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Justice Bill: Rehabilitation of Offenders Amendments

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This paper provides an overview of the amendments to the Justice Bill relating to the reform of rehabilitation periods contained in the Rehabilitation of Offenders (Northern Ireland) Order 1978.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

- This set of amendments to the Justice Bill will amend the rehabilitation periods set out under the Rehabilitation of Offenders (Northern Ireland) Order 1978 to allow more offences to be capable of becoming spent. They also aim to address the existing bar on custodial sentences of over 30 months being treated as spent.
- A spent conviction is one which does not have to be declared once a specified period of time has elapsed with the intention of helping to facilitate former offenders in gaining employment and promoting their reintegration into wider society.
- The rehabilitation periods contained in the 1978 Order have remained largely unchanged since the legislation was introduced. In recent years, changes have already been made to reduce rehabilitation periods in both England and Wales and Scotland.
- There are certain 'excepted' jobs and professions set out in the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979 where applicants must always declare their convictions, even where they are considered spent. These are not being amended under the Justice Bill.
- In 2021, a public consultation was conducted by the Department of Justice which received 77 responses with the majority of respondents (97%) supporting a reduction of existing rehabilitation periods. The Department has since developed a model for Northern Ireland with a fixed upper limit of up to 10 years for any kind of offence becoming spent. A full breakdown of the amendments to rehabilitation periods contained in clause 28A of the Justice Bill can be found in section 3.3.

Table 1: Summary of Rehabilitation Periods under the Justice Bill Clause 28A

Sentence	Rehabilitation Period at Date of Conviction
Imprisonment of over 10 years	Cannot become spent – a review mechanism is provided for in Article 28B
Imprisonment of more than 4 years and up to 10 years	Length of sentence plus 7 years
Imprisonment of more than 1 year up to 4 years	Length of sentence plus 4 years
Imprisonment of less than 1 year	Length of sentence plus 1 year
Fine	1 year

(Note: these rehabilitation periods are halved for offenders aged under 18 at date of conviction)

- Clause 28B also inserts new Article 7A into the Rehabilitation of Offenders (Northern Ireland) Order 1978 to provide the Department of Justice with a regulation making power to allow for applications for rehabilitation in relation to sentences exceeding 10 years. These sentences could only become rehabilitated by an order of a specified court or tribunal. Any regulations must be laid before and approved by a resolution of the Assembly before coming into operation. The Committee may wish to consider the potential timeframe for these regulations being developed and any further consultation that will take place with stakeholders.
- The Committee may also wish to query whether there are any further implications for this policy area from the Supreme Court's judgment *In the matter of an application for Judicial Review by JR123 (Appellant) (Northern Ireland)* [2025] UKSC 8 issued in March 2025. Further possible scrutiny points are contained in section 4.

- Separately, clause 29A of the Justice Bill amends section 113A of the Police Act 1997 which makes provision in relation to criminal record certificates. This replaces the offences currently contained in subsection (6D) by creating structured lists of offences across named categories in new Schedule 8ZA which cannot be filtered from a criminal record certificate. As part of these amendments, Article 1A(4) of the 1979 Order is amended to reference the new list of offences at Schedule 8ZA of the Police Act. More information on the amendments contained in clause 29A on criminal records certificates and the AccessNI filtering scheme can be found in a further Research and Information Service briefing paper.¹

¹ Further Northern Ireland Assembly Research and Information Service Papers on the Justice Bill can be found on the Justice Committee's webpage: [Research Papers on the Bill](#)

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1 Legislative Framework

At an international level, the United Nations International Covenant on Civil and Political Rights (ICCPR) recognises the obligations that states have around the rehabilitation of offenders.² Article 10(3) states that “*the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation*”.³ Meanwhile Rule 4 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states that “*the purposes of a sentence of imprisonment or similar measures deprivative of a person’s liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life*”.⁴

In Northern Ireland, the Rehabilitation of Offenders (Northern Ireland) Order 1978 makes provision for the rehabilitation of offenders. Article 3 provides that once the rehabilitation period has been served in respect of any offence the person shall be treated as a rehabilitated person and the conviction treated as spent. The general rule providing for the effect of rehabilitation, subject to certain qualifications, is set out in Article 5 which states that “*a person who has become a rehabilitated person for the purposes of this Order in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction*”.

Article 6(1) provides that certain sentences are excluded from rehabilitation under the Order. These include a sentence of imprisonment for life, a sentence of imprisonment for a term exceeding 30 months and certain others. Article 6(2) sets out the rehabilitation periods applicable to sentences not falling within Article 6(1) with different periods depending on whether the person convicted was an adult, aged

² Northern Ireland Human Rights Commission, [Briefing to Committee for Justice on Amendments to the ‘Justice Bill 07/22-27’](#) (April 2025), paragraph 4.2

³ Office of the High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#) (December 1966)

⁴ Office of the High Commissioner for Human Rights, [The United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#) (December 2015), page 8

under 18 and the length of the sentence imposed. A number of rehabilitation periods are also subject to a reduction of half if the person was under 18 when sentenced.

Table 2 below summarises the contents of Article 6 in further detail.

Table 2: Rehabilitation Periods in Northern Ireland under the Rehabilitation of Offenders (Northern Ireland) Order 1978

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Imprisonment of over 30 months (includes suspended sentences)	Cannot become spent and must always be declared	Cannot become spent and must always be declared
Imprisonment of over 6 months and up to 30 months (includes suspended sentences)	10 years	5 years
Imprisonment of 6 months or less (includes suspended sentences)	7 years	3.5 years
Cashiering, discharge with ignominy or dismissal with disgrace from His Majesty's Service	10 years	5 years
Dismissal from His Majesty's Service	7 years	3.5 years

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Service Detention	5 years	2.5 years
Absolute Discharge	6 months	6 months
Conditional Discharge, Probation Order or Bind Over (to keep the peace and/or be of good behaviour)	1 year or date the Order ceases to have effect – whichever is longer	1 year or date the Order ceases to have effect – whichever is longer
Fine or any other sentence subject to rehabilitation but not covered elsewhere in the 1978 Order (e.g. Community Service Order/Combination Order)	5 years	2.5 years

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Detention of over 6 months but less than 30 months under Article 45 (grave crimes) of the Criminal Justice (Children) (Northern Ireland) Order 1998 or under Section 209 (certain serious offences) of the Armed Forces Act 2006	N/A	5 years
Detention of up to 6 months under Article 45 (grave crimes) of the Criminal Justice (Children) (Northern Ireland) Order 1998 or under Section 209 (certain serious offences) of the Armed Forces Act 2006	N/A	3 years

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Detention and Training Order under section 211 of the Armed Forces Act 2006	N/A	<p>Aged over 15: 5 years for an Order over 6 months or 3.5 years for an Order less than 6 months</p> <p>Aged under 15: 1 year after the Order ceases to have effect</p>
Service Community Order or Overseas Community Order under the Armed Forces Act 2006	5 years	2.5 years from conviction or the date the Order ceases to have effect – whichever is longer
Community Supervision Order under Schedule 5A of the Army Act 1955 or the Air Force Act 1955 or under Schedule 4A of the Naval Discipline Act 1957	1 year or the length of the Order - whichever is longer	1 year or the length of the Order - whichever is longer

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Juvenile Justice Centre Order, Attendance Centre Order, Reparation Order, Community Responsibility Order or Youth Conference Order under the Criminal Justice (Children) (Northern Ireland) Order 1998	N/A	1 year after Order ceases to have effect
Hospital Order under the Mental Health (Northern Ireland) Order 1986	5 years or 2 years after the Order ceases to have effect – whichever is longer	5 years or 2 years after the Order ceases to have effect – whichever is longer
Order imposing any disqualification, disability, prohibition or other penalty	Immediate	Immediate

(Sources: Department of Justice, Reform of Rehabilitation Periods in Northern Ireland Amendments, [Appendix A](#) and the Rehabilitation of Offenders (Northern Ireland) Order 1978)

2 Other Jurisdictions

2.1 England and Wales

The Rehabilitation of Offenders (Northern Ireland) Order 1978 is based on an equivalent scheme established in England and Wales by the Rehabilitation of Offenders Act 1974. This was introduced following recommendations made in a 1972 report entitled '*Living it Down: The Problem of Old Convictions*' by a committee chaired by Lord Gardiner set up by the campaigning organisations JUSTICE, the Howard League for Penal Reform and the National Association for the Care and Resettlement of Offenders.⁵

Changes have since been made to the 1974 Act in England and Wales, reducing rehabilitation periods and allowing for convictions where longer prison sentences have been imposed to become spent. In 2010, the coalition Government said it would review the operation of the 1974 Act.⁶ Section 139 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which came into force in March 2014, extended the scope of the 1974 Act to allow custodial sentences of up to 4 years to become spent (raising this from 3 years) and also changed the length of some rehabilitation periods, in most cases by reducing them.⁷

In 2020, the Conservative Government set out plans to legislate to reduce the rehabilitation periods that apply before a conviction becomes spent.⁸ Section 193 of the Police, Crime, Sentencing and Courts Act 2022, which came into force in October 2023, reduced many rehabilitation periods that apply before a conviction becomes spent and allowed for some convictions resulting in a custodial sentence of more than 4 years (excluding sentences of life imprisonment, extended determinate sentences and serious violent, sexual, or terrorist offences as listed in Schedule 18 of

⁵ [In the matter of an application for Judicial Review by JR123 \(Appellant\) \(Northern Ireland\)](#) [2025] UKSC 8, paragraph 8

⁶ Ministry of Justice, [Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders](#) (December 2010), page 33

⁷ House of Commons Library, [Rehabilitation of Offenders Act 1974](#) (November 2023), page 10

⁸ Ministry of Justice, [A Smarter Approach to Sentencing](#) (September 2020), page 74

the Sentencing Act 2020) to become spent. If the person was an adult (aged 18 or over) when convicted, the sentence will become spent 7 years after the sentence is completed. A custodial sentence of more than 1 year and up to 4 years, where the person was an adult when convicted, will become spent 4 years after the sentence is completed.

A custodial sentence of 1 year or less, where the individual was an adult when convicted, will be spent 1 year after the sentence is completed. These periods are halved where the individual was under 18 when convicted. Suspended sentences, where a person does not go to prison immediately and is allowed to serve their sentence in the community so long as they comply with certain conditions, are treated as custodial sentences.⁹

The Government highlighted that the changes will “*remove a significant barrier to offenders rebuilding their lives*”.¹⁰ The move was also welcomed by charities such as Unlock which said that it will have a “*huge beneficial impact*”.¹¹ Table 6 contained in Appendix 1 summarises the current rehabilitation periods for sentences in England and Wales. It is worth noting that there are additional “buffer periods” which run from the end date of the sentence for custodial sentences.¹²

In addition, it is also worth noting that there are still certain exceptions where an individual will have to disclose their conviction even where it is considered spent under the 1974 Act. The provision for this is set out in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The jobs and activities listed in the Exceptions Order mainly relate to work with children or health and social care, work in law enforcement and the legal system and high-level financial positions.¹³

⁹ House of Commons Library, [Rehabilitation of Offenders Act 1974](#) (November 2023), page 7

¹⁰ Ministry of Justice, [Barrier to employment lifted for thousands of ex-offenders](#) (October 2023)

¹¹ Unlock, [Impact of changes to the criminal records system](#) (October 2023)

¹² Ministry of Justice, [Guidance on the Rehabilitation of Offenders Act 1974 and The Exceptions Order 1975](#) (October 2023), page 10

¹³ Ibid, page 20

2.2 Scotland

The Management of Offenders (Scotland) Act 2019 reformed the provisions of the Rehabilitation of Offenders Act 1974 in relation to Scotland. The 1974 Act refers to the time taken for a conviction to become spent as the rehabilitation period. In relation to Scotland, the Act provides for a change of terminology, instead referring to the disclosure period.

The Policy Memorandum accompanying the Bill noted that “*the 1974 Act is not intended to provide or suggest that a person is only suitable for employment once their conviction becomes spent. It is not the operation of the 1974 Act which makes a person rehabilitated; it is the actions of the individual themselves to become rehabilitated. By making certain changes to the terminology used in this Bill, it is hoped that where a potential employee discloses a conviction in future to an employer, that can be the start of a dialogue between the potential employee and employer about the suitability of the potential employee rather than an employer automatically rejecting an application*”.¹⁴

The 2019 Act in Scotland provides for a range of changes to the disclosure periods. It increased the maximum custodial sentence in relation to which a conviction may become spent from 2.5 years to 4 years. Separately, the Rehabilitation of Offenders Act 1974 (Exclusion & Exceptions) (Scotland) Order 2013, as amended, outlines the types of employment and proceedings that are excluded and where disclosure of certain spent convictions is required through higher level disclosure. This includes positions involving work in the childcare and health professions. The 2019 Act made no changes to this system.

Table 7 in Appendix 1 summarises a number of the current disclosure periods for sentences in Scotland in further detail. The 2019 Act did not provide for sentences under legislation relating to the armed services which were considered “*outwith the legislative competence of the Scottish Parliament*”.¹⁵

¹⁴ Management of Offenders (Scotland) Bill, [Policy Memorandum](#) (February 2018), paragraph 244

¹⁵ Scottish Parliament Information Centre, [Management of Offenders \(Scotland\) Bill](#) (May 2018)

Furthermore, Section 33 of the Management of Offenders (Scotland) Act 2019 enables Scottish Ministers to make regulations which will allow a person to apply for a review of their conviction for a sentence of imprisonment exceeding 48 months. The reviewer will determine whether or not the conviction should become spent. These regulations have not yet been made meaning it is not possible to apply for such a review. However, it is expected that guidance will be published when the review mechanism has been developed and the necessary regulations have been approved by the Scottish Parliament.¹⁶

The Supreme Court observed in March 2025 that “*it remains the case that at present in each part of the United Kingdom a line has been drawn identifying those sentences of imprisonment in relation to which the conviction is to be treated as spent and which the offender can choose not to disclose, while leaving other offences with sentences which fall on the wrong side of the line outside that rehabilitation regime. For offences in the latter category there is no mechanism available to the offender to apply for an individualised assessment to have them treated as spent for the purposes of the 1974 Act*”.¹⁷

For further information, table 3 and table 4 below provide a comparison across rehabilitation and disclosure periods in England and Wales, Scotland and Northern Ireland for adults and under 18s. These cover both custodial sentences and fines.

¹⁶ Scottish Government, [Guidance: Self-disclosure of Previous Convictions and Alternatives to Prosecution](#) (August 2020)

¹⁷ [In the matter of an application for Judicial Review by JR123 \(Appellant\) \(Northern Ireland\)](#) [2025] UKSC 8, paragraph 34

2.3 Comparative Summary Tables of Rehabilitation Periods across the UK

Table 3: Comparison of Rehabilitation and Disclosure Periods in England and Wales, Scotland and Northern Ireland for Adults (over 18s)

Sentence	Northern Ireland	Scotland	England and Wales	Northern Ireland Proposed
Custodial sentence of over 10 years				Cannot become spent – a review mechanism is provided for in the Justice Bill
Custodial sentence of more than 4 years and up to 10 years				Length of sentence plus 7 years
Custodial sentence of more than 4 years	Cannot become spent	Cannot become spent - review mechanism in development under the Management of Offenders (Scotland) Act 2019	Length of sentence plus 7 years (subject to exclusions in Schedule 18 of the Sentencing Act 2020)	

Sentence	Northern Ireland	Scotland	England and Wales	Northern Ireland Proposed
Custodial sentence of more than 2.5 years and up to 4 years		Length of sentence plus 6 years		
Custodial sentence of more than 1 year up to 4 years			Length of sentence plus 4 years	Length of sentence plus 4 years
Custodial sentence of more than 1 year up to 2.5 years		Length of sentence plus 4 years		
Custodial sentence of less than 1 year		Length of sentence plus 2 years	Length of sentence plus 1 year	Length of sentence plus 1 year
Custodial sentence of over 6 months up to 2.5 years	10 years			
Custodial sentence of less than 6 months	7 years			
Fine	5 years	1 year	1 year	1 year

Table 4: Comparison of Rehabilitation and Disclosure Periods in England and Wales, Scotland and Northern Ireland for Children (under 18s)

Sentence	Northern Ireland	Scotland	England and Wales	Northern Ireland Proposed
Custodial sentence of over 10 years				Cannot become spent – a review mechanism is provided for in the Justice Bill
Custodial sentence of more than 4 years and up to 10 years				Length of sentence plus 3.5 years
Custodial sentence of more than 4 years	Cannot become spent	Cannot become spent - review mechanism in development under the Management of Offenders (Scotland) Act 2019	Length of sentence plus 3.5 years (subject to exclusions in Schedule 18 of the Sentencing Act 2020)	
Custodial sentence of more than 2.5 years and up to 4 years		Length of sentence plus 3 years		

Sentence	Northern Ireland	Scotland	England and Wales	Northern Ireland Proposed
Custodial sentence of more than 1 year up to 4 years			Length of sentence plus 2 years	Length of sentence plus 2 years
Custodial sentence of more than 1 year up to 2.5 years		Length of sentence plus 2 years		
Custodial sentence of less than 1 year		Length of sentence plus 1 year	Length of sentence plus 6 months	Length of sentence plus 6 months
Custodial sentence of over 6 months up to 2.5 years	5 years			
Custodial sentence of less than 6 months	3.5 years			
Fine	2.5 years	6 months	6 months	6 months

2.4 Republic of Ireland

The Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 provides for the current spent convictions scheme in the Republic of Ireland. The 2016 Act provides that a limited range of minor offences become spent after a period of 7 years, providing the convicted person does not reoffend during their 'rehabilitation period'.¹⁸ An adult convicted of an offence covered by the 2016 Act does not have to disclose the conviction after 7 years, except in certain circumstances including, for example, for specified work such as with An Garda Síochána or the Defence Forces.

Sections 4 and 5 of the 2016 Act provide that the following convictions may become spent after 7 years:

- All convictions in the District Court for motoring offences or minor public order offences (separate conditions apply to dangerous driving convictions);
- A single conviction (other than a motoring or public order offence) in the District Court or Circuit Court which resulted in a prison term of less than 12 months (or a fine).¹⁹

Sexual offences or convictions in the Central Criminal Court are not eligible to become spent convictions. Section 258 of the Children Act 2001 provides that a person may not be required to disclose a conviction where the offence was committed before the person reached 18 years of age, provided certain conditions are met.

There is no limit on the number of select public order or minor motoring offences that can become spent. However, there is a restriction on the number of other offences, such as theft, minor drug possession or dangerous driving. Only one such conviction can become spent. If a person receives more than one of these convictions, then none of the convictions may become spent.²⁰

¹⁸ Oireachtas Library and Research Service, [Research Matters: Reintegrating People with Convictions](#) (February 2025)

¹⁹ Ibid

²⁰ Ibid

The Criminal Justice (Rehabilitative Periods) Bill 2018 introduced by Senator Lynn Ruane addressed issues of eligibility, proportionality and introduced a new approach for young adults. In 2021, the Bill passed the Seanad with bi-partisan support and the Government committed to amending the 2016 Act. In October 2020, the Department of Justice launched a public consultation on spent convictions which focused on five key issues of: the sentencing length limits for spent convictions (up to 12 months); the limit to the number of convictions that can be considered spent (one conviction); the principle of proportionality; incorporating greater recognition of youth justice issues and the victim's perspective.²¹ No action has since been taken to legislate in this area and the Programme for Government 2025 contains no reference to reform.²²

The 2016 Act has been described by academics, legal practitioners and campaigners as “*narrow, disproportionate and ineffective*” in comparison to schemes in other countries.²³ Stakeholders have called for reform in this area in relation to removing the limit of one sentence that may become spent. It has been suggested that the limit should be increased to a larger number or removed entirely. Stakeholders have recommended the expansion of the category of convictions that can become spent from the current 12 month limit to up to 2 years for custodial sentences and 4 years for non-custodial sentences. There have also been calls for the Employment Equality Acts 1998–2015 and the Equal Status Acts 2000–2018 to be amended to prohibit discrimination against people with convictions in employment.²⁴

²¹ Department of Justice, [Minister McEntee launches public consultation process on Spent Convictions Policy](#) (October 2020)

²² Department of the Taoiseach, [Programme for Government 2025 - Securing Ireland's Future](#) (January 2025)

²³ Ibid

²⁴ Irish Penal Reform Trust, [The Secondary Punishment: A Scoping Study on Employer Attitudes to Hiring People with Criminal Convictions](#) (February 2024)

3 Proposals for Legislative Change

3.1 Legal Challenge

In 2020, the Northern Ireland Human Rights Commission (NIHRC) challenged the legality of Article 6(1) of the Rehabilitation of Offenders (Northern Ireland) Order 1978.²⁵ The applicant in this case was aged 21 when he was involved in the petrol bombing of a house. He was convicted of possession of a petrol bomb, for which he was sentenced to concurrent terms of imprisonment of 5 years and 4 years respectively. Since release from prison in 1982 he has had no involvement with the criminal justice system and no further convictions. As the sentences imposed on the applicant exceeded 30 months, the effect of Article 6(1)(b) of the Order was that they were incapable of becoming spent.

In 2022, the High Court declared Article 6(1) was incompatible with the applicant's Article 8 of the European Convention of Human Rights (ECHR) rights due to a failure to provide a mechanism by which the applicant could apply to have their criminal convictions considered spent irrespective of the passage of time and their personal circumstances.²⁶

In 2023, the Court of Appeal reversed the decision of the High Court following an appeal by the Department of Justice and held that Article 6(1) of the 1978 Order was compatible with Article 8 of the ECHR. This decision was then appealed by the NIHRC and heard by the UK Supreme Court in October 2024. In March 2025, the Supreme Court held that Article 6(1) of the 1978 Order is compatible with Article 8 of the ECHR and dismissed the appeal.²⁷ In dismissing the appeal, the Supreme Court held that there was a wide margin of appreciation for the state in light of the need to strike a fair balance between competing interests on difficult questions of moral and political judgment.²⁸

²⁵ Northern Ireland Human Rights Commission, [2021 Fact Sheet: Human Rights Commission Legal Action on the Rehabilitation of Offenders in Northern Ireland](#) (May 2021)

²⁶ [In the Matter of an Application by JR123 for Judicial Review](#) [2022] NIQB 42

²⁷ [In the matter of an application for Judicial Review by JR123 \(Appellant\) \(Northern Ireland\)](#) [2025] UKSC 8

²⁸ Ibid, paragraph 49

The Supreme Court also considered the relevant factors for the existing scheme to be:

- the gravity of the particular offence in the individual circumstances of the case;
- acceptability to the public of the degree of rehabilitation to be provided for, having regard to the gravity of the offence;
- the need for equity (and the perception of equity) as between offenders; and
- the need for the scheme to be reasonably simple and practical and well understood in its operation.²⁹

The Supreme Court ultimately upheld the decision of the Court of Appeal and concluded that Article 6(1) of the Rehabilitation of Offenders (NI) Order 1978 strikes a fair balance between the rights of the appellant, the rights and freedoms of others and the interest of the general community, that it falls within the margin of appreciation and therefore was not incompatible with Article 8 ECHR.³⁰

3.2 Public Consultation

A review of rehabilitation periods was commissioned by the Justice Minister in February 2020.³¹ A public consultation was subsequently launched in January 2021 entitled '*Rehabilitation of Offenders - A consultation on proposals to reform rehabilitation periods in Northern Ireland*'.³² This document highlighted the rationale for the consultation, noting "*changes in sentencing practice have meant that longer sentences are now being imposed than when rehabilitation periods were first established. In addition, the bar on custodial sentences of over 30 months being treated as spent in Northern Ireland may be counter-productive*". It also states that

²⁹ Northern Ireland Human Rights Commission, [Updated Fact Sheet: NIHRC Legal Action on the Rehabilitation of Offenders in Northern Ireland](#) (March 2025)

³⁰ Ibid

³¹ Department of Justice, [Reform of Rehabilitation Periods in Northern Ireland Amendments: Appendix A](#) (January 2025)

³² Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland](#) (January 2021)

*“the terms of the current scheme may act as an unintended barrier to employment for former offenders who have not re-offended since their release”.*³³

There were 77 responses to the consultation with 96 per cent agreeing that rehabilitation periods for custodial sentences in Northern Ireland should be reviewed. The majority of respondents (97%) supported a reduction of the rehabilitation periods. The importance of securing employment as a factor in desistance from crime was referred to by respondents.³⁴ There were a number of comments noting concerns around people being excluded from employment and training opportunities due to a conviction, potentially leading to further reoffending. They may also face barriers in a range of other areas, including access to financial products such as mortgages and insurance.

Separately, it is worth noting that Department of Justice statistics on reoffending levels during 2021-2022 provide information on offenders who received a non-custodial disposal at court, a diversionary disposal or who were released from custody. Of the 19,196 people in the 2021/22 cohort, 17.6% (3,386) reoffended during the one year observation period (adults 17.4% and youths 23.5%).³⁵ The overall proven reoffending rate has fluctuated between 16.5 per cent and 19 per cent since 2010-2011. Research from the Ministry of Justice in England and Wales has also indicated that individuals sentenced to over 4 years in custody may be rehabilitated after around 7 years for adults and 11 years for children and therefore at the same level of risk of reoffending as the general population.³⁶

In 2021, research conducted by Ulster University involving a survey of 115 employers locally indicated that 97% believed that rehabilitation of people with conviction histories was possible. The study also found that the type of offence was the most important concern for 82% of employers but that 64% of job applicants are not being

³³ Ibid, page 4

³⁴ Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland: Consultation Report and Summary of Responses](#) (October 2021)

³⁵ Department of Justice, [Adult and Youth Reoffending in Northern Ireland \(2021/22 Cohort\)](#) (October 2024)

³⁶ Ministry of Justice, [Reoffending Following Custodial Sentences or Community Orders, by Offence Seriousness and Offender Characteristics, 2000–2018](#) (September 2020)

given a chance to explain prior convictions on application forms meaning that employers do not have the context around these.³⁷

Approximately two thirds (65%) of respondents to the DoJ consultation supported the introduction of a two-part rehabilitation period, made up of the length of the sentence imposed by the court plus an additional “buffer” period. The majority of respondents (93%) also supported a review of the current custody bands. A number of respondents queried the rationale for the existing bands with some highlighting that “*modern sentencing standards*” should now be considered in re-evaluating the tiers as they were originally developed at a time when sentences were “*substantially shorter*”.³⁸ A number also highlighted that individuals in Northern Ireland were at a disadvantage compared to other parts of the UK.

The majority of respondents (94%) also supported a review of the current bar on custodial sentences of 30 months or more never becoming spent. Respondents were concerned that lifelong disclosure for custodial sentences implies that individuals with such sentences are incapable of being rehabilitated, irrespective of the circumstances in which the conviction took place. For example, an individual who commits an offence at a young age and never reoffends will have to declare their unspent conviction for the rest of their lives. Queries were also raised around whether lifelong disclosure is compatible with Article 8 (Right to Private and Family Life) of the European Convention on Human Rights. Many respondents were supportive of Northern Ireland aligning with approaches taken in other parts of the UK.

Respondents were also asked to consider whether the limit of 30 months should be changed to include determinate custodial sentences of over 30 months with no upper limit meaning that these could become spent. 68 per cent of respondents agreed with this suggestion to remove the upper limit. Other respondents were in favour of a review mechanism, similar to the Independent Criminal Records Filtering Review

³⁷ Ulster University, [Ulster University and NIACRO release first-of-its-kind research into employers' attitudes to recruiting those with criminal records](#) (October 2021)

³⁸ Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland: Consultation Report and Summary of Responses](#) (October 2021), page 10

Scheme, where individuals could apply for convictions to become spent after a predetermined timeframe.³⁹

A number of comments were also made during the consultation exercise in relation to the need for safeguards to be in place to protect the public from individuals who have committed serious offences. For Northern Ireland, the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 identifies job roles and professions where full disclosure is necessary. This specifies a number of employments and professions which are 'excepted' under which applicants must always declare their convictions. These include roles which come into contact with children or vulnerable people. They also cover work in law enforcement, the legal profession, medical practitioners and accountancy where a conviction is considered to have a significant bearing on suitability for employment.

The consultation highlights that no reform is being proposed to these safeguards with the Department taking the view that the provisions of the 1979 Order "*strike the correct balance between the needs of protecting people, especially the most vulnerable and children, while ensuring those who have reformed after committing offences are rehabilitated and their progress to becoming good and law abiding citizens is not disproportionately impeded by previous wrongdoing*".⁴⁰

In summary, the Department outlined a planned way forward on this issue in October 2021 through the development of a bespoke model for Northern Ireland with a fixed upper limit of up to 10 years for any kind of offence, covering both custodial sentences and non-custodial sentences. This was not specifically included in the consultation paper but was developed as a result of consideration of the "*specific conviction and re-offending statistics for Northern Ireland, together with consideration of responses to the consultation that called for any reforms to be simple to understand and straightforward to operate*".⁴¹

³⁹ Ibid, page 14

⁴⁰ Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland](#) (January 2021), page 11

⁴¹ Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland: Consultation Report and Summary of Responses](#) (October 2021), page 22

The stated rationale for an upper limit of 10 years was that the Criminal Justice (Northern Ireland) Order 2008 defines a “serious offence” as one that is specified in Schedule 1 to the Order. Schedule 1 lists 120 serious violent and sexual offences which carry a maximum penalty of 10 years or more and which can attract a public protection sentence in the form of a discretionary life sentence, an indeterminate custodial sentence (ICS) or an extended custodial sentence (ECS).⁴²

However, replacing one ‘bright line’ upper limit of 30 months with another of 10 years could still give rise to the possibility of a future legal challenge. Therefore the Department also undertook to explore the Scottish ‘review’ mechanism for non-serious offences of over 4 years and to consider the development of an independent review mechanism for Northern Ireland.⁴³ The amendments to the Justice Bill are aimed at delivering on the legislative reforms set out in the summary of responses to the consultation and to mitigate against any future legal challenges.

3.3 Justice Bill

Clause 28A of the Justice Bill amends rehabilitation periods set under Article 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

Clause 28A(2) sees a change in the length of certain sentences which are currently excluded from rehabilitation under Article 6(1) of the 1978 Order. This amends “sentences of imprisonment or corrective training” under Article 6(1)(b) of the 1978 Order from terms exceeding 30 months to terms exceeding 10 years. This also changes Article 6(1)(d) covering a sentence of detention for a term exceeding 30 months under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (children convicted of grave crimes) and Article 6(1)(e) covering sentences exceeding 30 months passed under section 209 of the Armed Forces Act 2006 (certain serious offences). Article 28A amends both of these to 10 years.

Clause 28A(3)-(13) set rehabilitation periods for sentences that are currently excluded from rehabilitation and shorten the rehabilitation period of sentences in

⁴² Ibid, page 21

⁴³ Ibid, page 23

Article 6 of the 1978 Order. Table 5 below outlines the proposed rehabilitation periods contained in Clause 28A of the Justice Bill.

Table 5: Proposals under Clause 28A of the Justice Bill

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Imprisonment of over 10 years	Excluded sentence – a review mechanism is provided for in Article 28B	Excluded sentence – a review mechanism is provided for in Article 28B
Imprisonment of more than 4 years and up to 10 years	Length of sentence plus 7 years	Length of sentence plus 3.5 years
Imprisonment of more than 1 year up to 4 years	Length of sentence plus 4 years	Length of sentence plus 2 years
Imprisonment of less than 1 year	Length of sentence plus 1 year	Length of sentence plus 6 months
Cashiering, dismissal, discharge with ignominy or dismissal with disgrace from His Majesty's Service	1 year	6 months
Service Detention	Length of the sentence plus 1 year	Length of the sentence plus 6 months

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Absolute Discharge	None	None
Conditional Discharge, Probation Order or Bind Over (to keep the peace and/or be of good behaviour)	Period of the Order	Period of the Order
Fine or any other sentence subject to rehabilitation but not covered elsewhere in the 1978 Order	1 year	6 months
Detention of over 4 years but less than 10 years under Article 45 (grave crimes) of the Criminal Justice (Children) (Northern Ireland) Order 1998	N/A	Length of sentence plus 3.5 years

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Detention of over 1 year but less than 4 years under Article 45 (grave crimes) of the Criminal Justice (Children) (Northern Ireland) Order 1998	N/A	Length of sentence plus 2 years
Detention under Section 209 (certain serious offences) of the Armed Forces Act 2006	N/A	Length of sentence plus 6 months
Detention and Training Order under section 211 of the Armed Forces Act 2006	N/A	Period of the Order

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Service Community Order or Overseas Community Order under the Armed Forces Act 2006	Period of the Order	Period of the Order
Community Supervision Order under Schedule 5A of the Army Act 1955 or the Air Force Act 1955 or under Schedule 4A of the Naval Discipline Act 1957	Period of the Order	Period of the Order

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
A Youth Custody and Supervision Order (introduced by clause 12 of the Justice Bill) or a Juvenile Justice Centre Order for more than 1 year but less than 2 years	N/A	Length of sentence plus 1 year
A Youth Custody and Supervision Order (introduced by clause 12 of the Justice Bill) or a Juvenile Justice Centre Order for less than 1 year	N/A	Length of sentence plus 6 months

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Attendance Centre Order, Reparation Order, Community Responsibility Order or Youth Conference Order under the Criminal Justice (Children) (Northern Ireland) Order 1998	Period of the Order	Period of the Order
Order imposing any disqualification, disability, prohibition, penalty, requirement or restriction	Immediate	Immediate

(Source: Justice Bill, [Clause 28A](#) on Rehabilitation Periods for Convictions)

In terms of commencement of these provisions, Department of Justice officials indicated to the Justice Committee during a session in January 2025 that clause 28A covering rehabilitation periods will “*automatically come into operation two months after Royal Assent*”.⁴⁴

Clause 28B inserts new Article 7A into the Rehabilitation of Offenders (Northern Ireland) Order 1978 to provide the Department of Justice with a regulation making power to allow for applications for rehabilitation for certain offences currently excluded from rehabilitation under Article 6(1) of the 1978 Order. The sentences for which an application for rehabilitation may be permitted are those which exceed 10 years. However, other sentences in Article 6(1), such as imprisonment for life and those with a public protection element, will remain excluded from rehabilitation.⁴⁵

New Article 7A(2) highlights that the Department may make regulations in relation to three types of sentences:

- imprisonment or corrective training exceeding 10 years;
- detention exceeding 10 years under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (children convicted of grave crimes); and
- detention exceeding 10 years passed under Section 209 of the Armed Forces Act 2006 (certain serious offences).

This would allow certain terms of sentences exceeding 10 years to become rehabilitated by an order of a specified court or tribunal. The Department has highlighted that the review mechanism is intended to “*mitigate against future legal challenges against the replacement of one ‘bright line’ upper limit with another*” and to address aspects of court judgments relating to the absence of any appeal route for those whose convictions fell outside the terms of the scheme.⁴⁶

⁴⁴ Northern Ireland Assembly Official Report, [Justice Bill - Department of Justice Amendments \(Reform of Rehabilitation Periods; Repeal of Vagrancy Legislation; and Live Links \[Courts and Tribunals\]\): Department of Justice](#) (23 January 2025)

⁴⁵ Department of Justice, Justice Bill: [Human Rights/Legislative Competence in relation to Departmental Amendments](#) (March 2025)

⁴⁶ Department of Justice, [Reform of Rehabilitation Periods in Northern Ireland Amendments: Appendix A](#) (January 2025)

Further policy development and consultation is required on the review mechanism. However, it appears to be similar to a provision contained in Section 33 of the Management of Offenders (Scotland) Act 2019. This enables Scottish Ministers to make regulations which will allow a person to apply for a review of their conviction for a sentence of imprisonment exceeding 4 years. However, these regulations have not yet been made meaning it is not possible to apply for such a review in Scotland.

New Article 7(A)(5) provides for a range of factors which the regulations may include provision about, including:

- 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);
- the date from which the person is to be treated as a rehabilitated person in respect of the conviction;
- the procedure for making and determining applications, including the form of application, information to be provided and fees to be paid;
- matters to which the court or tribunal must (or may) have regard in determining an application;
- the arrangements for notification or publication of orders;
- the review of, or appeals from, the determination of an application;
- second or subsequent applications if an application is refused (including specifying a period during which such applications may not be made);
- reports to be produced on the number of applications made, the outcome of applications and for the delivery of those reports to the Department.

Under Article 7(A)(8), any regulations “(a) *may make consequential, supplementary and incidental provision; (b) may amend any statutory provision*”. Under Article 7(A)(9), any regulations must be laid before and approved by a resolution of the Assembly before coming into operation. It is worth noting that the NIHRC has highlighted that it would be more appropriate for the Department to be placed under a duty to enact the proposed regulations. The NIHRC believes that this would provide certainty and allow interested parties to prepare for the consultation exercise. The NIHRC therefore recommends that the Justice Committee gives consideration to amending the proposed Clause 28B to provide that the Department of Justice “*shall*

*make regulations for and in connection with allowing a person on whom a sentence has been imposed in respect of a conviction to apply for an order”.*⁴⁷

3.4 Stakeholder Reaction

Organisations such as the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) have campaigned for reform of the Rehabilitation of Offenders (Northern Ireland) Order 1978. NIACRO has highlighted that helping people with convictions to contribute to and feel included in society through employment is key to reducing reoffending.⁴⁸ They have also expressed concern that Northern Ireland is out of line with other parts of the UK where reform has taken place, describing the current bar on custodial sentences of over 30 months becoming spent as “*unjust*”.⁴⁹

The Justice Committee’s call for evidence on the Justice Bill closed on 4 April 2025.⁵⁰ Several organisations commented on the amendments to the Bill on rehabilitation periods. The Policing Board indicated its support for reform by the Department in this area.⁵¹

Victim Support Northern Ireland also highlighted support for proposals to reform rehabilitation periods as this “*encourages the rehabilitation of offenders into society, potentially reducing the likelihood of reoffending*”. However, they also noted that any reforms made to rehabilitation periods needs to “*allow for a balance between rehabilitation and victim protection as victims may feel that the process undermines the gravity of the offence and their own emotional recovery, particularly if it allows offenders to move on too quickly*”.⁵²

⁴⁷ Northern Ireland Human Rights Commission, [Briefing to Committee for Justice on Amendments to the ‘Justice Bill 07/22-27’](#) (April 2025), paragraph 4.12

⁴⁸ NIACRO, [5 Key Policy Asks at 50](#) (March 2022)

⁴⁹ NIACRO, [Response to Department of Justice consultation on proposals to reform rehabilitation periods in Northern Ireland](#) (March 2021), page 8

⁵⁰ Northern Ireland Assembly, [Justice Bill Written Submissions](#) (April 2025)

⁵¹ Northern Ireland Policing Board, [Policing Board’s Response to the Justice Bill](#) (March 2025), page 3

⁵² Victim Support Northern Ireland, [Response to Justice Bill Call for Views](#) (April 2025), page 9

In addition, the National Crime Agency said that it would “*welcome equivalence of rehabilitation guidelines across the Devolved Administrations*”. The NCA stated that “*law enforcement agencies have a responsibility to work with the criminal justice system to protect the public from the most serious offenders, and designating offenders as rehabilitated too soon may undermine this responsibility*”.⁵³

The Commissioner Designate for Victims of Crime has highlighted that the rehabilitation of offenders can raise sensitivities for victims. The Commissioner also noted that the “*Department has chosen not to make serious sexual, violent and terrorist offences disclosable regardless of the passage of time as is the case in England and Wales. It is important that the rationale behind this approach is clearly understood by victims and the public*”.

4 Scrutiny Points

- Has the Department reviewed the decision of the Supreme Court *In the matter of an application for Judicial Review by JR123 (Appellant) (Northern Ireland)* [2025] UKSC 8? Are there any further implications from the judgment for policy making around the rehabilitation of offenders?
- Has the Department engaged with voluntary and community sector stakeholders on these changes since the 2021 consultation? How will changes under this legislation be communicated to stakeholders and the wider general public? Will guidance explaining the amended rehabilitation periods be developed by the Department?
- The Department has stated that reducing reoffending through the rehabilitation of offenders aims to ensure that there are fewer victims of crime and less money is spent on repeat offenders circulating within the justice system.⁵⁴ How will these reforms assist with this? And how will this be quantified and evaluated?
- The Department’s rationale for a fixed upper limit of 10 years appears to be related to Schedule 1 of the Criminal Justice (Northern Ireland) Order 2008 which lists a number of violent and sexual offences which can attract significant

⁵³ National Crime Agency, [Response to the Justice Bill](#) (April 2025)

⁵⁴ Department of Justice, [Reform of Rehabilitation Periods in Northern Ireland Amendments: Appendix A](#) (January 2025)

sentences of over 10 years (120 offences) – why was the 10 year limit not subject to inclusion in the 2021 public consultation? Has the Department since engaged with stakeholders on this proposal? Can detail be provided around the “*specific conviction and re-offending statistics*”⁵⁵ that underpinned the 10 year limit? Was any consideration given to not having an upper limit and instead excluding certain serious offences from rehabilitation? Did the Department consider the alternative approach adopted in England and Wales of allowing sentences of over 4 years to become spent except those that are specified as serious sexual, violent and terrorism offences (currently over 170 offences)? Can the Department also provide a rationale for each of the other sentencing bands selected to determine the rehabilitation periods?

- Can the Department provide a timeframe for the development of the regulations containing the review mechanism under clause 28B? Will there be consultation on these with relevant stakeholders? And if so, when is this projected to take place? Has the Department considered the resource implications of the review mechanism? How many applications are anticipated? Article 7A(5) provides for a range of factors which the regulations may include - further to this list, will there be any provision for reasons to be given for a particular determination by a specified court or tribunal?

⁵⁵ Department of Justice, [Consultation on Proposals to Reform Rehabilitation Periods in Northern Ireland: Consultation Report and Summary of Responses](#) (October 2021), page 22

Appendix 1: Tables of Rehabilitation Periods in England and Wales & Scotland

Table 6: Rehabilitation Periods in England and Wales

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Custodial sentence of more than 4 years	Length of sentence plus 7 years (subject to exclusions in Schedule 18 of the Sentencing Act 2020)	Length of sentence plus 3.5 years (subject to exclusions in Schedule 18 of the Sentencing Act 2020)
Custodial sentence of between 1 year and 4 years	Length of sentence plus 4 years	Length of sentence plus 2 years
Custodial sentence of 1 year or less	Length of sentence plus 1 year	Length of sentence plus 6 months
Fine	1 year	6 months
Absolute Discharge	None	None

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Conditional Discharge	Period of the Order	Period of the Order
Conditional Caution, Diversionary Caution and Youth Conditional Caution	3 months or when the caution ceases to have effect if earlier	3 months or when the caution ceases to have effect if earlier
Simple Caution and Youth Caution	Spent immediately	Spent immediately
Compensation Order	Once paid in full	Once paid in full
Removal from His Majesty's Service	1 year	6 months
Service Detention	1 year	6 months
A severe reprimand or reprimand under the Armed Forces Act 2006	1 year	6 months

Sentence	Rehabilitation Period for Over 18s at Conviction	Rehabilitation Period for Under 18s at Conviction
Relevant Orders (impose a disqualification, disability, prohibition or other penalty. This includes Community and Youth Rehabilitation Orders/ Hospital Orders/ Bind Overs/ Referral Orders/ Care Orders)	The end date given by the order or, if no date given, 2 years from the date of conviction - unless the order states 'unlimited', 'indefinitely' or 'until further order' as in these cases it will remain unspent	The end date given by the order or, if no date given, 2 years from the date of conviction - unless the order states 'unlimited', 'indefinitely' or 'until further order' as in these cases it will remain unspent

(Source: Disclosure and Barring Service, [Rehabilitation Periods](#), October 2023)

Table 7: Disclosure Periods in Scotland

Sentence	Disclosure Period for Over 18s at Conviction	Disclosure Period for Under 18s at Conviction
Custodial sentence of over 48 months	Excluded sentence - A review mechanism will be available in due course for relevant sentences over 48 months	Excluded sentence - A review mechanism will be available in due course for relevant sentences over 48 months
Custodial sentence of over 30 months and up to 48 months	Length of sentence plus 6 years	Length of sentence plus 3 years
Custodial sentence of over 12 months and up to 30 months	Length of sentence plus 4 years	Length of sentence plus 2 years
Custodial sentence of 12 months or less	Length of sentence plus 2 years	Length of sentence plus 1 year
Fine or Compensation Order	1 year	6 months

(Source: Scottish Government, [Guidance: Self-disclosure of Previous Convictions and Alternatives to Prosecution](#), August 2020)

