



# Rehabilitation of Offenders Act 1974

## 1974 CHAPTER 53

An Act to rehabilitate offenders who have not been reconvicted of any serious offence for periods of years, to penalise the unauthorised disclosure of their previous convictions, to amend the law of defamation, and for purposes connected therewith. [31st July 1974]

### Annotations:

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

- C1 Act modified (1.7.1992) by [Road Traffic Offenders Act 1988](#) (c. 53, SIF 107:1), [ss. 58, 77\(7\)](#), as substituted (1.7.1992) by [Road Traffic Act 1991](#) (c. 40, SIF 107:1), [s. 34](#); S.I. 1992/1286, art. 2, [Sch.](#)
- C2 Act (except section 1(2)) modified by [Repatriation of Prisoners Act 1984](#) (c. 47, SIF 39:1), s. 3, [Sch. para. 6\(a\)](#)
- C3 Act excluded by [Financial Services Act 1986](#) (c. 60, SIF 69), [s. 189\(1\)](#)
- C4 By [Criminal Justice Act 1991](#) (c. 53, SIF 39:1), s. 101(1), [Sch. 12 para. 23](#); S.I. 1991/2208, art. 2(1), [Sch. 1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.
- C5 Act amended (1.10.1996) by [1996 c. 46, s. 13\(5\)\(6\)](#); S.I. 1996/2474, [art. 2](#)

#### Commencement Information

- I1 Act wholly in force at 1.7.1975 see [s. 11\(2\)](#)

## 1 Rehabilitated persons and spent convictions. **E+W**

- (1) Subject to subsection (2) 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

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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.

[<sup>F1</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.]

(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—

- (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 Great Britain; and
- (b) to any finding (other than a finding linked with a finding of insanity) in any criminal proceedings <sup>F2</sup> . . . that a person has committed an offence or done the act or made the omission charged;

and notwithstanding anything in section 9 of the <sup>M2</sup>Criminal Justice (Scotland) Act 1949 or [<sup>F3</sup>section 14 of the Powers of Criminal Courts (Sentencing) Act 2000] (conviction of a person <sup>F4</sup> . . . discharged to be deemed not to be a conviction) a conviction in respect of which an order is made [<sup>F5</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.

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## Annotations:

### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

### Amendments (Textual)

- F1** S. 1(2A) inserted (E.W.) by [Criminal Law Act 1977 \(c. 45\)](#), s. 65(7), [Sch. 9 para. 11](#)
- F2** 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\(2\)](#)
- F3** Words in s. 1(4) substituted (25.8.2000) by [2000 c. 6](#), ss. 165(1), 168(1), [Sch. 9 para. 47](#)
- F4** Words in s. 1(4) repealed (E.W.) (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 100, 101(2), [Sch. 11 para. 20](#), [Sch. 13](#); [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch. 2](#).
- F5** 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](#).

### Modifications etc. (not altering text)

- C6** 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](#)
- C7** 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\(2\)](#)
- C8** S. 1(2) excluded by [Drug Trafficking Offences Act 1986 \(c. 22, SIF 39:1\)](#), [s. 39\(3\)](#)

### Marginal Citations

- M1** [1977 c. 45](#).
- M2** [1949 c. 94](#).

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

(1) Subject to subsection (2) 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—

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- (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.
- (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—
- (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 Great Britain; and
  - (b) to any finding (other than a finding linked with a finding of insanity) in any criminal proceedings or in care proceedings under section 1 of the<sup>M38</sup>Children and Young Persons Act 1969 that a person has committed an offence or done the act or made the omission charged;
- and notwithstanding anything in section 9 of the<sup>M39</sup>Criminal Justice (Scotland) Act 1949 or section 13 of the<sup>M40</sup>Powers of Criminal Courts Act 1973 (conviction of a person put on probation or discharged to be deemed not to be a conviction) a conviction in respect of which an order is made placing the person convicted on probation or discharging him 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.

#### Annotations:

##### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

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

- C15** 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](#)
- C16** S. 1(2)(a) excluded by [Drug Trafficking Offences Act 1986 \(c. 32, SIF 39:1\)](#), s. 39(3)  
S. 1(2)(a) restricted (3.2.1995) by [1994 c. 37, ss. 65\(2\), 69\(2\)](#)  
S. 1(2)(a) restricted (31.3.1996) by [1995 c. 20, s. 113\(5\)](#) (which Act was repealed (1.4.1996) by [1995 c. 40, ss. 4, 6, 7\(2\), Sch. 3 Pt. II paras. 16\(3\), 17, Sch. 5](#))  
S. 1(2)(a) restricted (1.4.1996) by [1995 c. 43, ss. 47\(2\), 50\(2\)](#)
- C17** S. 1(2)(a) amended by [Criminal Justice \(Scotland\) Act 1987 \(c. 41, SIF 39:1\)](#), ss. 45(2), 47(4)(a)

##### Marginal Citations

- M38** [1969 c. 54](#).

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**M39** 1949 c. 94.  
**M40** 1973 c. 62.

## 2 Rehabilitation of persons dealt with in service disciplinary proceedings.

(1) <sup>F6</sup> . . . for the purposes of this Act any finding that a person is guilty of an offence in respect of any act or omission which was the subject of service disciplinary proceedings shall be treated as a conviction and any punishment awarded [<sup>F7</sup> or order made by virtue of Schedule 5A to the <sup>M3</sup> Army Act 1955 or to the <sup>M4</sup> Air Force Act 1955 or Schedule 4A to the <sup>M5</sup> Naval Discipline Act 1957] in respect of any such finding shall be treated as a sentence.

<sup>F8</sup>(2) . . . . .

(3) . . . . .

(4) . . . . .

(5) In this Act, “service disciplinary proceedings” means any of the following—

(a) any proceedings under the <sup>M6</sup> Army Act 1955, the <sup>M7</sup> Air Force Act 1955, or the <sup>M8</sup> Naval Discipline Act 1957 whether before a court-martial or before any other court or person authorised thereunder to award a punishment in respect of any offence);

(b) any proceedings under any Act previously in force corresponding to any of the Acts mentioned in paragraph (a) above;

[<sup>F9</sup>(bb) any proceedings before a Standing Civilian Court established under the <sup>M9</sup> Armed Forces Act 1976;]

(c) any proceedings under any corresponding enactment or law applying to a force, other than a home force, to which section 4 of the <sup>M10</sup> Visiting Forces (British Commonwealth) Act 1933 applies or applied at the time of the proceedings, being proceedings in respect of a member of a home force who is or was at that time attached to the first-mentioned force under that section;

whether in any event those proceedings take place in Great Britain or elsewhere.

### Annotations:

#### Amendments (Textual)

**F6** Words in s. 2(1) repealed (1.10.1996) by 1996 c. 46, s. 35(2), **Sch. 7 Pt III**; S.I. 1996/2474, art. 2, **Sch.**

**F7** Words inserted by **Armed Forces Act 1976 (c. 52)**, **Sch. 9 para. 20(1)**

**F8** S. 2(2)-(4) repealed (1.10.1996) by 1996 c. 46, ss. 13(2), 35(2), **Sch. 7 Pt III**; S.I. 1996/2474, art. 2, **Sch.**

**F9** S. 2(5)(bb) inserted by **Armed Forces Act 1976 (c. 52)**, **Sch. 9 para. 20(3)**

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

**C9** S. 2 modified by **Armed Forces Act 1976 (c. 52)**, **s. 17(1)**; extended by **Armed Forces Act 1976 (c. 52)**, **s. 17(2)**

#### Marginal Citations

**M3** 1955 c. 18.

**M4** 1955 c. 19.

**M5** 1957 c. 53.

**M6** 1955 c. 18.

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**M7** 1955 c. 19.  
**M8** 1957 c. 53.  
**M9** 1976 c. 52.  
**M10** 1933 c. 6.

### 3 Special provision with respect to certain disposals by children's hearings under the Social Work (Scotland) Act 1968.

Where a ground for the referral of a child's case to a children's hearing under the [F10Children (Scotland) Act 1995 is that mentioned in section 52(2)(i)] of that Act (commission by the child of an offence) and that ground has either been accepted by the child and, where necessary, by his parent or been established [F11(or deemed established) to the satisfaction of the sheriff under section 68 or 85 of that Act, the acceptance, establishment (or deemed establishment)] of that ground shall be treated for the purposes of this Act (but not otherwise) as a conviction, and any disposal of the case thereafter by a children's hearing shall be treated for those purposes as a sentence; and references in this Act to a person's being charged with or prosecuted for an offence shall be construed accordingly.

#### Annotations:

##### Amendments (Textual)

- F10** Words in s. 3 substituted (S.) (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(2)(a)**; S.I. 1996/3201, **art. 3(7)**
- F11** Words in s. 3 substituted (S.) (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(2)(b)**; S.I. 1996/3201, **art. 3(7)**

### 4 Effect of rehabilitation.

- (1) Subject to sections 7 and 8 below, a person who has become a rehabilitated person for the purposes of this Act in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction; and, notwithstanding the provisions of any other enactment or rule of law to the contrary, but subject as aforesaid—
- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Great Britain to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and
  - (b) a person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.
- (2) Subject to the provisions of any order made under subsection (4) below, where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority—
- (a) the question shall be treated as not relating to spent convictions or to any circumstances ancillary to spent convictions, and the answer thereto may be framed accordingly; and

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- (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstances ancillary to a spent conviction in his answer to the question.
- (3) Subject to the provisions of any order made under subsection (4) below,—
- (a) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction or any circumstances ancillary to a spent conviction (whether the conviction is his own or another's); and
- (b) a conviction which has become spent or any circumstances ancillary thereto, or any failure to disclose a spent conviction or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment.
- (4) The Secretary of State may by order—
- (a) make such provision as seems to him appropriate for excluding or modifying the application of either or both of paragraphs (a) and (b) of subsection (2) above in relation to questions put in such circumstances as may be specified in the order;
- (b) provide for such exceptions from the provisions of subsection (3) above as seem to him appropriate, in such cases or classes of case, and in relation to convictions of such a description, as may be specified in the order.
- (5) For the purposes of this section and section 7 below any of the following are circumstances ancillary to a conviction, that is to say—
- (a) the offence or offences which were the subject of that conviction;
- (b) the conduct constituting that offence or those offences; and
- (c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings (whether by way of appeal or otherwise) for reviewing that conviction or any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.
- (6) For the purposes of this section and section 7 below “proceedings before a judicial authority” includes, in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power—
- (a) by virtue of any enactment, law, custom or practice;
- (b) under the rules governing any association, institution, profession, occupation or employment; or
- (c) under any provision of an agreement providing for arbitration with respect to questions arising thereunder;
- to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.

**Annotations:**

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

**C10** S. 4(1) excluded by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 189(2), and by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 95(2)

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- S. 4(1) excluded (25.10.1993) by 1993 c. 39, s. 19(1); S.I. 1993/2632, art. 2.
- C11** S. 4(2) modified by Financial Services Act 1986 (c. 60, SIF 69), s. 189(3), and by Banking Act 1987 (c. 22, SIF 10), s. 95(3)
- S. 4(2) amended (25.10.1993) by 1993 c. 39, s. 19(2); S.I. 1993/2632, art. 2.
- C12** S. 4(3)(b) excluded by Financial Services Act 1986 (c. 60, SIF 69), s. 189(4), Banking Act 1987 (c. 22, SIF 10), s. 95(4), and excluded (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 80(3), Sch. 7 para. 5

## 5 Rehabilitation periods for particular sentences. **E+W**

(1) The sentences excluded from rehabilitation under this Act are—

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment [<sup>F12</sup>youth custody][<sup>F13</sup>detention in a young offender institution] or corrective training for a term exceeding thirty months;
- (c) a sentence of preventive detention; . . . <sup>F14</sup>
- (d) a sentence of detention during Her Majesty's pleasure or for life [<sup>F15</sup>under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F16</sup>or under section 205(2) or (3) of the Criminal Procedure (Scotland) Act 1975,], [<sup>F17</sup>or a sentence of detention for a term exceeding thirty months passed under section 91 of the said Act of 2000][<sup>F18</sup>(young offenders convicted of grave crimes) or under section 206 of the said Act of 1975 (detention of children convicted on indictment)][<sup>F19</sup>or a corresponding court-martial punishment][<sup>F20</sup>and
- (e) a sentence of custody for life];

and any other sentence is a sentence subject to rehabilitation under this Act.

[<sup>F21</sup>(1A) In subsection (1)(d) above “corresponding court-martial punishment” means a punishment awarded under section 71A(3) or (4) of the <sup>M11</sup>Army Act 1955, section 71A(3) or (4) of the <sup>M12</sup>Air Force Act 1955 or section 43A(3) or (4) of the <sup>M13</sup>Naval Discipline Act 1957.]

(2) For the purposes of this Act—

- (a) the rehabilitation period applicable to a sentence specified in the first column of Table A below is the period specified in the second column of that Table in relation to that sentence, or, where the sentence was imposed on a person who was under [<sup>F22</sup> eighteen years of age] at the date of his conviction, half that period; and
- (b) the rehabilitation period applicable to a sentence specified in the first column of Table B below is the period specified in the second column of that Table in relation to that sentence;

reckoned in either case from the date of the conviction in respect of which the sentence was imposed.

TABLE A

Rehabilitation periods subject to reduction by half for persons [<sup>F23</sup>under 18]

<i>Sentence</i>	<i>Rehabilitation period</i>
A sentence of imprisonment [ <sup>F24</sup> detention in a young offender institution][ <sup>F25</sup> or youth custody] or corrective training for a term exceeding	Ten years

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six months but not exceeding thirty months.	
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.	Ten years
A sentence of imprisonment [F24detention in a young offender institution][F25or youth custody] for a term not exceeding six months.	Seven years
A sentence of dismissal from Her Majesty's service.	Seven years
Any sentence of detention in respect of a conviction in service disciplinary proceedings.	Five years
A fine or any other sentence subject to rehabilitation under this Act, not being a sentence to which Table B below or any of subsections (3) [F26, (4A)] to (8) below applies.	Five years

TABLE B  
 Rehabilitation periods for certain sentences confined to young offenders

<i>Sentence</i>	<i>Rehabilitation period</i>
A sentence of Borstal training.	Seven years
[F27A custodial order under Schedule 5A to the M14Army Act 1955 or the M15Air Force Act 1955, or under Schedule 4A to the M16Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.]	[F27Seven years]
[F28A custodial order under section 71AA of the Army Act 1955 or the Air Force Act 1955, or under section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.]	[F28Seven years.]
A sentence of detention for a term exceeding six months but not exceeding thirty months passed under [F29section 91 of the Powers of Criminal Courts (Sentencing) Act 2000]or under section [F30206 of the Criminal Procedure (Scotland) Act 1975].	Five years

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A sentence of detention for a term not exceeding six months passed under either of those provisions. Three years

An order for detention in a detention centre made under [<sup>F31</sup>section 4 of the Criminal Justice Act 1982,] section 4 of the  
M17

Criminal Justice Act 1961 . . .  
F32

[<sup>F27</sup>A custodial order under any of the Schedules to the said Acts of 1955 and 1957 mentioned above, where the maximum period of detention specified in the order is six months or less.] [<sup>F27</sup>Three years]

[<sup>F33</sup>A custodial order under section 71AA of the said Acts of 1955, or section 43AA or the said Act of 1957, where the maximum period of detention specified in the order is six months or less.] [<sup>F33</sup>Three years.]

(3) The rehabilitation period applicable—

- (a) to an order discharging a person absolutely for an offence; and
- (b) to the discharge by a children's hearing under section 43(2) of the Social Work (Scotland) Act 1968 of the referral of a child's case;

shall be six months from the date of conviction.

(4) Where in respect of a conviction a person was conditionally discharged, bound over to keep the peace or be of good behaviour,<sup>F34</sup> . . . the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order for conditional discharge . . . or (as the case may be) the recognizance or bond of caution to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

[<sup>F35</sup>(4A) Where in respect of a conviction [<sup>F36</sup>a probation order was made], the rehabilitation period applicable to the sentence shall be—

- (a) in the case of a person aged eighteen years or over at the date of his conviction, five years from the date of conviction;
- (b) in the case of a person aged under the age of eighteen years at the date of his conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the [<sup>F37</sup>order in question] ceases or ceased to have effect, whichever is the longer.]

[<sup>F38</sup>(4B) Where in respect of a conviction a referral order (within the meaning of [<sup>F39</sup>the Powers of Criminal Courts (Sentencing) Act 2000]) is made in respect of the person convicted, the rehabilitation period applicable to the sentence shall be—

- (a) if a youth offender contract takes effect under [<sup>F40</sup>section 23] of that Act between him and a youth offender panel, the period beginning with the date

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- of conviction and ending on the date when (in accordance with <sup>F41</sup>section 24] of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which such a contract would (ignoring any order under paragraph 11 or 12 of Schedule 1 to that Act) have had effect had one so taken effect.
- (4C) Where in respect of a conviction an order is made in respect of the person convicted under paragraph 11 or 12 of Schedule 1 to <sup>F42</sup>the Powers of Criminal Courts (Sentencing) Act 2000] (extension of period for which youth offender contract has effect), the rehabilitation period applicable to the sentence shall be—
- (a) if a youth offender contract takes effect under <sup>F43</sup>section 23] of that Act between the offender and a youth offender panel, the period beginning with the date of conviction and ending on the date when (in accordance with <sup>F44</sup>section 24] of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which, in accordance with the order, such a contract would have had effect had one so taken effect.]
- (5) Where in respect of a conviction any of the following sentences was imposed, that is to say—
- (a) an order under section 57 of the <sup>M18</sup>Children and Young Persons Act 1933 or section 61 of the <sup>M19</sup>Children and Young Persons (Scotland) Act 1937 committing the person convicted to the care of a fit person;
- (b) a supervision order under any provision of either of those Acts or of the <sup>M20</sup>Children and Young Persons Act 1963;
- <sup>F45</sup>(c) an order under section 413 of the Criminal Procedure (Scotland) Act 1975 committing a child for the purpose of his undergoing residential training;]
- (d) an approved school order under section 61 of the said Act of 1937;
- (e) <sup>F46</sup>a care order or]a supervision order under <sup>F47</sup>section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000]; or
- (f) a supervision requirement under any provision of the <sup>M21</sup>Social Work (Scotland) Act 1968;
- <sup>F48</sup>(g) a community supervision order under Schedule 5A to the <sup>M22</sup>Army Act 1955 or the <sup>M23</sup>Air Force Act 1955, or under Schedule 4A to the <sup>M24</sup>Naval Discipline Act 1957;
- <sup>F49</sup>(h) .....]
- the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.
- (6) Where in respect of a conviction any of the following orders was made, that is to say—
- (a) an order under section 54 of the said Act of 1933 committing the person convicted to custody in a remand home;
- (b) an approved school order under section 57 of the said Act of 1933; or
- (c) an attendance centre order under <sup>F50</sup>section 60 of the Powers of Criminal Courts (Sentencing) Act 2000]; <sup>F51</sup>or
- (d) a secure training order under section 1 of the Criminal Justice and Public Order Act 1994;]

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the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending one year after the date on which the order ceases or ceased to have effect.

- <sup>F52</sup>(6A) Where in respect of a conviction a detention and training order was made under [<sup>F53</sup>section 100 of the Powers of Criminal Courts (Sentencing) Act 2000], the rehabilitation period applicable to the sentence shall be—
- (a) in the case of a person aged fifteen years or over at the date of his conviction, five years if the order was, and three and a half years if the order was not, for a term exceeding six months;
  - (b) in the case of a person aged under fifteen years at the date of his conviction, a period beginning with that date and ending one year after the date on which the order ceases to have effect.
- (7) Where in respect of a conviction a hospital order under [<sup>F54</sup>Part III of the Mental Health Act 1983] or under [<sup>F55</sup>Part VI of the Mental Health (Scotland) Act 1984] (with or without [<sup>F56</sup>a restriction order]) was made, the rehabilitation period applicable to the sentence shall be the period of five years from the date of conviction or a period beginning with that date and ending two years after the date on which the hospital order ceases or ceased to have effect, whichever is the longer.
- (8) Where in respect of a conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.
- (9) For the purposes of this section—
- (a) “sentence of imprisonment” includes a sentence of detention [<sup>F57</sup>under section 207 or 415 of the Criminal Procedure (Scotland) Act 1975] and a sentence of penal servitude, and “term of imprisonment” shall be construed accordingly;
  - (b) consecutive terms of imprisonment or of detention under [<sup>F58</sup>section 91 of the Powers of Criminal Courts (Sentencing) Act 2000] or [<sup>F59</sup>section 206 of the said Act of 1975], and terms which are wholly or partly concurrent (being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
  - (c) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed; and
  - (d) a sentence imposed by a court outside Great Britain shall be treated as a sentence of that one of the descriptions mentioned in this section which most nearly corresponds to the sentence imposed.
- (10) References in this section to the period during which a probation order, or a [<sup>F60</sup>care order or] supervision order under [<sup>F61</sup>the Powers of Criminal Courts (Sentencing) Act 2000], or a supervision requirement under the <sup>M25</sup>Social Work (Scotland) Act 1968, is or was in force include references to any period during which any order or requirement to which this subsection applies, being an order or requirement made or imposed directly or indirectly in substitution for the first-mentioned order or requirement, is or was in force.

This subsection applies—

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- (a) to any such order or requirement as is mentioned above in this subsection;
- (b) to any order having effect under section 25(2) of [<sup>F62</sup>the Children and Young Persons Act 1969] as if it were a training school order in Northern Ireland; and
- (c) to any supervision order made under section 72(2) of the said Act of 1968 and having effect as a supervision order under the <sup>M26</sup>Children and Young Persons Act (Northern Ireland) 1950.

[<sup>F63</sup>(10A) The reference in subsection (5) above to the period during which a reception order has effect includes a reference to any subsequent period during which by virtue of the order having been made the <sup>M27</sup>Social Work (Scotland) Act 1968 or the <sup>M28</sup>Children and Young Persons Act (Northern Ireland) 1968 has effect in relation to the person in respect of whom the order was made and subsection (10) above shall accordingly have effect in relation to any such subsequent period.]

- (11) The Secretary of State may by order—
  - (a) substitute different periods or terms for any of the periods or terms mentioned in subsections (1) to (8) above; and
  - (b) substitute a different age for the age mentioned in subsection (2)(a) above.

#### Annotations:

##### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

##### Amendments (Textual)

- F12** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 36(a)**
- F13** Words inserted (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123, **Sch. 8 paras. 9, 16**
- F14** Word repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**
- F15** Words in s. 5(1)(d) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(2)(a)**
- F16** Words inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(a)(i)**
- F17** Words in s. 5(1)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(2)(b)**
- F18** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(a)(ii)**
- F19** Words inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 20(4)**
- F20** S. 5(1)(e) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 14 para. 36(b)**
- F21** S. 5(1A) inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 20(5)**
- F22** Words in s. 5(2)(a) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), **Sch. 8 para. 5(a)**, **Sch. 12 para. 22(2)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F23** Words in s. 5(2) in the Heading to Table A substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), **Sch. 8 para. 5(b)**, **Sch. 12 para. 22(2)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F24** Words inserted (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 123, **Sch. 8 paras. 9, 16**
- F25** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 37(a)**
- F26** Words in Table A in s. 5(2) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 11(1)(a)(2)**; S.I. 1995/127, art. 2(1), **Sch. Appendix A**
- F27** Entry inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 21(1)**
- F28** Entry made by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **Sch. 4 para. 2(2)(a)**
- F29** Words in Table B in s. 5(2) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(3)**
- F30** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(b)(i)**
- F31** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 14 para. 37(b)**
- F32** Words repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(b)(ii)**, **Sch. 8**
- F33** Entry made by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **Sch. 4 para. 2(2)(b)**

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- F34** Words in s. 5(4) repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), **Sch. 9 para. 11(1)(b)(2)** **Sch. 11**; S.I. 1995/127, art. 2(1), **Sch.** Appendix A, Appendix C
- F35** S. 5(4A) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 11(1)(c)(2)**; S.I. 1995/127, art. 2(1), **Sch.** Appendix A
- F36** Words in s. 5(4A) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 49(a)**; S.I. 2001/919, **art. 2(f)(ii)**
- F37** Words in s. 5(4A)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 49(b)**; S.I. 2001/919, **art. 2(f)(ii)**
- F38** S. 5(4B)(4C) inserted (26.6.2000) by 1999 c. 23, s. 67(1), **Sch. 4 para. 6(3)**(with Sch. 7 paras. 3(3) 5(2))
- F39** Words in s. 5(4B) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(a)**
- F40** Words in s. 5(4B)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(b)**
- F41** Words in s. 5(4B)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(c)**
- F42** Words in s. 5(4C) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(a)**
- F43** Words in s. 5(4C) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(b)**
- F44** Words in s. 5(4C) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(c)**
- F45** S. 5(5)(c) substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(c)**
- F46** Words in s. 5(5)(e) 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)**
- F47** Words in s. 5(5)(e) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(6)**
- F48** S. 5(5)(g)(h) added by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 21(2)**
- F49** S. 5(5)(h) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch. 3**; S.I. 1991/2719, art. 2, **Sch.**
- F50** Words in s. 5(6)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(7)**
- F51** S. 5(6)(d) and word "or" preceding it inserted (1.3.1998) by 1994 c. 33, s. 168(2), **Sch. 10 para. 30**; S.I. 1998/277, **art. 3(2)**
- F52** S. 5(6A) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 35**; S.I. 1999/3426, **art. 3(b)**
- F53** Words in s. 5(6A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(8)**
- F54** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 39**
- F55** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), ss. 17(2), 127(1), **Sch. 3 para. 22**
- F56** Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 3 para. 49**
- F57** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(d)(i)**
- F58** Words in s. 5(9)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(9)**
- F59** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(d)(ii)**
- F60** Words in s. 5(10) 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)**
- F61** Words in s. 5(10) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(10)(a)**
- F62** Words in s. 5(10) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(10)(b)**
- F63** S. 5(10A) inserted by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 21(3)**

### Marginal Citations

- M11** 1955 c. 18.  
**M12** 1955 c. 19.  
**M13** 1957 c. 53.  
**M14** 1955 c. 18.  
**M15** 1955 c. 19.  
**M16** 1957 c. 53.  
**M17** 1961 c. 39.  
**M18** 1933 c. 12.  
**M19** 1937 c. 37.  
**M20** 1963 c. 37.  
**M21** 1968 c. 49.

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- M22 1955 c. 18.
- M23 1955 c. 19.
- M24 1957 c. 53.
- M25 1968 c. 49.
- M26 1950 c. 5. (N.I.)
- M27 1968 c. 49.
- M28 1968 c. 34. (N.I.)

## 5 Rehabilitation periods for particular sentences. **S**

(1) The sentences excluded from rehabilitation under this Act are—

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment [<sup>F80</sup>youth custody] or corrective training for a term exceeding thirty months;
- (c) a sentence of preventive detention; . . . <sup>F81</sup>
- (d) a sentence of detention during Her Majesty's pleasure or for life [<sup>F82</sup>under sections 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F83</sup>or under section 205(2) or (3) of the Criminal Procedure (Scotland) Act 1975,], [or a sentence of detention for a term exceeding thirty months passed under section 91 of the said Act of 2000][<sup>F84</sup>(young offenders convicted of grave crimes) or under section 206 of the said Act of 1975 (detention of children convicted on indictment)][<sup>F85</sup>or a corresponding court-martial punishment][<sup>F86</sup>and
- (e) a sentence of custody for life];

and any other sentence is a sentence subject to rehabilitation under this Act.

[<sup>F87</sup>(1A) In subsection (1)(d) above “corresponding court-martial punishment” means a punishment awarded under section 71A(3) or (4) of the <sup>M41</sup>Army Act 1955, section 71A(3) or (4) of the <sup>M42</sup>Air Force Act 1955 or section 43A(3) or (4) of the <sup>M43</sup>Naval Discipline Act 1957.]

(2) For the purposes of this Act—

- (a) the rehabilitation period applicable to a sentence specified in the first column of Table A below is the period specified in the second column of that Table in relation to that sentence, or, where the sentence was imposed on a person who was under [<sup>F88</sup>eighteen years of age] at the date of his conviction, half that period; and
- (b) the rehabilitation period applicable to a sentence specified in the first column of Table B below is the period specified in the second column of that Table in relation to that sentence;

reckoned in either case from the date of the conviction in respect of which the sentence was imposed.

### TABLE A

Rehabilitation periods subject to reduction by half for persons [<sup>F89</sup>under 18]

<i>Sentence</i>	<i>Rehabilitation period</i>
A sentence of imprisonment [ <sup>F90</sup> or youth custody] or corrective training for a term	Ten years

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exceeding six months but not exceeding thirty months.	
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.	Ten years
A sentence of imprisonment [ <sup>F90</sup> or youth custody] for a term not exceeding six months.	Seven years
A sentence of dismissal from Her Majesty's service.	Seven years
Any sentence of detention in respect of a conviction in service disciplinary proceedings.	Five years
A fine or any other sentence subject to rehabilitation under this Act, not being a sentence to which Table B below or any of subsections (3) [ <sup>F91</sup> to (8)]below applies.	Five years

TABLE B

Rehabilitation periods for certain sentences confined to young offenders

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<i>Sentence</i>	<i>Rehabilitation period</i>
A sentence of Borstal training.	Seven years
[ <sup>F92</sup> A custodial order under Schedule 5A to the <sup>M44</sup> Army Act 1955 or the <sup>M45</sup> Air Force Act 1955, or under Schedule 4A to the <sup>M46</sup> Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.]	[ <sup>F92</sup> Seven years]
[ <sup>F93</sup> A custodial order under section 71AA of the Army Act 1955 or the Air Force Act 1955, or under section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.]	[ <sup>F93</sup> Seven years.]
A sentence of detention for a term exceeding six months but not exceeding thirty months passed under [ <sup>F94</sup> section 91 of the Powers of Criminal Courts (Sentencing) Act 2000] or under section [ <sup>F95</sup> 206 of the Criminal Procedure (Scotland) Act 1975].	Five years

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A sentence of detention for a term not exceeding six months passed under either of those provisions. Three years

An order for detention in a detention centre made under [F96section 4 of the Criminal Justice Act 1982,] section 4 of the M47

Criminal Justice Act 1961 . . . F97

[F92A custodial order under any of the Schedules to the said Acts of 1955 and 1957 mentioned above, where the maximum period of detention specified in the order is six months or less.] [F92Three years]

[F98A custodial order under section 71AA of the said Acts of 1955, or section 43AA or the said Act of 1957, where the maximum period of detention specified in the order is six months or less.] [F98Three years.]

- 
- (3) The rehabilitation period applicable—
- (a) to an order discharging a person absolutely for an offence; and
  - (b) to the discharge by a children’s hearing under section [F9969(1)(b) and (12) of the Children (Scotland) Act 1995] of the referral of a child’s case;
- shall be six months from the date of conviction.

- (4) Where in respect of a conviction a person was conditionally discharged, bound over to keep the peace or be of good behaviour, F100 . . . the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order for conditional discharge . . . or (as the case may be) the recognizance or bond of caution to keep the peace or be of good behaviour ceases or ceased to have effect, whichever is the longer.

[F101(4A) Where in respect of a conviction [F102a probation order was made], the rehabilitation period applicable to the sentence shall be—

- (a) in the case of a person aged eighteen years or over at the date of his conviction, five years from the date of conviction;
- (b) in the case of a person aged under the age of eighteen years at the date of his conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the [F103order in question] ceases or ceased to have effect, whichever is the longer.]

[F104(4B) Where in respect of a conviction a referral order (within the meaning of [F105the Powers of Criminal Courts (Sentencing) Act 2000]) is made in respect of the person convicted, the rehabilitation period applicable to the sentence shall be—

- (a) if a youth offender contract takes effect under [F106section 23] of that Act between him and a youth offender panel, the period beginning with the date of

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- conviction and ending on the date when (in accordance with [F107]section 24] of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which such a contract would (ignoring any order under paragraph 11 or 12 of Schedule 1 to that Act) have had effect had one so taken effect.
- (4C) Where in respect of a conviction an order is made in respect of the person convicted under paragraph 11 or 12 of Schedule 1 to [F108]the Powers of Criminal Courts (Sentencing) Act 2000] (extension of period for which youth offender contract has effect), the rehabilitation period applicable to the sentence shall be—
- (a) if a youth offender contract takes effect under [F109]section 23]of that Act between the offender and a youth offender panel, the period beginning with the date of conviction and ending on the date when (in accordance with [F110]section 24] of that Act) the contract ceases to have effect;
- (b) if no such contract so takes effect, the period beginning with the date of conviction and having the same length as the period for which, in accordance with the order, such a contract would have had effect had one so taken effect.]
- (5) Where in respect of a conviction any of the following sentences was imposed, that is to say—
- (a) an order under section 57 of the M48Children and Young Persons Act 1933 or section 61 of the M49Children and Young Persons (Scotland) Act 1937 committing the person convicted to the care of a fit person;
- (b) a supervision order under any provision of either of those Acts or of the M50Children and Young Persons Act 1963;
- [F111](c) an order under section 413 of the Criminal Procedure (Scotland) Act 1975 committing a child for the purpose of his undergoing residential training;]
- (d) an approved school order under section 61 of the said Act of 1937;
- (e) a care order or a supervision order under [F112]section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000]; or
- (f) a supervision requirement under any provision of the [F113]Children Work (Scotland) Act 1995;]
- [F114](g) a community supervision order under Schedule 5A to the M51Army Act 1955 or the M52Air Force Act 1955, or under Schedule 4A to the M53Naval Discipline Act 1957;
- F115(h) .....]
- the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.
- (6) Where in respect of a conviction any of the following orders was made, that is to say—
- (a) an order under section 54 of the said Act of 1933 committing the person convicted to custody in a remand home;
- (b) an approved school order under section 57 of the said Act of 1933; or
- (c) an attendance centre order under [F116]section 60 of the Powers of Criminal Courts (Sentencing) Act 2000]; [F117]or
- (d) a secure training order under section 1 of the Criminal Justice and Public Order Act 1994;]

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the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending one year after the date on which the order ceases or ceased to have effect.

- <sup>F118</sup>(6A) Where in respect of a conviction a detention and training order was made under [<sup>F119</sup>section 100 of the Powers of Criminal Courts (Sentencing) Act 2000], the rehabilitation period applicable to the sentence shall be—
- (a) in the case of a person aged fifteen years or over at the date of his conviction, five years if the order was, and three and a half years if the order was not, for a term exceeding six months;
  - (b) in the case of a person aged under fifteen years at the date of his conviction, a period beginning with that date and ending one year after the date on which the order ceases to have effect.
- (7) Where in respect of a conviction a hospital order under [<sup>F120</sup>Part III of the Mental Health Act 1983] or under [<sup>F121</sup>Part VI of the Mental Health (Scotland) Act 1984] (with or without [<sup>F122</sup>a restriction order]) was made, the rehabilitation period applicable to the sentence shall be the period of five years from the date of conviction or a period beginning with that date and ending two years after the date on which the hospital order ceases or ceased to have effect, whichever is the longer.
- (8) Where in respect of a conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.
- (9) For the purposes of this section—
- (a) “sentence of imprisonment” includes a sentence of detention [<sup>F123</sup>under section 207 or 415 of the Criminal Procedure (Scotland) Act 1975] and a sentence of penal servitude, and “term of imprisonment” shall be construed accordingly;
  - (b) consecutive terms of imprisonment or of detention under [<sup>F124</sup>section 91 of the Powers of Criminal Courts (Sentencing) Act 2000] or [<sup>F125</sup>section 206 of the said Act of 1975], and terms which are wholly or partly concurrent (being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
  - (c) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed; and
  - (d) a sentence imposed by a court outside Great Britain shall be treated as a sentence of that one of the descriptions mentioned in this section which most nearly corresponds to the sentence imposed.
- (10) References in this section to the period during which a probation order, or a care order or supervision order under [<sup>F126</sup>the Powers of Criminal Courts (Sentencing) Act 2000], or a supervision requirement under the [<sup>F127</sup>Children (Scotland) Act 1995], is or was in force include references to any period during which any order or requirement to which this subsection applies, being an order or requirement made or imposed directly or indirectly in substitution for the first-mentioned order or requirement, is or was in force.

This subsection applies—

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- (a) to any such order or requirement as is mentioned above in this subsection;
- (b) to any order having effect under section 25(2) of [<sup>F128</sup>the Children and Young Persons Act 1969] as if it were a training school order in Northern Ireland; and
- (c) to any supervision order made under section 72(2) of the said Act of 1968 and having effect as a supervision order under the Children and Young Persons Act (Northern Ireland) 1950.

<sup>F129</sup>(10A) . . . . .

(11) The Secretary of State may by order—

- (a) substitute different periods or terms for any of the periods or terms mentioned in subsections (1) to (8) above; and
- (b) substitute a different age for the age mentioned in subsection (2)(a) above.

#### Annotations:

##### Extent Information

- E5** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

##### Amendments (Textual)

- F80** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 36(a)**
- F81** Word repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**
- F82** Words in s. 5(1)(d) inserted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(2)(a)**
- F83** Words inserted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(a)(i)**
- F84** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(a)(ii)**
- F85** Words inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 20(4)**
- F86** S. 5(1)(e) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 14 para. 36(b)**
- F87** S. 5(1A) inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 20(5)**
- F88** Words in s. 5(2)(a) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), Sch. 8 para. 5(a), **Sch. 12 para. 22(2)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F89** Words in s. 5(2) in the Heading to Table A substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 68, 101(1), Sch. 8 para. 5(b), **Sch. 12 para. 22(2)**; S.I. 1992/333, art. 2(2), **Sch. 2**.
- F90** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 37(a)**
- F91** Words in Table A in s. 5(2) substituted (26.6.2000) by 1999 c. 23, s. 67(1), **Sch. 4 para. 6(2)** (with Sch. 7 paras. 3(3) 5(2)); S.I. 2000/1587, **art. 2(b)**
- F92** Entry inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 21(1)**
- F93** Entry made by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **Sch. 4 para. 2(2)(a)**
- F94** Words in Table B in s. 5(2) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(3)**
- F95** Words substituted by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(b)(i)**
- F96** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 14 para. 37(b)**
- F97** Words repealed by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), **Sch. 7 para. 24(b)(ii)**, Sch. 8
- F98** Entry made by [Armed Forces Act 1981 \(c. 55, SIF 7:1\)](#), **Sch. 4 para. 2(2)(b)**
- F99** Words in s. 5(3)(b) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(3)(a)**; S.I. 1996/3201, **art. 3(7)**
- F100** Words in s. 5(4) repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), **Sch. 9 para. 11(1)(b)(2)** **Sch. 11**; S.I. 1995/127, **art. 2(1)**, **Sch.**, Appendix A, Appendix C
- F101** S. 5(4A) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 11(1)(c)(2)**; S.I. 1995/127, **art. 2(1)**, **Sch.** Appendix A
- F102** Words in s. 5(4A) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 49(a)**; S.I. 2001/919, **art. 2(f)(ii)**

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- F103** Words in s. 5(4A)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 49(b)**; S.I. 2001/919, **art. 2(f)(ii)**
- F104** S. 5(4B)(4C) inserted (26.6.2000) by 1999 c. 23, s. 67(1), **Sch. 4 para. 6(3)** (with Sch. 7 paras. 3(3) 5(2)); S.I. 2000/1587, **art. 2(b)**
- F105** Words in s. 5(4B) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(a)**
- F106** Words in s. 5(4B)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(b)**
- F107** Words in s. 5(4B)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(4)(c)**
- F108** Words in s. 5(4C) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(a)**
- F109** Words in s. 5(4C)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(b)**
- F110** Words in s. 5(4C)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(5)(c)**
- F111** S. 5(5)(c) substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(c)**
- F112** Words in s. 5(5)(e) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(6)**
- F113** Words in s. 5(5)(f) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(3)(b)**; S.I. 1996/3201, **art. 3(7)**
- F114** S. 5(5)(g)(h) added by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 21(2)**
- F115** S. 5(5)(h) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2, Sch.**
- F116** Words in s. 5(6)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(7)**
- F117** S. 5(6)(d) and word "or" immediately preceding it inserted (1.3.1998) by 1994 c. 33, s. 168(2), **Sch. 10 para. 30**; S.I. 1998/277, **art. 3(2)**
- F118** S. 5(6A) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 35**; S.I. 1999/3426, **art. 3(b)**
- F119** Words in s. 5(6A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(8)**
- F120** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 4 para. 39**
- F121** Words substituted by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), ss. 17(2), 127(1), **Sch. 3 para. 22**
- F122** Words substituted by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 3 para. 49**
- F123** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(d)(i)**
- F124** Words in s. 5(9)(b) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(9)**
- F125** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(d)(ii)**
- F126** Words in s. 5(10) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(10)**
- F127** Words in s. 5(10) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(3)(c)**; S.I. 1996/3201, **art. 3(7)**
- F128** Words in s. 5(10) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 48(10)(b)**
- F129** S. 5(10A) repealed (1.4.1997) by 1995 c. 36, s. 105(4)(5), Sch. 4 para. 23(3)(d), **Sch. 5**; S.I. 1996/3201, **art. 3(7)**

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

- C18** S. 5 modified (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124, Sch. 8 para. 16, **Sch. 9 para. 8**

#### Marginal Citations

- M41** 1955 c. 18.  
**M42** 1955 c. 19.  
**M43** 1957 c. 53.  
**M44** 1955 c. 18.  
**M45** 1955 c. 19.  
**M46** 1957 c. 53.  
**M47** 1961 c. 39.  
**M48** 1933 c. 12.  
**M49** 1937 c. 37.  
**M50** 1963 c. 37.  
**M51** 1955 c. 18.  
**M52** 1955 c. 19.

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M53 1957 c. 53.

## 6 The rehabilitation period applicable to a conviction.

- (1) Where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Act) the rehabilitation period applicable to the conviction is, subject to the following provisions of this section, the period applicable to the sentence in accordance with section 5 above.
- (2) Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Act, then, subject to the following provisions of this section, if the periods applicable to those sentences in accordance with section 5 above differ, the rehabilitation period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.
- (3) Without prejudice to subsection (2) above, where in respect of a conviction a person was conditionally discharged or [<sup>F64</sup>a probation order was made] and after the end of the rehabilitation period applicable to the conviction in accordance with subsection (1) or (2) above he is dealt with, in consequence of a breach of conditional discharge [<sup>F65</sup>or a breach of the order], for the offence for which the order for conditional discharge or probation order was made, then, if the rehabilitation period applicable to the conviction in accordance with subsection (2) above (taking into account any sentence imposed when he is so dealt with) ends later than the rehabilitation period previously applicable to the conviction, he shall be treated for the purposes of this Act as not having become a rehabilitated person in respect of that conviction, and the conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.
- (4) Subject to subsection (5) below, where during the rehabilitation period applicable to a conviction—
  - (a) the person convicted is convicted of a further offence; and
  - (b) no sentence excluded from rehabilitation under this Act is imposed on him in respect of the later conviction;
 if the rehabilitation period applicable in accordance with this section to either of the convictions would end earlier than the period so applicable in relation to the other, the rehabilitation period which would (apart from this subsection) end the earlier shall be extended so as to end at the same time as the other rehabilitation period.
- (5) Where the rehabilitation period applicable to a conviction is the rehabilitation period applicable in accordance with section 5(8) above to an order imposing on a person any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to another conviction shall not by virtue of subsection (4) above be extended by reference to that period; but if any other sentence is imposed in respect of the first-mentioned conviction for which a rehabilitation period is prescribed by any other provision of section 5 above, the rehabilitation period applicable to another conviction shall, where appropriate, be extended under subsection (4) above by reference to the rehabilitation period applicable in accordance with that section to that sentence or, where more than one such sentence is imposed, by reference to the longer or longest of the periods so applicable to those sentences, as if the period in question were the rehabilitation period applicable to the first-mentioned conviction.
- (6) <sup>F66</sup> . . . for the purposes of subsection (4)(a) above there shall be disregarded—

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- (a) any conviction in England and Wales of [<sup>F67</sup>a summary offence or of a scheduled offence (within the meaning of [<sup>F68</sup>section 22 of the Magistrates' Courts Act 1980]) tried summarily in pursuance of subsection (2) of that section (summary trial where value involved is small);]
- (b) any conviction in Scotland of an offence which is not excluded from the jurisdiction of inferior courts of summary jurisdiction by virtue of section 4 of the <sup>M29</sup>Summary Jurisdiction (Scotland) Act 1954 (certain crimes not to be tried in inferior courts of summary jurisdiction); and
- [<sup>F69</sup>(bb) any conviction in service disciplinary proceedings for an offence listed in the Schedule;]
- (c) any conviction by or before a court outside Great Britain of an offence in respect of conduct which, if it had taken place in any part of Great Britain, would not have constituted an offence under the law in force in that part of Great Britain.

<sup>F70</sup>(7) .....

**Annotations:**

**Amendments (Textual)**

- F64** Words in s. 6(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 50(a)**; S.I. 2001/919, **art. 2(f)(ii)**
- F65** Words in s. 6(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 50(b)**; S.I. 2001/919, **art. 2(f)(ii)**
- F66** Words in s. 6(6) repealed (1.10.1996) by 1996 c. 46, ss. 13(3)(a), 35(2), **Sch. 7 Pt. III**; S.I. 1996/2474, **art. 2, Sch.**
- F67** Words substituted by **Criminal Law Act 1977 (c. 45)**, s. 65(7), **Sch. 12**
- F68** Words substituted by **Magistrates' Courts Act 1980 (c. 43, SIF 82)**, **Sch. 7 para. 134**
- F69** **S. 6(6)(bb)** inserted (1.10.1996) by 1996 c. 46, **s. 13(3)(b)**; S.I. 1996/2474, **art 2**
- F70** **S. 6(7)** repealed (1.10.1996) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. III**; S.I. 1996/2474, **art. 2, Sch.**

**Marginal Citations**

- M29** 1954 c. 48.

**7 Limitations on rehabilitation under this Act, etc. E+W**

- (1) Nothing in section 4(1) above shall affect—
  - (a) any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to grant a free pardon, to quash any conviction or sentence, or to commute any sentence;
  - (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
  - (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction; or
  - (d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond the rehabilitation period applicable in accordance with section 6 above to the conviction.

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- (2) Nothing in section 4(1) above shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto—
- (a) in any criminal proceedings before a court in Great Britain (including any appeal or reference in a criminal matter);
  - (b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;
  - [<sup>F71</sup>(bb) in any proceedings on an application for [<sup>F72</sup>an order under section 2, 2A or 20] of the Crime and Disorder Act 1998 or in any appeal against the making of such an order;]
  - [<sup>F73</sup>(c) in any proceedings relating to adoption, the marriage of any minor, the exercise of the inherent jurisdiction of the High Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;
  - (cc) in any proceedings brought under the Children Act 1989;]
  - [<sup>F74</sup>(d) in any proceedings relating to the variation or discharge of a supervision order under [<sup>F75</sup>the Powers of Criminal Courts (Sentencing) Act 2000], or on appeal from any such proceedings]
  - (e) in any proceedings before a children's hearing under the <sup>M30</sup>Social Work (Scotland) Act 1968 or on appeal from any such hearing; or
  - (f) in any proceedings in which he is a party or a witness, provided that, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding the provisions of section 4(1).
  - (g) ..... <sup>F76</sup>
- In the application of this subsection to Scotland, "minor" means a child under the age of eighteen, including a pupil child.
- (3) If at any stage in any proceedings before a judicial authority in Great Britain (not being proceedings to which, by virtue of any of paragraphs (a) to (e) of subsection (2) above or of any order for the time being in force under subsection (4) below, section 4(1) above has no application, or proceedings to which section 8 below applies) the authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding the provisions of subsection (1) of section 4 above, and may determine any issue to which the evidence relates in disregard, so far as necessary, of those provisions.
- (4) The Secretary of State may by order exclude the application of section 4(1) above in relation to any proceedings specified in the order (other than proceedings to which section 8 below applies) to such extent and for such purposes as may be so specified.
- (5) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

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#### Annotations:

##### Extent Information

- E3** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

##### Amendments (Textual)

- F71** S. 7(2)(bb) inserted (1.12.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 36**; S.I. 1998/2327, **art. 4(1)(k)**
- F72** Words in s. 7(2)(bb) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, {Sch. 7 para. 4}; S.I. 2002/2750, **art. 2(b)(ii)**
- F73** S. 7(2)(c)(cc) substituted (E.W.) (14.10.1991) for s. 7(2)(c) by Children Act 1991 (c. 41, SIF 20), s. 108, **Sch. 13 para. 35(2)**; S.I. 1991/828, **art. 3(2)**
- F74** S. 7(2)(d) substituted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, **Sch. 13 para. 35(3)**; S.I. 1991/828, **art. 3(2)**
- F75** Words in s. 7(2)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 49**
- F76** S. 7(2)(g) added by Banking Act 1979 (c. 37, SIF 10), **s. 43(4)** and repealed by Banking Act 1987 (c. 22, SIF 10), s. 108(2), **Sch. 7 Pt. I**

##### Marginal Citations

- M30** 1968 c. 49.

## 7 Limitations on rehabilitation under this Act, etc. **S**

(1) Nothing in section 4(1) above shall affect—

- (a) any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to grant a free pardon, to quash any conviction or sentence, or to commute any sentence;
- (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
- (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction; or
- (d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond the rehabilitation period applicable in accordance with section 6 above to the conviction.

(2) Nothing in section 4(1) above shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto—

- (a) in any criminal proceedings before a court in Great Britain (including any appeal or reference in a criminal matter);
- (b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;
- <sup>[F130]</sup>(bb) in any proceedings on an application <sup>[F131]</sup>an order under section 2, 2A or 20] of the Crime and Disorder Act 1998 or in any appeal against the making of such an order;]
- <sup>[F132]</sup>(c) in any proceedings relating to parental responsibilities or parental rights (within the meaning of section 1(3) and section 2(4) respectively of the

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Children (Scotland) Act 1995), guardianship, adoption or the provision by any person of accommodation, care or schooling for children under the age of 18 years;

(cc) in any proceedings under Part II of the Children (Scotland) Act 1995;]

(d) in any care proceedings under section 1 of [<sup>F133</sup>the Powers of Criminal Courts (Sentencing) Act 2000] or on appeal from any such proceedings, or in any proceedings relating to the variation or discharge of a care order or supervision order under that Act;

<sup>F134</sup>(e) .....

(f) in any proceedings in which he is a party or a witness, provided that, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding the provisions of section 4(1).

(g) ..... <sup>F135</sup>

<sup>F136</sup> ..... <sup>F137</sup> .....

- (3) If at any stage in any proceedings before a judicial authority in Great Britain (not being proceedings to which, by virtue of any of paragraphs (a) to (e) of subsection (2) above or of any order for the time being in force under subsection (4) below, section 4(1) above has no application, or proceedings to which section 8 below applies) the authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding the provisions of subsection (1) of section 4 above, and may determine any issue to which the evidence relates in disregard, so far as necessary, of those provisions.
- (4) The Secretary of State may by order exclude the application of section 4(1) above in relation to any proceedings specified in the order (other than proceedings to which section 8 below applies) to such extent and for such purposes as may be so specified.
- (5) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

#### Annotations:

##### Extent Information

**E6** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

##### Amendments (Textual)

**F130** S. 7(2)(bb) inserted (1.12.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 36**; S.I. 1998/2327, **art. 4(1)(k)**

**F131** Words in s. 7(2)(bb) substituted (2.12.2002) by Police Reform Act 2002 (c. 30), s. 107, **Sch. 7 para. 4**; S.I. 2002/2750, **art. 2(b)(ii)**

**F132** S. 7(2)(c)(cc) substituted for s. 7(2)(c) (S.) (1.11.1996) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(4)(a)**; S.I. 1996/2203, **art. 3(3)**, **Sch.**

**F133** Words in s. 7(2)(d) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 49**

**F134** S. 7(2)(e) repealed (S.) (1.4.1997) by 1995 c. 36, s. 105(4)(5), **Sch. 4 para. 23(4)(b)**, **Sch. 5**; S.I. 1996/3201, **art. 3(7)**

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- F135** S. 7(2)(g) added by [Banking Act 1979 \(c. 37, SIF 10\), s. 43\(4\)](#) and repealed by [Banking Act 1987 \(c. 22, SIF 10\), s. 108\(2\), Sch. 7 Pt. I](#)
- F136** Words in s. 7(2) repealed (S.) (1.11.1996) by [1995 c. 36, s. 105\(4\)\(5\), Sch. 4 para. 23\(4\)\(c\), Sch. 5; S.I. 1996/2203, art. 3\(3\), Sch.](#)
- F137** Words in s. 7(2) repealed (S.) (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\), ss. 10\(2\), 11\(2\), Sch. 2](#)

## 8 Defamation actions.

- (1) This section applies to any action for libel or slander begun after the commencement of this Act by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.
- (2) Nothing in section 4(1) above shall affect an action to which this section applies where the publication complained of took place before the conviction in question became spent, and the following provisions of this section shall not apply in any such case.
- (3) Subject to subsections (5) and (6) below, nothing in section 4(1) above shall prevent the defendant in an action to which this section applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him, or restrict the matters he may establish in support of any such defence.
- (4) Without prejudice to the generality of subsection (3) above, where in any such action malice is alleged against a defendant who is relying on a defence of qualified privilege, nothing in section 4(1) above shall restrict the matters he may establish in rebuttal of the allegation.
- (5) A defendant in any such action shall not by virtue of subsection (3) above be entitled to rely upon the defence of justification if the publication is proved to have been made with malice.
- (6) Subject to subsection (7) below a defendant in any such action shall not, by virtue of subsection (3) above, be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing (whether under section 3 of the <sup>M31</sup>Law of Libel Amendment Act 1888 or otherwise) the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled to be inadmissible in the proceedings by virtue of section 4(1) above.
- (7) Subsection (3) above shall apply without the qualifications imposed by subsection (6) above in relation to—
  - (a) any report of judicial proceedings contained in any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, and
  - (b) any report or account of judicial proceedings published for bona fide educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.
- (8) In the application of this section to Scotland—
  - (a) for the reference in subsection (1) to libel and slander there shall be substituted a reference to defamation;
  - (b) for references to the plaintiff and the defendant there shall be substituted respectively references to the pursuer and the defender; and

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- (c) for references to the defence of justification there shall be substituted references to the defence of veritas.

**Annotations:**

**Marginal Citations**

M31 1888 c. 64.

## 9 Unauthorized disclosure of spent convictions.

- (1) In this section—

“official record” means a record kept for the purposes of its functions by any court, police force, Government department, local or other public authority in Great Britain, or a record kept, in Great Britain or elsewhere, for the purposes of any of Her Majesty’s forces, being in either case a record containing information about persons convicted of offences; and

“specified information” means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction.

- (2) Subject to the provisions of any order made under subsection (5) below, any person who, in the course of his official duties, has or at any time has had custody of or access to any official record or the information contained therein, shall be guilty of an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained in the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.
- (3) In any proceedings for an offence under subsection (2) above it shall be a defence for the defendant (or, in Scotland, the accused person) to show that the disclosure was made—
- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person; or
  - (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.
- (4) Any person who obtains any specified information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence.
- (5) The Secretary of State may by order make such provision as appears to him to be appropriate for excepting the disclosure of specified information derived from an official record from the provisions of subsection (2) above in such cases or classes of case as may be specified in the order.
- (6) Any person guilty of an offence under subsection (2) above shall be liable on summary conviction to a fine not exceeding [<sup>F77</sup>level 4 on the standard scale].
- (7) Any person guilty of an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding [<sup>F78</sup>level 5 on the standard scale] or to imprisonment for a term not exceeding six months, or to both.

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- (8) Proceedings for an offence under subsection (2) above shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.

**Annotations:**

**Amendments (Textual)**

- F77** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**
- F78** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**

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

- C13** [S. 9\(8\)](#) explained by [Criminal Jurisdiction Act 1975 \(c. 59\)](#), **s. 12**

**10 Orders.**

- (1) Any power of the Secretary of State to make an order under any provision of this Act shall be exercisable by statutory instrument, and an order made under any provision of this Act except section 11 below may be varied or revoked by a subsequent order made under that provision.
- (2) No order shall be made by the Secretary of State under any provision of this Act other than section 11 below unless a draft of it has been laid before, and approved by resolution of, each House of Parliament.

**11 Citation, commencement and extent.**

- (1) This Act may be cited as the Rehabilitation of Offenders Act 1974.
- (2) This Act shall come into force on 1st July 1975 or such earlier day as the Secretary of State may by order appoint.
- (3) This Act shall not apply to Northern Ireland.

**Annotations:**

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

- C14** Power conferred by s. 11(2) to bring Act into operation before 1.7.1975 was not exercised

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## [<sup>F79</sup>SCHEDULE

### SECTION 6(4): SERVICE DISCIPLINARY CONVICTIONS

**Annotations:**

**Amendments (Textual)**

**F79** Sch. inserted (1.10.1996) by 1996 c. 46, s. 13(4)(5)(6), Sch. 4; S.I. 1996/2474, art. 2

- 1 Any conviction for an offence mentioned in this Schedule is a conviction referred to in section 6(6)(bb) of this Act (convictions to be disregarded for the purposes of extending a period of rehabilitation following subsequent conviction).

*Provisions of the Army Act 1955 and the Air Force Act 1955*

- 2 Any offence under any of the provisions of the <sup>M32</sup>Army Act 1955 or the <sup>M33</sup>Air Force Act 1955 listed in the first column of the following table:—

**Annotations:**

**Marginal Citations**

**M32** 1955 c. 18.  
**M33** 1955 c. 19.

- 3 Any offence under section 68 (attempt to commit military offence) or 68A (aiding and abetting etc., and inciting, military offence) of the <sup>M34</sup>Army Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

**Annotations:**

**Marginal Citations**

**M34** 1955 c. 18.

- 4 Any offence under section 68 (attempt to commit air-force offence) or 68A (aiding and abetting etc., and inciting, air-force offence) of the <sup>M35</sup>Air Force Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

**Annotations:**

**Marginal Citations**

**M35** 1955 c. 19.

*Provisions of the Naval Discipline Act 1957*

- 5 Any offence under any of the provisions of the <sup>M36</sup>Naval Discipline Act 1957 listed in the first column of the following table:—

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**Annotations:**

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**Marginal Citations**

**M36** 1957 c. 53.

- 6 Any offence under section 40 (attempt to commit naval offence) or 41 (aiding and abetting etc., and inciting, naval offence) of the <sup>M37</sup>Naval Discipline Act 1957 in relation to an offence under any of the provisions of that Act listed in paragraph 5.]

**Annotations:**

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**Marginal Citations**

**M37** 1957 c. 53.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 1 2 5 savings for effects of 2006 c. 52 Sch. 16 para. 63-66 Sch. 17 by S.I. 2009/1059 Sch. 1 para. 14
- s. 1 text amended by 2006 c. 52 Sch. 16 para. 63
- s. 1(2B) by 2002 c. 29 Sch. 11 para. 7
- s. 1(3)(za) inserted by 2004 c. 28 Sch. 10 para. 9
- s. 1(3A) inserted by 2007 c. 15 Sch. 13 para. 38
- s. 1(4) text amended by 2010 asp 13 s. 24(1)
- s. 1(4)(b) text amended by 2010 asp 13 Sch. 7 para. 8
- s. 2(5)(za) inserted by 2006 c. 52 Sch. 16 para. 64(a)
- s. 2(6) added by 2006 c. 52 Sch. 16 para. 64(b)
- s. 4 excluded by 2005 c. 19 s. 125
- s. 4(1) excluded by SI 1975/1023 art. 5 Sch. 3 (as amended) by S.I. 2008/3259 art. 6
- s. 4(1)(3) excluded by SI 1975/1023 art. 6(3)(4) (as inserted) by S.I. 2009/1818 art. 6
- s. 4(2) excluded by SI 1975/1023 art. 3 (as amended) by S.I. 2008/3259 art. 4
- s. 4(2) excluded by SI 1975/1023 art. 3A (as inserted) by S.I. 2010/1153 art. 3
- s. 4(2) excluded by SI 1975/1023 art. 6 (as substituted) by S.I. 2010/1153 art. 4
- s. 4(2) excluded by SI 1975/1023 art. 6(1)(2) (as inserted) by S.I. 2009/1818 art. 6
- s. 4(3)(b) excluded by SI 1975/1023 art. 4 (as amended) by S.I. 2008/3259 art. 5
- s. 4(4) transfer of functions by S.I. 2003/415 Sch.
- s. 5(1)(d) text amended by 2006 c. 52 Sch. 16 para. 65(2)(a)(i)(ii)
- s. 5(1)(d) text amended by 2006 c. 52 Sch. 16 para. 65(2)(a)(iii) Sch. 17
- s. 5(1)(e) text amended by 2003 c. 44 Sch. 32 Pt. 1 para. 18(2)(a)
- s. 5(1)(f) inserted by 2003 c. 44 Sch. 32 Pt. 1 para. 18(2)(b)
- s. 5(1)(f) text amended by 2006 c. 52 Sch. 16 para. 65(2)(b)
- s. 5(1A) substituted by 2006 c. 52 Sch. 16 para. 65(3)
- s. 5(2) text amended by 2006 c. 52 Sch. 16 para. 65(4)
- s. 5(2A) inserted by 2006 c. 52 Sch. 16 para. 65(5)
- s. 5(4A) text amended by 2010 asp 13 Sch. 2 para. 32(2)
- s. 5(4A) text amended by 2003 c. 44 Sch. 32 Pt. 1 para. 18(3)
- s. 5(4A) text amended by 2006 c. 52 Sch. 16 para. 65(6)
- s. 5(4D) inserted by 2009 c. 26 s. 18(2)
- s. 5(5)(da) inserted by 2008 c. 4 Sch. 4 para. 21
- s. 5(6A) text amended by 2006 c. 52 Sch. 16 para. 65(7)
- s. 5(7) text amended by S.S.I. 2005/465 Sch. 1 para. 6(2)
- s. 5(9)(b) text amended by 2006 c. 52 Sch. 16 para. 65(8)
- s. 6(3) text amended by 2010 asp 13 Sch. 2 para. 32(3)
- s. 6(3A) inserted by 2009 c. 26 s. 18(3)
- s. 6(6) text amended by 2008 c. 4 Sch. 10 para. 2
- s. 6(6)(bb) text amended by 2010 asp 13 Sch. 7 para. 9
- s. 7(2)(c) text amended by 2004 c. 33 Sch. 27 para. 53
- s. 7(2)(d) substituted by 2008 c. 4 Sch. 4 para. 22
- s. 7(2)(h) and word added by 2009 c. 25 s. 158(1)
- s. 7(2)(bb) substituted by 2003 c. 42 Sch. 6 para. 19
- s. 7(2)(bc) inserted by 2010 asp 13 s. 104
- s. 7(4) transfer of functions by S.I. 2003/415 Sch.
- Sch. para. 7 added by 2006 c. 52 Sch. 16 para. 66
- Sch. para. 7 savings for effects of 2006 c. 52 Sch. 16 para. 63-66 Sch. 17 by S.I. 2009/1059 Sch. 1 para. 14

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

- Act excluded by 2011 c. 23 Sch. 6 para. 10(2)
- Act modified by 1988 c. 53 s. 58A(1) (as inserted) by 2006 c. 49 Sch. 2 para. 17
- Act modified by 1988 c. 53 s. 77A(9) (as inserted) by 2006 c. 49 Sch. 2 para. 27

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

- s. 8A inserted by 2008 c. 4 Sch. 10 para. 3
- s. 8B inserted by 2010 asp 13 s. 109(2)
- s. 8B(1)(ca) inserted by 2011 asp 6 s. 40(2)
- s. 8B(1A)-(1E) inserted by 2011 asp 1 s. 187(2)(a)
- s. 8B(2) text amended by 2011 asp 1 s. 187(2)(b)
- s. 9A inserted by 2008 c. 4 Sch. 10 para. 4
- s. 9B inserted by 2010 asp 13 s. 109(3)
- Sch. 1 Sch. renumbered as Sch. 1 by 2010 asp 13 Sch. 7 para. 10
- Sch. 1 Sch. renumbered as Sch. 1 by 2008 c. 4 Sch. 10 para. 5
- Sch. 2 para. 3(3) excluded by SI 1975/1023 art. 3 (as amended) by S.I. 2008/3259 art. 4
- Sch. 2 para. 3(3) excluded by SI 1975/1023 art. 3A (as inserted) by S.I. 2010/1153 art. 3
- Sch. 2 para. 3(5) excluded by SI 1975/1023 art. 4 (as amended) by S.I. 2008/3259 art. 5
- Sch. 2 para. 3(1) excluded by SI 1975/1023 art. 5 Sch. 3 (as amended) by S.I. 2008/3259 art. 6
- Sch. 2 para. 3(3) excluded by SI 1975/1023 art. 6 (as substituted) by S.I. 2010/1153 art. 4
- Sch. 2 para. 3(3) excluded by SI 1975/1023 art. 6(1)(2) (as inserted) by S.I. 2009/1818 art. 6
- Sch. 2 para. 3(1) excluded by SI 1975/1023 art. 6(3)(4) (as inserted) by S.I. 2009/1818 art. 6
- Sch. 2 para. 3(5) excluded by SI 1975/1023 art. 6(3)(4) (as inserted) by S.I. 2009/1818 art. 6
- Sch. 2 inserted by 2008 c. 4 Sch. 10 para. 6
- Sch. 3 inserted by 2010 asp 13 s. 109(4)
- Sch. 3 para. 1(1)(aa)(ab) inserted by 2011 asp 1 s. 187(3)

**Commencement Orders yet to be applied to the Rehabilitation of Offenders Act 1974:**

**Commencement Orders bringing legislation that affects this Act into force:**

- S.I. 2003/333 art. 2 commences (2002 c. 29)
- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2005/950 art. 2-4 commences (2003 c. 44)
- S.I. 2005/2122 art. 2 amendment to earlier commencing SI 2005/950 Sch. 2 para. 23
- S.I. 2005/3175 art. 2 3 commences (2004 c. 33)
- S.I. 2006/3272 art. 2 Sch. 1-3 commences (2005 c. 19)
- S.I. 2007/602 art. 2 commences (2004 c. 28)
- S.I. 2008/3164 art. 2-4 commences (2006 c. 49)
- S.I. 2008/3260 art. 2 commences (2008 c. 4)
- S.I. 2009/812 art. 3 commences (2006 c. 52)
- S.I. 2009/1059 Order transitional provisions for effects of commencing SI 2009/812
- S.I. 2009/1167 art. 3 4 commences (2006 c. 52)
- S.I. 2009/3074 art. 2 3 commences (2008 c. 4)
- S.I. 2010/507 art. 2-5 commences (2009 c. 26)
- S.I. 2010/816 art. 2-6 Sch. commences (2009 c. 25)
- S.S.I. 2003/210 art. 2 commences (2002 c. 29)
- S.S.I. 2010/413 art. 2 Sch. commences (2010 asp 13)

- [S.S.I. 2011/178 art. 2 commences \(2010 asp 13\)](#)
- [S.S.I. 2011/354 art. 3 commences \(2010 asp 13\)](#)