



Rehabilitation of Offenders Act 1974

1974 CHAPTER 53

1 ^[F1] **Rehabilitated**^[F1]**Protected** persons and spent convictions.

^[F2](1) Subsections (1A) and (1B) apply where—

- (a) an individual has at any time been convicted of any offence, and
- (b) an excluded sentence was not imposed on the individual in respect of the conviction.

(1A) After the expiry of the disclosure period applicable to the conviction in accordance with section 6 (including any extension under subsection (4) of that section)—

- (a) the individual is, for the purposes of this Act, to be treated as a protected person in respect of the conviction, and
- (b) the conviction is, for the purposes of this Act, to be treated as spent.

(1B) But where the disclosure period so applicable expired before commencement of this Act, the individual and conviction are to be treated as mentioned in subsection (1A) from the date of commencement of this Act.

(1C) Subsections (1) to (1B) are subject to subsections (2)^[F4], (5) and (6)^[F4] and (5) to (8).]

(2) A person shall not become a ^[F5]rehabilitated^[F5]protected 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 ^[F5]rehabilitated^[F5]protected 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.

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- [^{F6}(2A) Where in respect of a conviction a person has been sentenced to imprisonment with an order under s. 47(1) of the ^{M1} 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.]
- [^{F7}(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—
- [^{F8}(za) a surcharge imposed under section 161A of the Criminal Justice Act 2003 [^{F9}or section 42 of the Sentencing Code];]
 - [^{F10}(zb) a hospital direction under section 59A of the Criminal Procedure (Scotland) Act 1995;
 - (zc) a victim surcharge imposed under section 253F of the Criminal Procedure (Scotland) Act 1995;]
 - (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.
 - [^{F11}(c) an order under section 21A of the Prosecution of Offences Act 1985 [^{F12}or section 46 of the Sentencing Code] (criminal courts charge).]
- [^{F13}(3A) In subsection (3)(a), the reference to want of sufficient distress to satisfy a fine or other sum includes a reference to circumstances where—
- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine or other sum from a person, but
 - (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]
- (4) In this Act, references to a conviction, however expressed, include references—
- (a) to a conviction by or before a court outside [^{F14}England and Wales][^{F15}Scotland]; and
 - (b) to any finding (other than a finding linked with a finding of insanity [^{F16}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 ^{F17}. . . that a person has committed an offence or done the act or made the omission charged;
- and notwithstanding anything in [^{F18}section 247 of the Criminal Procedure (Scotland) Act 1995 (c.46)] or [^{F19}section 82 of the Sentencing Code][^{F20}or section 187 of the Armed Forces Act 2006] a conviction in respect of which an order is made [^{F21}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 [^{F22}rehabilitated][^{F22}protected] person in respect of that conviction and the conviction a spent conviction for those purposes accordingly.
- [^{F23}(4A) In this Act, an “excluded sentence” is a sentence listed in section 5(1).]

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[^{F24}(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.]

[^{F25}(7) This Act does not apply to any conviction of an offence committed when the individual was under 12 years of age.

(8) Accordingly, references in this Act to a conviction do not include references to any such conviction.]

Textual Amendments

- F1** Word in s. 1 heading substituted (S.) (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), **sch. 2 para. 1(3)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F2** S. 1(1)-(1C) substituted for s. 1(1) (S.) (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), **ss. 17(2)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F3** 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)
- F4** Words in s. 1(1C) substituted (S.) (30.11.2020) by [Age of Criminal Responsibility \(Scotland\) Act 2019](#) (asp 7), **ss. 4(2)(a)**, 84(2); S.S.I. 2020/369, reg. 2, sch.
- F5** Words in s. 1(2) substituted (S.) (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), **sch. 2 para. 1(2)(a)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F6** S. 1(2A) inserted (E.W.) by [Criminal Law Act 1977](#) (c. 45), s. 65(7), **Sch. 9 para. 11**
- F7** 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.S.I. 2003/210, **art. 2**, Sch. (subject to arts. 3-7)
- F8** 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)**
- F9** Words in s. 1(3)(za) inserted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 31(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F10** S. 1(3)(zb)(zc) inserted (S.) (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), **sch. 2 para. 1(2)(b)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F11** S. 1(3)(c) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015](#) (c. 2), s. 95(1), **Sch. 12 para. 1**; S.I. 2015/778, art. 3, Sch. 1 para. 78
- F12** Words in s. 1(3)(c) inserted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 31(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F13** S. 1(3A) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007](#) (c. 15), s. 148, **Sch. 13 para. 38** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F14** 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)
- F15** 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)
- F16** 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.
- F17** 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)**
- F18** 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.

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- F19** Words in s. 1(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 31(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F20** 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**)
- F21** 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**.
- F22** Word in s. 1(4) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(2)(c)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F23** S. 1(4A) inserted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(2)(d)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F24** 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)
- F25** S. 1(7)(8) inserted (S.) (30.11.2020) by Age of Criminal Responsibility (Scotland) Act 2019 (asp 7), **ss. 4(2)(b)**, 84(2); S.S.I. 2020/369, reg. 2, sch.

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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2017 anaw 2 s. 66\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(2AA) inserted by [2020 asp 13 sch. 5 para. 2\(2\)](#)
- s. 5J(1)(ba) inserted by [2020 asp 13 sch. 5 para. 2\(8\)\(a\)](#)
- s. 5J(1A)(1B) inserted by [2020 asp 13 sch. 5 para. 2\(8\)\(b\)](#)
- s. 8A(2)(aa)-(ad) substituted for s. 8A(2)(a) by [2022 c. 32 Sch. 11 para. 2\(a\)](#)
- s. 8B(1A)-(1E) inserted by [2011 asp 1 s. 187\(2\)\(a\)](#)
- Sch. 3 para. 1(1)(aa)(ab) inserted by [2011 asp 1 s. 187\(3\)](#)