

IN TYNWALD

March 2008

FOR ORAL ANSWER (6)

The Hon Member for Onchan (Mr Karran) to ask the Minister for Home Affairs -

Regarding minor offences which were committed 10 - 20 years ago, should these offences not be removed from a person's record after a given period of time?

Mr President

I believe it would of benefit to Honourable Members if I explain briefly how the Rehabilitation of Offenders Act 2001 and the Exceptions Order effects how the records of individual's criminal offences are treated.

My explanation should only be treated as an overview of the legislation because there are many factors that have to be taken into account as to when the convictions are considered spent including the sentence, whether re-offending takes place, compliance with sentence etc.

Under the Rehabilitation of Offenders Act 2001 periods of time are set down as to when a record of an offence may be treated as spent. Generally, for a sentence that is not for over 6 months imprisonment, other lower sentences that would include what I presume the Honourable for Onchan refers to as minor offences, the rehabilitation period would normally be 5 years.

Therefore, although convictions are never removed from a person's record they are treated for the majority of purposes as though they no longer exist or are "spent".

Spent for example means, subject to certain exemptions, under any rule of law, or provisions, or any agreement, or arrangement the conviction does not have to be revealed and furthermore it is an offence by others to reveal such convictions.

An example of when spent convictions do not have to be revealed is in relation to employment which allows individuals to apply for a job after the period of rehabilitation with the right not to mention a spent conviction. This allows many persons with criminal convictions not to be blighted by a mistake made many years before and perhaps as a result not being able to take up a chosen occupation.

It is, however, important to carry out a careful balancing act in order to protect the young and vulnerable and the community as a whole whilst providing for rehabilitation of offenders. Therefore, there are exemptions for example in certain occupations such as firearms dealers, those having access to explosives, childminders, teachers, nurses etc where an exception is provided whereby spent convictions do have to be provided.

Mr President, I am hopeful that I have explained how the process works but would be more than happy to provide further clarification if this will assist.

This is a very important issue because it affects both the lives of those with criminal records and potentially, if we get the balance wrong, the vulnerable if individuals come into contact with spent conviction holders as result of a conviction not being revealed and are then harmed.

I am, therefore, of the view that the system we have in place is the fairest, to all that we are able to provide but I would welcome any views from Honourable Members as to how the system could be improved.