



# IPRT Briefing on Spent Convictions

## Irish Penal Reform Trust

The Irish Penal Reform Trust (IPRT) is Ireland's leading non-governmental organisation campaigning for the rights of everyone in the penal system, with prison as a last resort.

IPRT is committed to reducing imprisonment and the progressive reform of the penal system based on evidence-led policies. IPRT works to achieve its goals through research, raising awareness, building alliances and growing our organisation.

## The current situation

IPRT welcomed the introduction of the Spent Convictions Bill 2012 as representing a step in the right direction in supporting ex-offenders in their reintegration into society. Ireland is the only remaining jurisdiction in the EU which does not have such a statute on the books and is therefore the only country which does not allow for the expungement of any criminal convictions, no matter what the offence.<sup>1</sup>

This situation has far-reaching consequences for those who are sentenced for criminal offences. Individuals with even minor criminal convictions face ongoing restrictions and barriers in **employment, training, education, travel**, accessing car or home **insurance, volunteering**, and in many other areas of life.

Considering that the largest proportion of those who are sentenced by Irish courts receive fines, community-based sanctions, or short-term prison sentences for non-violent offences, the lack of opportunity to have a criminal conviction expunged after a period of time is a consequence that is disproportionate. It can be argued that it constitutes additional punishment that lasts a lifetime.

## Experiences

*"Our system, by not having spent sentences does not recognise change and so is not really rehabilitative in the way it claims to be."* (Anon, who received a €20 fine in 2004)

*"I feel as though I have given a lot back to society, now live a respectable crime free life and also wish to gain employment but I am unable to do so. This is partly due to current economic crisis but largely due to the fact that my conviction will be with me for life. The stigma of the conviction will hang over me for the rest of my life and no amount of voluntary work or academic success will ever change that fact."* (Anon, who received a 4-year custodial sentence, released in 2006)

*"Only this week we received our annual [home insurance] renewal quote, which again was higher due to the fact that I am seen as a higher risk because of my conviction. I rang around several of the insurance companies and was met with the same excuse that "at this time we are unable to offer you a quotation". I really welcome the forthcoming legislation regarding spent convictions as it means my partner will no longer be penalised because of my past mistake."* (Mark, who received a fine in the form of compensation, 12 years ago)

*"What is the point in telling young people who may also have a criminal record 'to change their lives, that there is a better life for them' when this is not actually the case: because of the laws and legislation currently in this country, they will also be discriminated against even if they do."* (Claire, who received 1 year's probation, 12 years ago)

<sup>1</sup> This applies to adult offenders only. A separate regime of expungement of criminal convictions operates in relation to offences committed by children (anyone sentenced when under 18 years of age) under the Children Act 2001. The introduction of the legislation will mean that a person will not have to declare a spent criminal conviction save in limited circumstances as envisaged by the law.

## The urgent need for legislation

IPRT welcomed the introduction of the *Spent Convictions Bill 2012*, and regrets that there has been no progress since the legislation stalled at Report Stage in March 2013.

The enactment of spent convictions legislation in Ireland is vital if Irish society is to support people with criminal convictions in moving on from offending behaviour. Such legislation is a necessary element in ensuring that the commission of a criminal offence does not lead to permanent barriers to reintegration into society.

Considering the critical importance of spent convictions legislation to the successful reintegration of former offenders, and thereby reducing the likelihood of reoffending, **IPRT calls on the Government and members of the Oireachtas to progress the *Spent Convictions Bill 2012* with urgency, to ensure that an effective legal framework is put in place, and to ensure that the Bill is fully commenced during 2015.**

## What should change?

We now have an opportunity to get it right, and IPRT believes that the following amendments should be introduced to ensure the Bill is as robust and effective as possible:

1. **Proportionate rehabilitative periods:** A person's commitment to desisting from offending behaviour is best gauged by the length of time since he or she offended; rehabilitative periods should be proportionate to the seriousness of the offence committed.
2. **Number of convictions:** The limitation on only two convictions being classified as spent is unnecessary and should be removed.
3. **Maximum threshold:** The maximum limit to which the legislation applies should be increased to custodial sentences of 48 months or less, in line with legislation in the UK.
4. **Suspended sentences:** All sentences which are suspended in whole and which are not subsequently revoked should be treated as relevant non-custodial sentences.
5. **Relevance of convictions:** Categories of employment and training where candidates would be required to disclose spent and unspent convictions should be drawn narrowly and apply only where a direct link can be shown between the offence committed and category of employment or training sought.
6. **Discrimination:** The Employment Equality Act 1998 should be amended to include the additional ground of discrimination on the basis of criminal conviction, as recommended by the Irish Human Rights and Equality Commission.

Further proposals for amendment are included in the *IPRT Submission on Criminal Justice (Spent Convictions) Bill 2012*, available online at: [www.iprt.ie/iprt-submissions](http://www.iprt.ie/iprt-submissions)

## Further information

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