



An Bille um Cheartas Coiriúil (Tréimhsí Athshlánúcháin), 2018
Criminal Justice (Rehabilitative Periods) Bill 2018

Mar a tionscnaíodh

As initiated



**AN BILLE UM CHEARTAS COIRIÚIL (TRÉIMHSÍ ATHSHLÁNÚCHÁIN), 2018
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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and commencement
2. Interpretation
3. Report on operation of Act

PART 2

AMENDMENTS TO CRIMINAL JUSTICE (SPENT CONVICTIONS AND CERTAIN DISCLOSURES) ACT 2016

4. Extension of eligible sentences to be spent
5. Relevant rehabilitative periods
6. Amendment of section 5 of Act of 2016 (Convictions which may be regarded as spent in certain circumstances)

PART 3

AMENDMENTS TO NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACT 2012

7. Amendment of section 14A of Act of 2012 (Certain convictions not required to be disclosed)

SCHEDULE

RELEVANT PERIOD FOR CUSTODIAL SENTENCES AND NON-CUSTODIAL SENTENCES

ACTS REFERRED TO

Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (No. 4)

National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (No. 47)

National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016



AN BILLE UM CHEARTAS COIRIÚIL (TRÉIMHSÍ ATHSHLÁNÚCHÁIN), 2018
CRIMINAL JUSTICE (REHABILITATIVE PERIODS) BILL 2018

Bill

entitled

An Act to amend and extend the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to provide for broadening the range of convictions which may be regarded as spent convictions, to provide for proportionality in determining the period before a conviction becomes spent, and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

PART 1

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PRELIMINARY AND GENERAL

Short title, collective citation and commencement

1. (1) This Act may be cited as the Criminal Justice (Rehabilitative Periods) Act 2018.
- (2) This subsection, *sections 1, 3, 4, 5 and 6* and the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 may be cited together as the Criminal Justice (Spent Convictions and Certain Disclosures) Acts 2016 to 2018. 15
- (3) This subsection, *section 7* and the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 may be cited together as the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2018.
- (4) This Act comes into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions. 20

Interpretation

2. In this Act— 25
 - “Act of 2016” means the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016;
 - “Act of 2012” means the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.

Report on operation of Act

3. The Act of 2016 is amended in Part 2 by inserting the following after section 13:

“13A. The Minister shall—

- (a) not later than 2 years after this section comes into operation, commence a review of the operation of this Act, and 5
- (b) not later than 12 months after the commencement of the review, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.”.

PART 2

AMENDMENTS TO CRIMINAL JUSTICE (SPENT CONVICTIONS AND CERTAIN DISCLOSURES) ACT 2016 10

Extension of eligible sentences to be spent

4. Section 4 of the Act of 2016 is amended—

- (a) in the definition of ‘custodial sentence’ by replacing “24 months” for “12 months” in each place where it occurs,
- (b) in the definition of ‘excluded sentence’ by replacing “24 months” for “12 months”, 15
- (c) in the definition of ‘non-custodial sentence’ by replacing “4 years or less” for “2 years or less”, and
- (d) by inserting the following definition after the definition of “non-custodial sentence”: 20
 - “ ‘relevant period’, in relation to a relevant sentence of a court imposed on a person, means the period that applies under section 4A in respect of the relevant sentence and includes any extension of that period under section 4B;”.

Relevant rehabilitative periods 25

5. (1) The Act of 2016 is amended by inserting the following sections after section 4:

“Relevant periods for relevant sentence imposed

- 4A. (1) For persons who have reached the age of 24 years at the time the offence was committed and over the relevant period that applies to each custodial sentence mentioned in column (2) of Part 1 of Schedule 3 shall be the period specified in column (3) of that Part of that Schedule opposite such mention. 30
- (2) For persons who have reached the age of 18 years but have not yet reached the age of 24 years at the time the offence was committed the relevant period that applies to each custodial sentence mentioned in column (2) of Part 1 of Schedule 3 shall be the period specified in column (4) of that Part of that Schedule opposite such mention. 35

- (3) For persons who have reached the age of 24 years at the time the offence was committed and over the relevant period that applies to each non-custodial sentence mentioned in column (2) of Part 2 of Schedule 3 shall be the period specified in column (3) of that Part of the Schedule opposite such mention. 5
- (4) For persons who have reached the age of 18 years but have not yet reached the age of 24 years at the time the offence was committed and over the relevant period that applies to each non-custodial sentence mentioned in column (2) of Part 2 of Schedule 3 shall be the period specified in column (4) of that Part of the Schedule opposite such mention. 10
- (5) The relevant period shall be calculated from the effective date of conviction in respect of the relevant sentence to which that period applies.

Further convictions and effect on relevant period 15

4B. Where—

- (a) a person is convicted of an offence in respect of which a relevant sentence is imposed on him or her, and
- (b) during the relevant period that applies to that sentence, the person is convicted of another offence (in this section referred to as the “other offence”) in respect of which a further relevant sentence is imposed on him or her, 20

the relevant period that applies to the first-mentioned offence shall be extended to the end of the relevant period that applies to the other offence if that is later.”. 25

- (2) The Act of 2016 is amended by inserting after Schedule 2 to that Act the text set out in the Schedule to this Act.

Amendment of section 5 of Act of 2016 (Convictions which may be regarded as spent in certain circumstances)

6. Section 5 of the Act of 2016 is amended— 30

- (a) by substituting the following subsection for subsection (2)(b):

“(b) the relevant period that applies under section 4A to the sentence imposed in respect of the conviction concerned (including, where appropriate, any extension of that period under section 4B) shall have ended.”, 35

- (b) by substituting the following for subsection (3):

“(3) Subject to subsection (5)—

- (a) in respect of a person who has reached the age of 24 years and over no more than 2 convictions may be regarded as spent convictions and if a person who has reached the age of 24 years and over has more than 2 convictions, this section shall not apply to that person, 40

- (b) in respect of a person who has reached the age of 18 years but has not yet reached the age of 24 years no more than 3 convictions may be regarded as spent convictions and if a person between the age of 18 years and 23 years has more than 3 convictions, this section shall not apply to that person.”.

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PART 3

AMENDMENTS TO NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACT 2012

Amendment of section 14A of Act of 2012 (Certain convictions not required to be disclosed)

7. Section 14A of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is amended— 10

- (a) by substituting the following subsection for subsection 14A(1)(c):

“(c) the relevant period that applies shall have ended.”,

- (b) by substituting the following subsection for subsection 14A(2):

“(2) Subject to subsection 4—

15

- (a) in respect of a person who has reached the age of 24 years and over, no more than 2 convictions may be regarded as spent convictions and if a person who has reached the age of 24 years and over has more than 2 convictions, this section shall not apply to that person,

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- (b) in respect of a person who has reached the age of 18 years but has not yet reached the age of 24 years, no more than 3 convictions may be regarded as spent convictions and if a person between the ages of 18 and 23 years has more than 3 convictions, this section shall not apply to that person.”,

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- (c) by substituting in the definition of “excluded offence” in subsection (5) of “2016;” for “2016.”,

- (d) by inserting the following definition after the definition of “excluded offence”:

“ ‘relevant period’ in relation to a relevant sentence of a court imposed on a person, means the period that applies under section 4A of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 in respect of the sentence and includes any extension of that period under section 4B of that Act.”.

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SCHEDULE

RELEVANT PERIOD FOR CUSTODIAL SENTENCES AND NON-CUSTODIAL SENTENCES

“SCHEDULE 3

PART 1

CUSTODIAL SENTENCES

| Reference number | Relevant Sentence imposed | Duration of relevant period for persons aged 24 years and over | Duration of relevant period for persons who have reached the age of 18 years but have not yet reached the age of 24 years | 5 |
|------------------|--|--|---|----|
| (1) | (2) | (3) | (4) | |
| 1. | Term of imprisonment of 6 months or less. | 4 years | 2 years | 10 |
| 2. | Term of imprisonment of 12 months or less but more than 6 months. | 5 years | 2 years 6 months | 15 |
| 3. | Term of imprisonment of 18 months or less but more than 12 months. | 6 years | 3 years | 20 |
| 4. | Term of imprisonment of 24 months or less but more than 18 months. | 7 years | 3 years 6 months | |
| 5. | Term of imprisonment of 24 months or less the execution of which is suspended in part. | Relevant period that applies to that part of the sentence that is not suspended unless it is duly reactivated. | Relevant period that applies to that part of the sentence that is not suspended unless it is duly reactivated. | 25 |
| 6. | Term of imprisonment imposed in one or more consecutive or concurrent sentences not exceeding 24 months in total | Relevant period that applies to the longer or longest sentence. | Relevant period that applies to the longer or longest sentence. | 30 |
| 7. | Fine and any of the sentences mentioned at items 1 to 6. | Relevant period that applies to the custodial part of the sentence concerned. | Relevant period that applies to the custodial part of the sentence concerned. | 35 |
| | | | | 40 |

PART 2

NON-CUSTODIAL SENTENCES

| Reference number | Sentence imposed | Duration of relevant period for persons aged 24 years and above | Duration of relevant period for persons who have reached the age of 18 years but have not yet reached the age of 24 years | |
|------------------|---|---|---|-----------------------|
| (1) | (2) | (3) | (4) | |
| 1. | Term of imprisonment the execution of which is suspended for a specified period and which suspension is not subsequently revoked in whole or in part. | The period of suspension specified by the court | The period of suspension specified by the court | 5 10 15 |
| 2. | Class A fine, Class B fine, or Class C fine. | 3 years | 1 year 6 months | |
| 3. | Class D fine or Class E fine. | 1 year | 1 year | |
| 4. | Fine exceeding the maximum amount that can be imposed as a Class A fine. | 5 years | 2 years 6 months | 20 |
| 5. | Community service order imposed on a person as an alternative to a sentence of imprisonment for a term of 24 months or less | 2 years | 2 years | 25 |
| 6. | Any other relevant non-custodial sentence (other than an order to which section 3(3) of the Criminal Justice (Community Service) Act 1983 applies). | Relevant period that applies to the custodial equivalent of the sentence concerned. | Relevant period that applies to the custodial equivalent of the sentence concerned. | 30 |

An Bille um Cheartas Coiriúil (Tréimhsí
Athshlánúcháin), 2018

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú agus do leathnú an Achta um Cheartas Coiriúil (Ciontuithe Spíonta agus Nochtadh Áirithe), 2016 chun socrú a dhéanamh go leathnófar an réimse ciontuithe a bhféadfar a mheas gur ciontuithe spíonta iad, do dhéanamh socrú go mbeidh comhréireacht ann agus an tréimhse sula dtiocfaidh ciontú chun bheith ina chiontú spíonta á cinneadh, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Na Seanadóirí Lynn Ruane, Prionsios Ní Dhuibhe,
Colette Kelleher, John G. Dolan, Alice-Mary
Higgins agus Grace O'Sullivan a thug isteach,*

20 Nollaig, 2018

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*Introduced by Senators Lynn Ruane, Frances Black,
Colette Kelleher, John G. Dolan, Alice-Mary
Higgins and Grace O'Sullivan,*

20th December, 2018

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52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54

ISBN 978-1-4468-6408-1



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