

# Rehabilitation of Offenders Act 1974 – Consultation Paper

## Appendix B

### Rehabilitation of Offenders Act 1974 – Consultation paper

#### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

##### Organisation Name

Forum of Scottish Claims Managers

Title Mr  Ms  Mrs  Miss  Dr  Please tick as appropriate

##### Surname

McPhail

##### Forename

Calum

#### 2. Postal Address

c/o Zurich Insurance plc

215 Bothwell Street

Glasgow

##### Postcode

G2 7ED

##### Phone

0141 303 7478

##### Email

calum.mcphail@uk.zurich.com

#### 3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes  No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Are you content for your **response** to be made available?

**Please tick as appropriate**

**Yes**    **No**

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

**Yes**

**No**

## CONSULTATION PAPER QUESTIONS

### Questions – Rehabilitation of Offenders Act 1974 – Consultation paper

#### QUESTION 1

Do you agree with the proposal that the scope of the new legislation should be increased from 30 months?

Yes  No

From the purposes of insurance, the rehabilitation periods in the 1974 act appear to remain suitable and appropriate. Disclosed information on convictions is used by insurers, alongside a number of other factors, to assess the risk of their customers, where there is evidence of a link between such data and risk. Calculating premiums on the basis of risk is the fairest way to set insurance premiums for customers, while allowing an insurer to receive a fair amount of money to cover the overall risk of its customers. Reducing rehabilitation periods would limit the ability of insurers to identify and use this information to assess risk, potentially leading to an increase in premiums for the majority of policyholders without convictions.

#### QUESTION 1a

If you have answered yes, should the scope be;

48 months  longer than 48 months  shorter than 48 months

N/A

#### QUESTION 2

Do you agree that the length of the rehabilitation period should be determined by whether an individual gets a custodial sentence, a non-custodial sentences or an alternative to prosecution?

Yes  No

We believe that the current procedures are appropriate in respect of providing insurers with suitable and relevant information upon which to assess and fairly price individual risks.

#### QUESTION 3

Do you agree with the proposal that no AtPs should be self-disclosed by a person in circumstances when a basic disclosure check is requested?

Yes  No

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Disclosed information on convictions is used by insurers, alongside a number of other factors, to assess the risk of their customers, where there is evidence of a link between such data and risk. Calculating premiums on the basis of risk is the fairest way to set insurance premiums for customers, while allowing the insurer to receive a fair amount of money to cover the overall risk of its customers. Removing the requirement to disclose AtPs such as fines would limit the ability of insurers to identify and use this relevant information to assess risk, potentially leading to an increase in premiums for the majority of policyholders without convictions.

In particular the proposed changes to the rehabilitation periods carried by endorsements for motoring offences will cause difficulties. An individual's history of driving offences is one of the main ways that motor insurers price premiums, as it is a consistently strong indicator of an individual's likelihood of being in an accident where they are the at-fault/liable party.

Reducing the rehabilitation period from five years to one would have a negative impact on the insurance market, and would inevitably lead to increases in premiums for those without motoring convictions. Safe drivers are incentivised by lower premiums and if premium prices increase as a result of insurers not having reasonable knowledge of previous motoring convictions then the incentive to drive safely is offset as drivers will be paying higher premiums despite their safe driving records.

### QUESTION 4

Do you agree with all the proposals to reduce the time periods for disclosing non-custodial sentences as set out in Table A?

Yes  No  Some but not others

For the purposes of insurance, the rehabilitation periods in the 1974 Act are entirely appropriate.

### QUESTION 4a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter  Longer

From an insurance perspective, the rehabilitation periods in the 1974 Act remain suitable and appropriate.

### QUESTION 4b

If shorter, what lengths of time would you like to see?

N/A

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### QUESTION 4c

If longer, what lengths of time would you like to see?

#### Comment

Any reduction in the ability of insurers to use individuals' offending history when calculating premiums would detrimentally affect their ability to price risk accurately.

In particular, it is fundamental that a rehabilitation period of 5 years for any offence carrying an endorsement under the RTA is retained. Reducing the period to 1 year would have a damaging and negative impact on road safety and lead to higher motor premiums for safer drivers.

### QUESTION 4d

If some but not others, what sentences are you referring to and what lengths of time would you like to see?

N/A

### QUESTION 4e

Do you think it is still appropriate for the rehabilitation periods to be halved when the person committed an offence under the age of 18?

Yes  No

We oppose the halving of any rehabilitation period for a young driver under the age of 18. Any offence carrying an endorsement under the RTA is of fundamental importance to insurers in assessing and pricing risk appropriately and fairly.

### QUESTION 4f

If no, please provide details below.

N/A

### QUESTION 4g

Do you have any other comments/views in relation to the proposed rehabilitation periods for non-custodial sentences?

Please see answer to question 3 above

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### QUESTION 5

Do you agree with all the proposals that the rehabilitation periods for custodial sentences should be reduced as set out in Table B?

Yes  No  Some but not others

#### Comment

Any reduction in rehabilitation periods for custodial sentences will affect insurers' ability to assess and price risk accurately and fairly for all. As a maximum we would suggest that any changes regarding custodial sentences be restricted to match the recent changes in England & Wales as highlighted in Table C page 20 of the consultation document. This would at least reduce business compliance requirements and cost and also provide clarity and certainty for parties seeking insurance.

### QUESTION 5a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter  Longer

#### Comment

Custodial sentences may be given for crimes such as theft, arson and fraud as well as serious motoring offences which are very relevant to pricing insurance. The current rehabilitation periods for sentences carrying these crimes remain appropriate.

### QUESTION 5b

If shorter, what lengths of time would you like to see?

N/A

### QUESTION 5c

If longer, what lengths of time would you like to see?

Please see the answer to question 5a above. The current rehabilitation periods for sentences carrying these crimes are appropriate for insurance purposes.

### QUESTION 5d

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If some & not others, what sentences are you referring to and what lengths of time would you like to see?

N/A

### QUESTION 5e

Do you think it is still appropriate for the rehabilitation periods to be halved when the person committed an offence under the age of 18?

Yes  No

We oppose the halving of any rehabilitation period for a young driver under the age of 18. Any offence carrying an endorsement under the RTA is of fundamental importance to insurers in assessing and pricing risk appropriately and fairly.

### QUESTION 5f

If no, please provide details below.

N/A

### QUESTION 5g

Do you have any other comments/views in relation to the rehabilitation periods for custodial sentences? For example, do you think there should be more distinct sentence ranges within which distinct rehabilitation periods operate?

N/A

**End of Questionnaire**