

**confidential****NOTES ON PRISONER RELEASE ISSUES 7 APRIL 1998****General.**

Remember the overall symbolic importance of prisoners - they are disproportionately important to paramilitary groups and especially to Republicans. The prisoner issue is the one thing, which is in the gift of the governments and does not materially affect any other matter, which can help ensure that Sinn Fein, in particular, sign up to an agreement.

Politically motivated prisoners **must be released** as part of the peace process - all international experience demonstrates that. The British Government - particularly civil servants in the prison service - have been dilatory and obstructionist on the issue. If left purely in their hands, the issue could have the capacity to wreck the peace process some months or years down the line.

**Paragraph 1**1st sentence.

After "scheduled offences"

Add: "**committed before 9 April 1998.**"

Argument: There should be a cut-off date for acceptance that offences were politically motivated and that should be the date of the settlement agreement. ✕

After "scheduled offences committed before 9 April 1998"

Add: "**(and not de-scheduled by the Attorney-General)**"

Argument: In order to avoid any deliberate confusion with, say, domestic murderers who have had their offence de-scheduled because it was not "connected with terrorism." ✕

After "in the case of those convicted outside Northern Ireland,"

Add: "**(including those convicted in Great Britain and not transferred to Northern Ireland or the Republic of Ireland)**".

Argument: There are some prisoners in Britain, convicted of offences arising out of the conflict, who, for one reason or another, have not been transferred. They should be included in a release process. ✕

After "similar offences"

Add: "**arising out of the Northern Ireland conflict.**"

OR insert "**politically motivated**" between "similar" and "offences".

Argument:

There needs to be some criterion to distinguish between, say, explosives offences, scheduled in Northern Ireland, which might be carried out in Britain either by politically motivated persons or common criminals.

**Paragraph 2**

After 1st sentence

Add: "**If an individual prisoner, currently affiliated to an organisation not maintaining a complete and unequivocal ceasefire, explicitly disassociates himself from that organisation and expresses a personal disavowal of violence in the context of the current peace process, he will be considered as a qualifying prisoner.**"

Argument: It is not just that an individual be kept in prison by the decision of an organisation from which he might wish to dissociate himself.

### Paragraph 3

2nd Sentence

Amend so as to read: ***"The intention will be to provide for the advance of the release dates of qualifying prisoners in order of the length of time they have left to serve, thus allowing account to be taken of the seriousness of the offences for which the person was convicted as decided by the court."***

Argument: Case by case review on grounds of seriousness and danger to the public (the latter criterion is anyway, in principle, made redundant by the peace process and ceasefires) would be highly time-consuming, give excuses for all kinds of bureaucratic delay and would make invidious comparisons between levels of atrocity. It also undermines the judgement of the court which would already have taken a decision on seriousness in original sentencing.

Add further sentence: ***"Indeterminate sentence prisoners should immediately be given a notional release date by the appropriate mechanism, based on normal criteria, and then should be included in the release programme on the basis of length of time (notionally) still to be served."***

Argument: This brings lifers into the process.

Add further sentence: ***"The latest release date will be a maximum of two years after the date on which enabling legislation is passed."***

Argument: There must be a clear date given by which all qualifying, politically motivated prisoners will be released. Otherwise, the bona fides of the officials taking decisions have to be taken on trust by prisoners and their representatives. Past history, for example on transfer, is not conducive to this.

Add further sentence: ***"The trial of those on remand will proceed in the normal way, but those who are qualifying prisoners after sentence will be added to the process on the same basis of length of time left to serve."***

Argument: The situation of remand prisoners has to be addressed.

Add new paragraph 4:

***"Each Government will establish a Truth and Amnesty Board whose remit will be to allow the formal testimony of victims about the offences perpetrated against them or their relatives and to allow former prisoners, or those who may be accused of politically motivated offences, to apply for amnesty and/or immunity from prosecution. Amnesty would have the effect of removing criminal records and any other disabilities resulting from imprisonment."***

Argument: This is useful for victims in allowing their story to be put on the official record. It is also a necessary mechanism in order to prevent the ludicrous spectacle of the police pursuing past offences, perhaps long into the future, and going to trial, only for prisoners - presumably - to be released shortly after sentence.