



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 8

REHABILITATION OF OFFENDERS

VALID FROM 29/05/2013

139 Establishment or alteration of rehabilitation periods

- (1) The Rehabilitation of Offenders Act 1974 is amended as follows.
- (2) In section 5(1)(b) and (d) (sentences excluded from rehabilitation) for “thirty months” substitute “ forty eight months ”.
- (3) In the opening words of section 5(1A) (references to provisions of the Armed Forces Act 2006) for “subsection (1)(d)” substitute “ this section ”.
- (4) For section 5(2) to (11) (rehabilitation periods) substitute—
 - “(2) For the purposes of this Act and subject to subsections (3) and (4), the rehabilitation period for a sentence is the period—
 - (a) beginning with the date of the conviction in respect of which the sentence is imposed, and
 - (b) ending at the time listed in the following Table in relation to that sentence:

Status: Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

| <i>Sentence</i> | <i>End of rehabilitation period for adult offenders</i> | <i>End of rehabilitation period for offenders under 18 at date of conviction</i> |
|--|---|---|
| A custodial sentence of more than 30 months and up to, or consisting of, 48 months | The end of the period of 7 years beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 42 months beginning with the day on which the sentence (including any licence period) is completed |
| A custodial sentence of more than 6 months and up to, or consisting of, 30 months | The end of the period of 48 months beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed |
| A custodial sentence of 6 months or less | The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 18 months beginning with the day on which the sentence (including any licence period) is completed |
| Removal from Her Majesty's service | The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed | The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed |
| A sentence of service detention | The end of the period of 12 months beginning with the day on which the sentence is completed | The end of the period of 6 months beginning with the day on which the sentence is completed |

Status: Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

| | | |
|---|---|--|
| A fine | The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed | The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed |
| A compensation order | The date on which the payment is made in full | The date on which the payment is made in full |
| A community or youth rehabilitation order | The end of the period of 12 months beginning with the day provided for by or under the order as the last day on which the order is to have effect | The end of the period of 6 months beginning with the day provided for by or under the order as the last day on which the order is to have effect |
| A relevant order | The day provided for by or under the order as the last day on which the order is to have effect | The day provided for by or under the order as the last day on which the order is to have effect |

(3) Where no provision is made by or under a community or youth rehabilitation order or a relevant order for the last day on which the order is to have effect, the rehabilitation period for the order is to be the period of 24 months beginning with the date of conviction.

(4) There is no rehabilitation period for—
 (a) an order discharging a person absolutely for an offence, or
 (b) any other sentence in respect of a conviction where the sentence is not dealt with in the Table or under subsection (3),
 and, in such cases, references in this Act to any rehabilitation period are to be read as if the period of time were nil.

(5) See also—
 (a) section 8AA (protection afforded to spent alternatives to prosecution), and
 (b) Schedule 2 (protection for spent cautions).

(6) The Secretary of State may by order amend column 2 or 3 of the Table or the number of months for the time being specified in subsection (3).

(7) For the purposes of this section—
 (a) consecutive terms of imprisonment or other custodial sentences are to be treated as a single term,

Status: Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) terms of imprisonment or other custodial sentences which are wholly or partly concurrent (that is terms of imprisonment or other custodial sentences imposed in respect of offences of which a person was convicted in the same proceedings) are to be treated as a single term,
- (c) no account is to be taken of any subsequent variation, made by a court dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed,
- (d) no account is to be taken of any subsequent variation of the day originally provided for by or under an order as the last day on which the order is to have effect,
- (e) no account is to be taken of any detention or supervision ordered by a court under section 104(3) of the Powers of Criminal Courts (Sentencing) Act 2000,
- (f) a sentence imposed by a court outside England and Wales is to be treated as the sentence mentioned in this section to which it most closely corresponds.

(8) In this section—

“community or youth rehabilitation order” means—

- (a) a community order under section 177 of the Criminal Justice Act 2003,
- (b) a service community order or overseas community order under the Armed Forces Act 2006,
- (c) a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008, or
- (d) any order of a kind superseded (whether directly or indirectly) by an order mentioned in paragraph (a), (b) or (c),

“custodial sentence” means—

- (a) a sentence of imprisonment,
- (b) a sentence of detention in a young offender institution,
- (c) a sentence of Borstal training,
- (d) a sentence of youth custody,
- (e) a sentence of corrective training,
- (f) a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 of the Armed Forces Act 2006,
- (g) a detention and training order under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 or an order under section 211 of the Armed Forces Act 2006,
- (h) any sentence of a kind superseded (whether directly or indirectly) by a sentence mentioned in paragraph (f) or (g),

“earlier statutory order” means—

- (a) an order under section 54 of the Children and Young Persons Act 1933 committing the person convicted to custody in a remand home,
- (b) an approved school order under section 57 of that Act, or

Status: Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(c) any order of a kind superseded (whether directly or indirectly) by an order mentioned in any of paragraphs (c) to (e) of the definition of “relevant order” or in paragraph (a) or (b) above, “relevant order” means—

- (a) an order discharging a person conditionally for an offence,
- (b) an order binding a person over to keep the peace or be of good behaviour,
- (c) an order under section 1(2A) of the Street Offences Act 1959,
- (d) a hospital order under Part 3 of the Mental Health Act 1983 (with or without a restriction order),
- (e) a referral order under section 16 of the Powers of Criminal Courts (Sentencing) Act 2000,
- (f) an earlier statutory order, or
- (g) any order which imposes a disqualification, disability, prohibition or other penalty and is not otherwise dealt with in the Table or under subsection (3),

but does not include a reparation order under section 73 of the Powers of Criminal Courts (Sentencing) Act 2000,

“removal from Her Majesty's service” means a sentence of dismissal with disgrace from Her Majesty's service, a sentence of dismissal from Her Majesty's service or a sentence of cashiering or discharge with ignominy,

“sentence of imprisonment” includes a sentence of penal servitude (and “term of imprisonment” is to be read accordingly),

“sentence of service detention” means—

- (a) a sentence of service detention (within the meaning given by section 374 of the Armed Forces Act 2006), or a sentence of detention corresponding to such a sentence, in respect of a conviction in service disciplinary proceedings, or
- (b) any sentence of a kind superseded (whether directly or indirectly) by a sentence mentioned in paragraph (a).”

(5) In section 6 (subsequent convictions to extend the rehabilitation period applicable to a conviction)—

- (a) in subsection (5) (exception to rule for certain orders imposing disqualifications etc) for “in accordance with section 5(8) above” substitute “by virtue of paragraph (g) of the definition of “relevant order” in section 5(8) above”, and
- (b) omit subsection (6) (other exceptions to the rule).

(6) After section 8A (protection afforded to spent cautions) insert—

“8AA Protection afforded to spent alternatives to prosecution

(1) The following provisions of this Act apply, with the modifications specified in subsection (3), to a spent alternative to prosecution as they apply to a spent caution—

- (a) section 9A (unauthorised disclosure of spent cautions), and
- (b) paragraphs 2 to 6 of Schedule 2 (protection relating to spent cautions and ancillary circumstances).

Status: Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) An alternative to prosecution becomes spent for the purposes of this Act when it becomes spent under the law of Scotland.
- (3) The modifications mentioned in subsection (1) are—
- (a) references to cautions are to be read as references to alternatives to prosecution (and references to cautioned are to be read accordingly),
 - (b) references to the offence which was the subject of the caution are to be read as references to the offence in respect of which the alternative to prosecution was given,
 - (c) paragraphs (e) and (f) of paragraph 2(1) of Schedule 2 are to be read as if they were—
 - “(e) anything done or undergone in pursuance of the terms of the alternative to prosecution,”
 - (d) references to cautions for an offence are to be read as references to alternatives to prosecution in respect of an offence, and
 - (e) the reference in paragraph 5 of Schedule 2 to the rehabilitation period applicable to the caution is to be read as a reference to the time at which the alternative to prosecution becomes spent.
- (4) In this section “alternative to prosecution” has the same meaning as in section 8B as that section has effect in the law of Scotland but disregarding subsection (1)(f) of that section.”
- (7) In paragraph 1 of Schedule 2 (protection for spent cautions)—
- (a) in sub-paragraph (1)(a) (when conditional cautions to be regarded as spent cautions) for “, at the end of the relevant period for the caution;” substitute “—
 - (i) at the end of the period of three months from the date on which the caution is given, or
 - (ii) if earlier, when the caution ceases to have effect; and”
 - (b) omit sub-paragraphs (2) and (3) (meaning of “the relevant period for the caution”).

Status:

Point in time view as at 01/09/2012. This version of this provision is not valid for this point in time.

Changes to legislation:

Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 139 is up to date with all changes known to be in force on or before 06 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.