



The Law Reform Commission
AN COIMISIÚN UM ATHCHÓIRIÚ AN DLÍ

PRESS RELEASE

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LAW REFORM COMMISSION LAUNCHES
REPORT ON SPENT CONVICTIONS

Tuesday, 31 July 2007: The Law Reform Commission's *Report on Spent Convictions* will be formally launched today by Mr Justice Kevin Haugh, Chair of the Garda Ombudsman Commission.

Background to the Report

Under current law, records of criminal convictions of adults are permanent and this Report examines whether some very old convictions might be looked on as being “spent” or no longer relevant for certain purposes. For example, under the current law if a person has a conviction for a minor public order offence 20 years ago when they were 19 years old, this must be disclosed if a prospective employer asks the question. The Commission's Report emphasises that even very old convictions should always remain relevant – and therefore be disclosed for vetting purposes - when applying for certain sensitive posts, including the supervision or care of children, vulnerable adults or in the context of sensitive public positions, such as those connected with State security or the legal system. The Report recommends, however, that a limited spent convictions law for adults should be introduced where some old convictions would not have to be disclosed.

The Report notes that certain offences committed when a person was under 18 years (but not, for example, murder or rape) are already subject to a spent convictions system in section 258 of the *Children Act 2001* and therefore do not, in general, have to be disclosed (though they would be disclosed as part of the vetting for sensitive posts). Similar spent convictions laws exist in most other countries, based on the model introduced in Britain by the *Rehabilitation of Offenders Act 1974* – later extended to Northern Ireland in 1978: the 1974 Act was also used as the model for the under-18 spent convictions system in this State's *Children Act 2001*.

The Report follows a preliminary examination of this area in the Commission's 2004 *Consultation Paper on the Court Poor Box*. The Court Poor Box is an informal disposition used mainly in the District Court which has the effect of dismissing a criminal charge. The Commission noted that the absence of a spent convictions regime for adult offenders – and of other non-custodial options for judges – appears to one factor connected with the extensive use of the Court Poor Box. In its 2005 *Report on the Court Poor Box*, the Commission recommended that the Court Poor Box be placed on a statutory basis, incorporating its positive features, and integrating it into a more extensive regime of non-custodial sanctions which would also update and replace the *Probation of Offenders Act 1907*. Having published the 2005 Report, the Report being published today completes the Commission's analysis of the area.

Specific elements of the proposed spent convictions law

The Report sets out in detail the elements of the proposed spent convictions law and it also includes a draft *Spent Convictions Bill* to implement the Commission's recommendations. The key elements include:

- the types of offences which should be excluded completely from the proposed law: (a) any offence triable by the Central Criminal Court, such as murder; (b) any sexual offence as defined in the *Sex Offenders Act 2001*; and (c) any other offence where a sentence of more than 6 months (including a suspended sentence) has been imposed in court;
- the length of time a person must be conviction-free to qualify for the conviction to be regarded as "spent": 7 years from the date of conviction where a custodial sentence of up to 6 months is imposed; 5 years from the date of conviction where a non-custodial order is made, such as a fine or disqualification;
- all convictions, including spent convictions, would still be disclosed at a sentencing hearing and in some non-criminal cases such as involving access to children.
- The system would be automatic, rather than requiring the person to apply to court to have their conviction declared to be spent, as an application-based system would not be transparent and consistent.

Spent convictions and Garda vetting

The Report discusses the connection between a spent convictions system and the issue of vetting or disclosure of criminal convictions for certain purposes. The Commission supports the call by other bodies to put the current Garda vetting system on a modern statutory footing. The Report also emphasises that certain sensitive posts would continue to require full disclosure of all criminal convictions, including spent convictions. These include: (a) any post involving the care for, supervision of or teaching of any person under 18 years of age, or of any other person who is a vulnerable person; (b) any post in health care; (c) judge, barrister, solicitor, court clerk, court registrar or employee of the Courts Service; (d) civil servant; (e) firearms dealer; (f) member of the Defence Forces, prison officer, member of the probation service, member of An Garda Síochána (including reserve members, or traffic warden); (g) accountant; (h) director, controller or manager of a financial institution or of any financial service provider which is regulated by the Financial Regulator.

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BACKGROUND NOTES FOR EDITORS

The Law Reform Commission was established by the *Law Reform Commission Act 1975* as an independent statutory body whose main aim is to keep the law under review and to make practical proposals for its reform. To date, the Commission has published over 130 documents containing proposals for law reform. These are available on the Commission's website: www.lawreform.ie. The Commission usually publishes in two stages: first, a Consultation Paper and then a Report. A Consultation Paper is intended to form the basis for discussion and accordingly the recommendations, conclusions and suggestions are provisional. A Report contains the final recommendations of the Commission. The Report being published today forms part of the Commission's *Second Programme of Law Reform 2000-2007*.