



# Rehabilitation of Offenders Act 1974

## 1974 CHAPTER 53

### 1 **Rehabilitated persons and spent convictions.**

- (1) Subject to [<sup>F1</sup>subsection (2)] [<sup>F1</sup> subsections (2), (5) and (6)] below, where an individual has been convicted, whether before or after the commencement of this Act, of any offence or offences, and the following conditions are satisfied, that is to say—
- (a) he did not have imposed on him in respect of that conviction a sentence which is excluded from rehabilitation under this Act; and
  - (b) he has not had imposed on him in respect of a subsequent conviction during the rehabilitation period applicable to the first-mentioned conviction in accordance with section 6 below a sentence which is excluded from rehabilitation under this Act;

then, after the end of the rehabilitation period so applicable (including, where appropriate, any extension under section 6(4) below of the period originally applicable to the first-mentioned conviction) or, where that rehabilitation period ended before the commencement of this Act, after the commencement of this Act, that individual shall for the purposes of this Act be treated as a rehabilitated person in respect of the first-mentioned conviction and that conviction shall for those purposes be treated as spent.

- (2) A person shall not become a rehabilitated person for the purposes of this Act in respect of a conviction unless he has served or otherwise undergone or complied with any sentence imposed on him in respect of that conviction; but the following shall not, by virtue of this subsection, prevent a person from becoming a rehabilitated person for those purposes—
- (a) failure to pay a fine or other sum adjudged to be paid by or imposed on a conviction, or breach of a condition of a recognizance or of a bond of caution to keep the peace or be of good behaviour;
  - (b) breach of any condition or requirement applicable in relation to a sentence which renders the person to whom it applies liable to be dealt with for the offence for which the sentence was imposed, or, where the sentence was a suspended sentence of imprisonment, liable to be dealt with in respect of that sentence (whether or not, in any case, he is in fact so dealt with);
  - (c) failure to comply with any requirement of a suspended sentence supervision order.

*Status: Point in time view as at 10/03/2014. This version of this provision has been superseded.*

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- [<sup>F2</sup>(2A) Where in respect of a conviction a person has been sentenced to imprisonment with an order under s. 47(1) of the <sup>M1</sup> Criminal Law Act 1977, he is to be treated for the purposes of subsection (2) above as having served the sentence as soon as he completes service of so much of the sentence as was by that order required to be served in prison.]
- [<sup>F3</sup>(2B) In subsection (2)(a) above the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order made under Part 2 or 3 of the Proceeds of Crime Act 2002.]
- (3) In this Act “sentence” includes any order made by a court in dealing with a person in respect of his conviction of any offence or offences, other than—
- [<sup>F4</sup>(za) a surcharge imposed under section 161A of the Criminal Justice Act 2003;]
- (a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction, or for want of sufficient distress to satisfy any such fine or other sum;
- (b) an order dealing with a person in respect of a suspended sentence of imprisonment.
- (4) In this Act, references to a conviction, however expressed, include references—
- (a) to a conviction by or before a court outside [<sup>F5</sup>England and Wales][<sup>F6</sup>Scotland]; and
- (b) to any finding (other than a finding linked with a finding of insanity [<sup>F7</sup>or, as the case may be, a finding that a person is not criminally responsible under section 51A of the Criminal Procedure (Scotland) Act 1995 (c.46)]) in any criminal proceedings <sup>F8</sup>. . . that a person has committed an offence or done the act or made the omission charged;
- and notwithstanding anything in [<sup>F9</sup>section 247 of the Criminal Procedure (Scotland) Act 1995 (c.46)] or [<sup>F10</sup>section 14 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F11</sup>or section 187 of the Armed Forces Act 2006] a conviction in respect of which an order is made [<sup>F12</sup>discharging the person concerned] absolutely or conditionally shall be treated as a conviction for the purposes of this Act and the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction for those purposes accordingly.
- [<sup>F13</sup>(5) This Act does not apply to any disregarded conviction or caution within the meaning of Chapter 4 of Part 5 of the Protection of Freedoms Act 2012.
- (6) Accordingly, references in this Act to a conviction or caution do not include references to any such disregarded conviction or caution.]

#### Textual Amendments

- F1** Words in s. 1(1) substituted (E.W.) (1.10.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 134\(2\)](#) (with s. 97); S.I. 2012/2234, art. 3(o)
- F2** S. 1(2A) inserted (E.W.) by [Criminal Law Act 1977 \(c. 45\), s. 65\(7\), Sch. 9 para. 11](#)
- F3** S. 1(2B) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 456, 458\(1\), Sch. 11 para. 7; S.I. 2003/333, art. 2, Sch.](#) (as amended by S.I. 2003/531); S.I. 2003/210, [art. 2, Sch.](#) (subject to arts. 3-7)
- F4** S. 1(3)(za) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(1\), 60, Sch. 10 para. 9; S.I. 2007/602, art. 2\(c\)](#)

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- F5** Words in s. 1(4)(a) substituted (E.W.) (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 25 para. 2](#) (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)
- F6** Word in s. 1(4)(a) substituted (S.) (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 25 para. 13](#) (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)
- F7** Words in s. 1(4)(b) inserted (S.) (with application in accordance with art. 3 of the commencing S.S.I.) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), s. 206\(1\), sch. 7 para. 8](#); S.S.I. 2012/160, art. 3, sch.
- F8** Words in s. 1(4)(b) repealed (E.W.) (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108, Sch. 15](#); S.I. 1991/828, art. 3(2)
- F9** Words in s. 1(4) substituted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\), ss. 24\(1\), 206](#); S.S.I. 2011/178, art. 2(1), Sch.
- F10** Words in s. 1(4) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), [Sch. 9 para. 47](#)
- F11** Words in s. 1(4) inserted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by [Armed Forces Act 2006 \(c. 52\), ss. 378, 383, Sch. 16 para. 63](#); S.I. 2009/812, art. 3; S.I. 2009/1167, art. 4 (and see savings (having effect from 24.4.2009 for specified purposes and 31.10.2009 otherwise) in S.I. 2009/1059, arts 1(2)(3), 205, [Sch. 1 para. 14](#))
- F12** Words in s. 1(4) substituted (E.W.) (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\), s. 100, Sch. 11 para. 20\(a\)\(c\)](#); S.I. 1992/333, art. 2(2), [Sch. 2](#).
- F13** S. 1(5)(6) inserted (E.W.) (1.10.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 134\(3\)](#) (with s. 97); S.I. 2012/2234, art. 3(o)

#### Modifications etc. (not altering text)

- C1** S. 1(2)(a) amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 170, Sch. 8 para. 16, Sch. 15 para. 47](#)
- C2** S. 1(2)(a) amended by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\), ss. 45\(2\), 47\(4\)\(a\)](#)  
S. 1(2)(a) restricted (3.2.1995) by 1994 c. 37, [ss. 65\(2\), 69\(2\)](#)
- C3** S. 1(2) excluded by [Drug Trafficking Offences Act 1986 \(c. 22, SIF 39:1\), s. 39\(3\)](#)

#### Marginal Citations

- M1** 1977 c. 45.

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