (a) and (b)) this is subject to paragraphs (2A) to (2D).

<b>Table A</b>		
<b>Custodial sentences available regardless of age of offender</b>		
<b>Sentence</b>	<b>If person was 18 or over at conviction, rehabilitation period ends at end of—</b>	<b>If person was under 18 at conviction, rehabilitation period ends at end of—</b>
A sentence of imprisonment for a term of more 4 years but not more than 10 years	The term of the sentence plus 7 years	The term of the sentence plus 42 months
A sentence of imprisonment for a term of more than 1 year but not more than 4 years	The term of the sentence plus 4 years	The term of the sentence plus 2 years
A sentence of imprisonment for a term of 1 year or less	The term of the sentence plus 1 year	The term of the sentence plus 6 months
Any sentence of detention in respect of a conviction in	The term of the sentence plus 1 year	The term of the sentence plus 6 months

service disciplinary proceedings		
A sentence of cashiering, sentence of dismissal, discharge with ignominy or dismissal with disgrace from His Majesty's service	1 year	6 months

<b>Table B</b>	
<b>Custodial sentences available only where offender is under 18</b>	
<b>Sentence</b>	<b>The rehabilitation period ends at the end of—</b>
A sentence of detention for a term of more than 4 years but not more than 10 years passed under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998	The term of the sentence plus 42 months
A sentence of detention under Article 45 of that Order for a term of more than 1 year but not more than 4 years, or a youth custody and supervision order under Article 38A of that Order for a term of more than 2 years but not more than 4 years.	The term of the sentence plus 2 years
A youth custody and supervision order under Article 38A of that Order, or a juvenile justice centre order under Article 39 of that Order, for a term of more than 1 year but not more than 2 years	The term of the sentence plus 1 year
A youth custody and supervision order under Article 38A of that Order, a juvenile justice centre order under Article 39 of that Order or a sentence of detention under Article 45 of that Order for a term of 1 year or less	The term of the sentence plus 6 months
A sentence of detention passed under section 209 of the Armed Forces Act 2006	The term of the sentence plus 6 months

(2A) Paragraphs (2B) to (2D) apply for the purposes of determining the end of the period specified in the second and third columns in Table A and the second column in Table B.

(2B) The term of any sentence is to be increased by any period during which the person is unlawfully at large.

(2C) Paragraph (2D) applies if a court orders under section 19 of the Treatment of Offenders Act (Northern Ireland) 1968 that a suspended sentence (or order for detention) is to take effect (whether the court does so before or after the end of the rehabilitation period for that sentence).

(2D) The term of the sentence is to be regarded as beginning on the day on which the court makes the order under section 19 (instead of on the date of conviction).

This does not limit the effect of paragraph (9)(d).”.

(4) For paragraph (3) substitute—

“(3) Where a person is discharged absolutely for an offence—

- (a) the person is to be treated as a rehabilitated person in respect of the conviction immediately after the order for the person’s discharge is made, and
- (b) references in this Order to the rehabilitation period applicable to the order are to have effect as if the period ended on the date of conviction.”.

(5) In paragraph (4)—

- (a) for “shall be one year from the date of conviction or a period beginning with that date and ending” substitute “ends”;
- (b) omit “whichever is the longer”.

(6) In paragraph (4A), for the words from “shall be” to the end substitute “ends when the order ceases to have effect”.

(7) In paragraph (4B), for the words from “shall be” to the end substitute “ends when the order ceases to have effect”.

(8) In paragraph (5)—

- (c) for “shall be one year from the date of conviction or a period beginning with that date and ending” substitute “ends”;
- (d) omit “whichever is the longer”.

(9) In paragraph (6)—

- (e) omit sub-paragraph (b);
- (f) for “shall be a period beginning with the date of conviction and ending one year after the date on which” substitute “ends when”.

(10) For paragraph (8) substitute—

“(8) Where in respect of a conviction an order was made—

- (a) imposing any disqualification, disability, prohibition, penalty, requirement or restriction, or
  - (b) which is otherwise intended to regulate behaviour,
- the rehabilitation period ends when the order ceases or ceased to have effect.”.

(11) After paragraph (8) insert—

“(8A) In the case of a fine, or any other sentence which is subject to rehabilitation but for which no rehabilitation period is specified in paragraphs (2) to (8), the rehabilitation period ends—

- (a) if the offender was aged 18 or over at the date of conviction, at the end of the period of 12 months beginning with that date;
- (b) if the offender was aged under 18 at the date of conviction, at the end of the period of 6 months beginning with that date.”.

(12) In Article 7(5) of the 1978 Order, for “imposing on a person any disqualification, disability, prohibition or other penalty” substitute “described in that paragraph”.

(13) In Article 8(1)(c) of the 1978 Order, for “or other penalty” substitute “penalty, requirement, restriction or other provision intended to regulate behaviour”.

(14) The amendments made by this section apply in relation to convictions before the commencement day (as well as in relation to convictions on or after that day).

(15) But—

- (g) no person who, immediately before the commencement day is treated as a rehabilitated person for the purposes of the 1978 Order in respect of a conviction, and
- (h) no conviction which, immediately before the commencement day, is treated for the purposes of that Order as spent,

is to cease to be so treated merely because of the amendments made by this section.

(16) In subsections (14) and (15), “the commencement day” means the day on which this section comes into operation.

(17) Omit—

- (i) paragraph 3(2) of Schedule 4 to the Armed Forces Act 1981;
- (j) paragraph 11(b) of Schedule 5 to the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (k) paragraph 3 of Schedule 11 to the Justice (Northern Ireland) Act 2002.’

After clause 28 insert—

**‘Applications in respect of certain sentences otherwise excluded from rehabilitation**

**28B.**—(18) After Article 7 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 insert—

**“Applications in respect of certain sentences otherwise excluded from rehabilitation**

7A.—(1) The Department of Justice may make regulations for and in connection with allowing a person on whom a sentence listed in paragraph (2) has been imposed in respect of a conviction to apply for an order under paragraph (3).

(2) The sentences referred to in paragraph (1) are—

- (a) a sentence of imprisonment or corrective training for a term exceeding 10 years;
- (b) a sentence of detention for a term exceeding 10 years, passed under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (c) a sentence of detention for a term exceeding 10 years, passed under section 209 of the Armed Forces Act 2006.

(3) An order under this paragraph is an order that the person is to be treated as a rehabilitated person in respect of the conviction in question.

(4) Where a court makes an order under paragraph (3)—

- (a) the conviction is to be treated as being spent, and
- (b) accordingly, the sentence imposed in respect of that conviction is not to be regarded as a sentence excluded from rehabilitation for the purposes of this Order.

(5) Regulations under this Article must provide that an order under paragraph (3) is to be made by a specified court or tribunal and may include provision about—

- (a) who may or may not make an application (including provision that applications may not be made less than a specified period after the date of the conviction);
- (b) the date from which the person is to be treated as a rehabilitated person in respect of the conviction;

- (c) the procedure for making and determining applications, including the form of application, information to be provided, and fees to be paid;
  - (d) matters to which the court or tribunal must, or may, have regard in determining an application;
  - (e) the arrangements for notification or publication of orders;
  - (f) the review of, or appeals from, the determination of an application;
  - (g) second or subsequent applications if an application is refused (including specifying a period during which such applications may not be made);
  - (h) reports to be produced on the number of applications made and the outcome of applications, and for the delivery of those reports to the Department or other persons or their publication.
- (6) Regulations under this Article may make further provision about the effect of orders, including by—
- (a) specifying exceptions or modifications to the effect of orders as set out in paragraphs (3) and (4);
  - (b) enabling a court or tribunal to limit or restrict the effect of an order in circumstances set out in the order.
- (7) In this Article—
- “sentence of imprisonment” has the meaning given in Article 6(9);
  - “specify” means specify in the regulations.
- (8) Regulations under this Article—
- (a) may make consequential, supplementary and incidental provision;
  - (b) may amend any statutory provision.
- (9) Regulations may not be made under this Article unless a draft of the regulations has been laid before, and approved by, a resolution of the Assembly.”.
- (19) In Article 6 of that Order, after paragraph (1) insert—
- “(1A) Paragraph (1) is subject, in the case of a sentence imposed for a conviction, to any order made under Article 7A(3) in respect of that conviction.”.’

**Clause 33**, page 42, line 20

At end insert—

‘(c) sections 28A and 28B (which relate to rehabilitation periods for convictions).’

**Schedule 4**, page 51, line 22

Leave out paragraph 8.