
Changes to legislation: There are currently no known outstanding effects for the National Security Act 2023, Paragraph 10. (See end of Document for details)

SCHEDULES

SCHEDULE 12

FINGERPRINTS AND SAMPLES

Retention of paragraph 6 material

- 10 (1) For the purposes of paragraphs 8 and 9 an individual is to be treated as having been convicted of an offence if—
- (a) in relation to a recordable offence in England and Wales or Northern Ireland—
 - (i) the individual has been given a caution or youth caution in respect of the offence which, at the time of the caution, the individual has admitted,
 - (ii) the individual has been found not guilty of the offence by reason of insanity, or
 - (iii) the individual has been found to be under a disability and to have done the act charged in respect of the offence,
 - (b) the individual, in relation to an offence in Scotland punishable by imprisonment, has accepted or has been deemed to accept—
 - (i) a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995,
 - (ii) a compensation offer under section 302A of that Act,
 - (iii) a combined offer under section 302B of that Act, or
 - (iv) a work offer under section 303ZA of that Act,
 - (c) the individual, in relation to an offence in Scotland punishable by imprisonment, has been acquitted on account of the individual's insanity at the time of the offence or (as the case may be) by virtue of section 51A of the Criminal Procedure (Scotland) Act 1995,
 - (d) a finding in respect of the individual has been made under section 55(2) of the Criminal Procedure (Scotland) Act 1995 in relation to an offence in Scotland punishable by imprisonment,
 - (e) the individual, having been given a fixed penalty notice under section 129(1) of the [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#) in connection with an offence in Scotland punishable by imprisonment, has paid—
 - (i) the fixed penalty, or
 - (ii) (as the case may be) the sum which the individual is liable to pay by virtue of section 131(5) of that Act, or
 - (f) the individual, in relation to an offence in Scotland punishable by imprisonment, has been discharged absolutely by order under section 246(3) of the Criminal Procedure (Scotland) Act 1995.
- (2) Paragraphs 8, 9 and [this paragraph](#), so far as they relate to individuals convicted of an offence, have effect despite anything in the Rehabilitation of Offenders Act 1974

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or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27)).

- (3) But a person is not to be treated as having been convicted of an offence if that conviction is a disregarded conviction or caution by virtue of section 92 or 101A of the Protection of Freedoms Act 2012.
- (4) For the purposes of paragraphs 8 and 9—
- (a) an individual has no previous convictions if the individual has not previously been convicted—
 - (i) in England and Wales or Northern Ireland of a recordable offence, or
 - (ii) in Scotland of an offence which is punishable by imprisonment, and
 - (b) if the individual has previously been convicted of a recordable offence in England and Wales or Northern Ireland, the conviction is exempt if it is in respect of a recordable offence, other than a qualifying offence, committed when the individual was aged under 18.
- (5) In sub-paragraph (4) “qualifying offence”—
- (a) in relation to a conviction in respect of a recordable offence committed in England and Wales, has the meaning given by section 65A of the Police and Criminal Evidence Act 1984, and
 - (b) in relation to a conviction in respect of a recordable offence committed in Northern Ireland, has the meaning given by Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).
- (6) For the purposes of sub-paragraph (4)—
- (a) a person is to be treated as having previously been convicted in England and Wales of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of England and Wales if done there (whether or not it constituted such an offence when the person was convicted);
 - (b) a person is to be treated as having previously been convicted in Northern Ireland of a recordable offence if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute a recordable offence under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted);
 - (c) a person is to be treated as having previously been convicted in Scotland of an offence which is punishable by imprisonment if—
 - (i) the person has previously been convicted of an offence under the law of a country or territory outside the United Kingdom, and
 - (ii) the act constituting the offence would constitute an offence punishable by imprisonment under the law of Scotland if done there (whether or not it constituted such an offence when the person was convicted);
 - (d) the reference in sub-paragraph (4)(b) to a qualifying offence includes a reference to an offence under the law of a country or territory outside the United Kingdom where the act constituting the offence would constitute a

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qualifying offence under the law of England and Wales if done there or (as the case may be) under the law of Northern Ireland if done there (whether or not it constituted such an offence when the person was convicted).

- (7) For the purposes of paragraph 8, 9 or this paragraph—
- (a) “offence”, in relation to any country or territory outside the United Kingdom, includes an act punishable under the law of that country or territory, however it is described;
 - (b) a person has in particular been convicted of an offence under the law of a country or territory outside the United Kingdom if—
 - (i) a court exercising jurisdiction under the law of that country or territory has made in respect of such an offence a finding equivalent to a finding that the person is not guilty by reason of insanity, or
 - (ii) such a court has made in respect of such an offence a finding equivalent to a finding that the person is under a disability and did the act charged against the person in respect of the offence.
- (8) If an individual is convicted of more than one offence arising out of a single course of action, those convictions are to be treated as a single conviction for the purposes of calculating under paragraph 8 or 9 whether the individual has been convicted of one offence.

Commencement Information

- I1** Sch. 12 para. 10 not in force at Royal Assent, see 100(1)
- I2** Sch. 12 para. 10 in force at 20.12.2023 by S.I. 2023/1272, reg. 2(b)

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