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8. Section 7 provides for the abolition of the death penalty for the offences listed in the First Schedule. These are consequential on the abolition of the death penalty for the offences and include the necessary amendments to the Criminal Justice Act 1954 as regards persons subject to military law who are convicted by a court-martial of treason or the murders which are now 'capital' murders or of those purely military offences, e.g. mutiny with violence, for which the death penalty may at present be imposed.



9. Section 9 provides for consequential amendments to the Criminal Justice Act 1954.

## AN BILLE UM CHEARTAS COIRIÚIL, 1981

### CRIMINAL JUSTICE BILL, 1981

#### EXPLANATORY MEMORANDUM

1. The Bill proposes to abolish capital punishment for treason and for those murders to which it still applies, e.g. murders of gardaí and prison officers in the course of their duty. It substitutes a penalty of life imprisonment for these offences and provides for a minimum period of imprisonment (to be specified by the court on passing sentence) of at least 40 years, less any remission earned by good conduct. It proposes to restrict during this minimum period the present statutory powers of the Government and the Minister for Justice to commute or remit the sentences and also to prohibit during that period the exercise of the separate statutory power to grant temporary release, unless for grave reasons of a humanitarian nature.
2. Similar provisions are included (*paragraph 4 of the First Schedule*) in relation to persons subject to military law who are convicted by a court-martial of treason or the murders in question. It is also proposed to substitute life imprisonment for the death penalty in relation to certain purely military offences, e.g. mutiny with violence.
3. *Section 1* provides for the abolition of the death penalty.
4. *Section 2* provides that the penalty for treason and murder shall be imprisonment for life.
5. The effect of *sections 3 and 4* is that the trial court in sentencing a person convicted of treason or of a murder which is now 'capital' murder must specify a minimum period of imprisonment to be served by him. That period must not be less than 40 years. *Section 3 (2) (a)* makes it clear that the necessary criminal intent (*mens rea*) on the part of the accused person must be established in relation to all the ingredients constituting such a murder.
6. *Section 5* provides that the power of the Government or of the Minister for Justice under section 23 of the Criminal Justice Act 1951 to commute or remit punishment will not be exercisable during the minimum period of imprisonment specified by the court under *section 4*, less any remission for industry and good conduct. Under *subsection (3)* the separate statutory power to grant temporary release will not be exercisable during the period in question unless for grave reasons of a humanitarian nature, and then only for such limited duration as is justified by those reasons.
7. *Section 6* is an adaptation of the procedural provisions of subsections (1) and (2) of section 3 of the Criminal Justice Act, 1964 relating to 'capital' murder.



8. Section 7 provides for the amendments listed in the *First Schedule*. These are consequential on the abolition of the death penalty for all offences and include the necessary amendments to the Defence Act 1954 as regards persons subject to military law who are convicted by a court-martial of treason or of murders which are now 'capital' murders or of those purely military offences, e.g. mutiny with violence, for which the death penalty may at present be imposed.

9. Section 8 is a transitional provision and sections 9 and 10 provide for consequential repeals and the short title.

*An Roinn Dlí agus Cirt*  
*Deireadh Fómhair 1981*

(mar a thionscnaíodh)

(as initiated)

1. The Bill proposes to abolish capital punishment for treason and for those murders to which it still applies, e.g. murders of Garda and persons in the course of their duty. It also proposes to substitute a minimum period of imprisonment for a minimum period of imprisonment for these offences and provides for a minimum period of imprisonment (to be specified by the court on passing sentence) of at least 40 years for any person convicted of a murder (as defined in section 2) who is not a person who is convicted of a murder which is now 'capital' murder. It proposes to restrict the minimum period to be served during that period to the exercise of the separate statutory power to grant temporary release, unless for grave reasons of a humanitarian nature.

2. Similar provisions are included (paragraph 4 of the First Schedule) in relation to persons subject to military law who are convicted by a court-martial of treason or the murders in question. It is also proposed to substitute life imprisonment for the death penalty in relation to certain purely military offences, e.g. mutiny with violence.

*An Seanadóir Gemma Uí Eodhúsa a thíolaic,*  
*7 Deireadh Fómhair 1981*

*Presented by Senator Gemma Hussey,*  
*7 Deireadh Fómhair 1981*

3. Section 1 provides for the abolition of the death penalty for treason and murder shall be imprisonment for life.

4. The effect of sections 3 and 4 is that the trial court in sentencing a person convicted of treason or of a murder which is now 'capital' murder must specify a minimum period of imprisonment to be served by him. That period must not be less than 40 years. Section 3 (2) (a) makes it clear that the necessary criminal intent (mens rea) on the part of the accused person must be established in relation to all the ingredients constituting such a murder.

5. Section 2 provides that the power of the Government or of the Minister for Justice under section 23 of the Criminal Justice Act 1951 to commute or remit punishment will not be exercisable during the minimum period of imprisonment specified by the court under section 4, less any remission for industry and good conduct. Under subsection (7) the separate statutory power to grant temporary release will not be exercisable during the period in question unless for grave reasons of a humanitarian nature, and then only for such limited duration as is justified by those reasons.

BAILE FHOIILSIÚ AN OIBRIG AN ISOLÁDÓIR

Le ceannach díreach ón Oifig Dlí agus Cirt, Baile Átha Cliath, nó trí An Stúara, Ard Oifig an Phost, Baile Átha Cliath, nó trí aon díltoíir leabhar.

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7. Section 8 is an adaptation of the procedural provisions of sections (1) and (2) of section 3 of the Criminal Justice Act, 1951 relating to capital murder.