

An Chartlann Náisiúnta
National Archives

Reference Code:	2021/52/192
Creator(s):	Department of Foreign Affairs
Accession Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

Madam Speaker,

I beg to move, That the Bill be now read a Second time.

The aim of the Bill is to bring into effect the proposals in the Good Friday Agreement dealing with prisoners.

Prisoner issues are part of that Agreement, the commitment given by both Governments was to put in place mechanisms for an accelerated programme of prisoner release. In our case that applies to prisoners convicted of scheduled offences - which are generally offences connected with paramilitary activity - in Northern Ireland and those outside Northern Ireland convicted of similar offences.

We gave a commitment in the Agreement that we would seek to enact the appropriate legislation by the end of June.

The Agreement is a package - agreed by the parties and supported by the people - it must be taken as a whole and not cherry picked.

The package won the support of more than 71% of the people of Northern Ireland on 22 May, a majority in both communities. I know that people have concerns - those who voted yes as well as those who voted no. We have a duty to implement the peoples' wishes and do our best to address those concerns.

I believe that the Agreement is the best chance we have to bring an end to the vicious circle of violence and murder in Northern Ireland. And to ensure that new generations do not continue to suffer all the grief and pain of the past.

Madam Speaker,

On 20 April I placed in the library of the House a paper which set out in detail how the Government intended to implement our commitment in relation to prisoners. That paper set out the rigorous safeguards for the protection of the public. Those safeguards are on the face of the Bill.

For example:

© DFA/2021/52/192

- Prisoners who support terrorist groups that continue to engage in violence or return to violence will not be released.

- Prisoners, will be released on licence, and immediately recalled if they engage in any terrorist activity.

- If circumstances change - deteriorate - the programme of release can be stopped.

- In that case no prisoners will be released under the scheme. If an organisation has returned to violence, licensed prisoners who support that organisation can be recalled if they continue to give it support.

Madam Speaker,

The commitments which this Government has made are in the context of a peaceful and lasting settlement.

In his speech at Balmoral on 14 May during the referendum campaign, the Prime Minister said that if parties are to benefit from accelerated release, their commitment to democratic, non-violent means must be established in an objective, meaningful and verifiable way.

He said that in clarifying whether the terms and spirit of the Agreement had been met and whether violence has genuinely been given up for good there are a range of factors to be taken into account.

These are, whether an organisation:

- is committed to the use now and in the future of only democratic and peaceful means to achieve its objectives;

- has ceased to be involved in any acts of violence or preparation for violence;

- is not directing or promoting acts of violence committed by other organisations; and

© DFA/2021/52/192

- is co-operating fully with the decommissioning body.

These factors are in this Bill. They reflect the requirement in the Agreement that prisoners who support organisations which have not established or are not maintaining a complete and unequivocal cease-fire will not benefit from the arrangements. The Bill requires the Secretary of State to make an overall judgement on this, taking into account the four factors I have mentioned.

Madam Speaker,

Early prisoner releases are not new to Northern Ireland. There are already arrangements in existence set up at the end of 1995 by the previous Government that entitles fixed sentence prisoners to be released at the half way point of their sentence.

Under these arrangements approximately 240 prisoners have been released early. Of these only two have had to be recalled for breaching their licences. The previous government continued this policy despite the breakdown of the IRA cease-fire between February 1996 and July last year.

Even if there were no change in the law, about half the remaining prisoners covered by the new scheme would be free within the next two years.

There is no doubt that the prisoner issues have long been an important part of the search for peace in Northern Ireland.

Successive British Government have recognised that fact. When passing the legislation that is the forerunner to the Government's Bill in 1995, my predecessor, the Noble Lord, Lord Mayhew said 'it is desirable that, in the light of the changed situation brought about by the cease-fires, the Government, in this field as in others, should not seem reluctant to respond in a positive manner'. I agree.

We supported and aided the swift passage of that legislation because we considered that it was a proportionate response to the cease-fires at the time.

© DFA/2021/52/192

Madam Speaker,

prisoner releases are difficult for the Government and for many people throughout the UK. But they are most difficult of all for those who have lost loved ones both in Britain and Northern Ireland. We have heard many views, from victims of violence and their families over these past few weeks. I have received many, many letters.

There are people who say that prisoners should never be released. But there are others who say that, if the release of prisoners helps to advance the cause of peace in Northern Ireland, then they understand the need for them.

Like so many things in Northern Ireland it is a difficult judgement. Difficult for the parties, difficult for the people, and difficult for the Government.

With this legislation I believe we have succeeded in striking the right balance between taking the steps necessary in the interests of lasting peace, in honouring our commitments under the Agreement and in ensuring that public safety will not be jeopardised.

Madam Speaker,

There are important and detailed provisions in the Bill which I hope the House won't mind if I explain further.

Under the Bill prisoners may apply to Commissioners for a declaration that they are entitled to be released on licence. The Bill sets out criteria that prisoners must satisfy to be eligible for release.

The Bill requires that I appoint Commissioners and have regard to the desirability of the Commissioners as a group commanding widespread acceptance throughout the community in Northern Ireland. In addition I am required so far as is reasonably practicable to ensure that at least one Commissioner is a lawyer and at least one Commissioner a psychiatrist or psychologist.

I would intend to appoint a psychiatrist or psychologist with expertise in risk assessment in criminal cases. In the rules of procedure I may make under the Bill, I will require that a Commissioner with such expertise would sit on panels considering applications from life sentence prisoners.

© DFA/2021/52/192

The Commissioners will consider each application on its merits against the criteria set out in the Bill. If those criteria are met the Commissioners will declare that a prisoner is eligible under the scheme.

The criteria are as follows:

- Prisoners in Northern Ireland must have been convicted of a scheduled offence committed before 10 April 1998 and sentenced to five years or more or life imprisonment.
- Only prisoners serving their sentence in Northern Ireland are eligible for release under the Bill.
- A prisoner must not be a supporter of a terrorist organisation of the kind specified in the Bill - which means organisations that "have not established or are not maintaining a complete and unequivocal cease-fire". This test follows directly from the words of the Agreement which exclude prisoners affiliated to such organisations.
- This legislation will not remove the ban on Organisations that are proscribed under our anti-terrorist laws. The IRA or UDA, for example, will continue to be proscribed and membership of such organisations will continue to be a criminal offence.
- A prisoner may not be declared eligible for early release if the Commissioners consider that if released immediately he or she would be likely to become a supporter of a terrorist organisation or become concerned in the initiation, preparation or instigation of acts of terrorism.
- This means, no prisoner who the Commissioners believe will return to terrorism may be released under the Bill.
- Prisoners sentenced to life imprisonment will not be released if they would be a danger to the public. This maintains the protection that applies in respect of the release of all life sentence prisoners throughout the UK.

In deciding whether an organisation is maintaining a complete and unequivocal cease-fire, I shall take account of the four factors set out by the Prime Minister in his speech of 14 May.

© DFA/2021/52/192

I will keep under review the list of organisations identified under the Bill and add or remove organisations as appropriate. As the Prime Minister said in his speech of 14 May in considering whether a cease-fire is being maintained this is "a judgement which will necessarily become more rigorous over time." And it will.

If the Commissioners declare that a fixed term prisoner meets the criteria set out in the legislation, the prisoner will be required to serve one third of his sentence in custody before being released on licence.

If the Commissioners make a declaration that a life sentence prisoner meets the criteria set out in the legislation they must also set a date for release. This will be a date which marks the elapse of about two thirds of the period that the Commissioners believe the prisoner would otherwise have been required to serve in custody under existing arrangements.

I shall be under a duty to provide the Commissioners with information about the periods served by life sentence prisoners who have been released on licence since 1982 to allow them to make an assessment of the period that individual prisoners would have been required to serve.

But it will be for the Commissioners to consider each case individually taking account of the particular circumstances of the case. There will be no block release of prisoners. No general amnesty.

Madam Speaker,

All prisoners released under this legislation will be released on licence.

For fixed sentence prisoners the licence will continue until their sentence expires. Life sentences do not expire, so prisoners sentenced to life imprisonment who are released under this legislation will remain on licence for the rest of their lives.

Prisoners on licence need to continue to meet the criteria for release set out under the legislation. This means that they must not become a supporter of a terrorist organisation and that they must not become concerned in the commission, preparation or instigation of acts of terrorism concerned with the affairs of Northern Ireland.

© DFA/2021/52/192

If I consider that these licence conditions are breached in any case I am empowered to suspend the licence and recall the prisoner to prison. If a licence is suspended it will then be for the Commissioners to decide whether the licence should be revoked.

Under the Agreement, both Governments gave commitments that, "...should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point." The Bill provides that prisoners in respect of whom the Commissioners have made a declaration who remain in custody two years from the commencement of the legislation shall be released at that time.

I am empowered under the Bill to bring that date forward or to put it back depending, as the paper I placed in the library on 20 April said, "on the circumstances and progress towards the creation of a more peaceful society". In considering whether that progress has been made I shall take account of matters such as those identified by the Prime Minister and included in the text of the legislation.

Madam Speaker,

as I indicated and as stated in the Agreement these arrangements will apply to prisoners convicted of similar offences committed in Great Britain and transferred to Northern Ireland. Such prisoners are not convicted of scheduled offences which is a concept unique to Northern Ireland. The Bill which is before the House gives me an order making power in respect of transferred prisoners to bring them within the terms of this legislation.

In such cases it will be for the Attorney General or Lord Advocate as appropriate to say whether the offence committed would, if committed in Northern Ireland, have been a scheduled offence under the Emergency Provisions Act.

Madam Speaker,

the British and Irish Governments, and the Northern Ireland parties, have worked for years to bring about agreement on the future for Northern Ireland.

© DFA/2021/52/192

The people of the island of Ireland - North and South - have now spoken. They have overwhelmingly backed the Agreement.

Our clear duty is to carry out the peoples' wishes.

This Bill is the first stage in implementing that Agreement that makes possible a new future for Northern Ireland based on fairness, consent, peace and reconciliation.

As such, I commend the Bill to this House.

© DFA/2021/52/192