

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY S.Y. MÉZEC OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 19th JANUARY 2016**

Question

What formula is currently used to determine how long it will take for a conviction for a drugs offence to become spent and therefore not liable to appear in a pre-employment screening?

Answer

When convictions become spent is governed by the Rehabilitation of Offenders (Jersey) Law 2001 (“the 2001 Law”). All offences including drugs offences are treated in the same way.

The period of time before a conviction becomes spent is determined by reference to the length of the sentence imposed by a court. Rehabilitation only applies to sentences defined as “lesser sentences” by Article 1 of the 2001 Law. “Lesser sentences” are non-custodial sentences and custodial sentences of not more than 30 months. Custodial sentences exceeding 30 months, including life sentences, are excluded from rehabilitation (Article 1).

Article 3 of the 2001 Law sets out the rehabilitation periods in respect of offences on which lesser sentences have been imposed. Sentences not exceeding six months’ imprisonment become spent after a rehabilitation period of seven years. Sentences exceeding six months but not exceeding 30 months become spent after a period of 10 years. Probation Orders and Community Service Orders of any length become spent after 5 years. When a person is convicted as a youth (up to and including the age of 17 years), the rehabilitation period is normally one half of the period set out above.

If a person reoffends during the rehabilitation period then the initial conviction will not usually become spent at the end of the rehabilitation period, but will remain active until the rehabilitation period for the subsequent offence expires (Article 5).

Article 10 of the 2001 Law states that, subject to exceptions set out in regulations, any question seeking information as to a person’s previous convictions shall be treated as not relating to spent convictions. There are certain categories of work, set out in the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002, to which the provisions of Article 10 do not apply. These categories of work include the judiciary, the legal profession, law enforcement officers (including the Honorary Police), and employment requiring a PSV licence or a liquor licence. There are also restrictions on the application of Article 10 of the 2001 Law in relation to working with children.