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

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*Mar a leasaíodh i gCoiste*

*As amended in Committee*

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

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As amended in Committee*

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SCHEDULE

RELEVANT PERIOD FOR CUSTODIAL SENTENCES AND NON-CUSTODIAL SENTENCES

ACTS REFERRED TO

Children Act 2001 (No. 24)

Children Acts 2001 to 2015

Criminal Justice (Community Service) Act 1983 (No. 23)

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

Employment Equality Act 1998 (No. 21)

Employment Equality Acts 1998 to 2015

Misuse of Drugs Act 1977 (No. 12)

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

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

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# 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, to make consequential amendments to other Acts, to amend the Employment Equality Act 1998, and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:** 10

## PART 1

### PRELIMINARY AND GENERAL

#### Short title, collective citation and commencement

1. (1) This Act may be cited as the Criminal Justice (Rehabilitative Periods) Act 2019.
- (2) This subsection, *section 2, Part 2* and the Act of 2016 may be cited together as the Criminal Justice (Spent Convictions and Certain Disclosures) Acts 2016 to 2019. 15
- (3) This subsection, *Part 3* 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 2019 and shall be construed together as one. 20
- (4) This subsection, *Part 4* and the Employment Equality Acts 1998 to 2015 may be cited together as the Employment Equality Acts 1998 to 2019 and shall be construed together as one.
- (5) This subsection, *Part 5* and the Children Acts 2001 to 2015 may be cited together as the Children Acts 2001 to 2019 and shall be construed together as one. 25
- (6) 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.

**Definition**

- 2. In this Act, “Act of 2016” means the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

PART 2

**Extension of eligible sentences to be spent**

- 3. 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”, 10
  - (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”: 15
    - “ ‘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** 20

- 4. (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 25 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 (3) of that Part of that Schedule opposite such mention. 25
  - (2) For persons who have reached the age of 18 years but have not yet reached the age of 25 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. 30
  - (3) For persons who have reached the age of 25 years at the time the offence was committed, 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. 35
  - (4) For persons who have reached the age of 18 years but have not yet



reached the age of 25 years at the time the offence was committed, 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.

- (5) Notwithstanding subsections (1) to (4), the relevant period in respect of a relevant sentence imposed on a person for an offence under section 3 of the Misuse of Drugs Act 1977 shall be the lesser of the following: 5
- (a) the period determined in accordance with subsections (1) to (4);
  - (b) the period of 3 years. 10
- (6) 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**

**4B.** Where— 15

- (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.”.

- (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. 25

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

**5.** Section 5 of the Act of 2016 is amended—

- (a) by substituting the following subsection for subsection (2)(b): 30

“(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.”,

and 35

- (b) by deleting subsections (3) and (5).

#### **Report on operation of Act**

**6.** 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
- (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.”. 5

### PART 3

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

##### **Definition (*Part 3*)**

7. In this Part, “Act of 2012” means the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. 10

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

8. Section 14A of the Act of 2012 is amended—

- (a) in subsection (1)— 15

(i) by substituting “a relevant court” for “the District Court”,

(ii) by inserting the following paragraph after paragraph (a):

“(aa) the penalty imposed by the court in respect of the conviction concerned is a relevant sentence;”,

and 20

(iii) by substituting the following paragraph for paragraph (c):

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

(b) by deleting subsections (2) and (4),

(c) in subsection (5)—

(i) in the definition of “effective date of conviction”, by substituting “a relevant court” for “the District Court”, and 25

(ii) in the definition of “excluded offence” by substituting “2016;” for “2016.”, and by inserting the following definitions after the definition of “excluded offence”:

“ ‘relevant court’ means the District Court or the Circuit Court; 30

‘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; 35

‘relevant sentence’ has the meaning given to it in Part 2 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.”,

and

(d) by deleting subsection (6). 5

### **Amendment of Schedule 3 to Act of 2012**

9. Schedule 3 to the Act of 2012 is amended in paragraph 16 by substituting “an offence under” for “a first offence under”.

## **PART 4**

AMENDMENT TO EMPLOYMENT EQUALITY ACT 1998 10

### **Discriminatory treatment of persons with spent convictions or findings of guilt**

10. The Employment Equality Act 1998 is amended by inserting the following section after section 14A:

“**14B.** (1) For the purposes of this Act, where an employer treats a person less favourably by reason of a spent conviction, the less favourable treatment constitutes discrimination by the employer in relation to the person’s access to, or conditions of, employment. 15

(2) For the purposes of subsection (1), a person is treated less favourably by reason of a spent conviction where each of the following applies:

(a) the person is an employee or prospective employee of the employer concerned; 20

(b) the person is a person to whom a spent conviction relates;

(c) the employer does either of the following:

(i) in the case of a prospective employee, requires the prospective employee to disclose a spent conviction or any circumstances ancillary to the conviction in the course of an application or interview for the employment concerned; 25

(ii) in the case of either an employee or a prospective employee, treats the person concerned less favourably for failure to disclose a spent conviction or any circumstances ancillary to the conviction in the course of an application or interview for the employment concerned. 30

(3) In relation to discrimination under subsection (1), nothing in this section shall render unlawful any act done in compliance with Part 3 of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. 35

(4) In this section ‘spent conviction’ means—

- (a) a conviction which is spent by virtue of section 5 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016,
- (b) a finding of guilt to which section 258 of the Children Act 2001 applies, or
- (c) a conviction made against a person under the law of another state or territory, which would, if the conviction concerned occurred in the State, be a conviction to which paragraph (a) or (b) applies.”. 5

PART 5

AMENDMENT TO CHILDREN ACT 2001

**Amendment of section 258 (non-disclosure of certain findings of guilt) of Children Act 2001** 10

11. Section 258 of the Children Act 2001 is amended in subsection (1)—

- (a) in paragraph (c) by substituting “one year” for “three years”, and
- (b) by substituting “one-year period” for “three-year period” in both places occurring. 15

## 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 25 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 25 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 25 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 25 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

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# BILLE

*(mar a leasaíodh i gCoiste)*

*dá ngairtear*

Acht do leasú agus do leathnú an Achta um Cheartas Coiriúil (Ciontuithé Spíonta agus Nochtadh Áirithe), 2016 chun socrú a dhéanamh go leathnófar an réimse ciontuithé a bhféadfar a mheas gur ciontuithé spíonta iad, do dhéanamh socrú go mbeidh comhréireacht ann agus an tréimhse sula dtiocfaidh ciontú chun bheith spíonta á cinneadh, do dhéanamh leasuithe iarmhartacha ar Achtanna eile, do leasú an Achta um Chomhionannas Fostaíochta, 1998, agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Ordaíodh ag Seanad Éireann a chlóbhualadh,*  
20 Samhain, 2019

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Criminal Justice (Rehabilitative Periods) Bill  
2018

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# BILL

*(as amended in Committee)*

*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, to make consequential amendments to other Acts, to amend the Employment Equality Act 1998, and to provide for related matters.

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