

Changes to legislation: Rehabilitation of Offenders Act 1974, Cross Heading: Preliminary is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F1}SCHEDULE 3

PROTECTION FOR SPENT ALTERNATIVES TO PROSECUTION: SCOTLAND

Textual Amendments

- F1** Sch. 3 inserted (S.) (1.11.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [109\(4\)](#), [206\(1\)](#); S.S.I. 2011/354, [art. 2\(1\)](#), Sch.

Preliminary

- 1 (1) For the purposes of this Act, an alternative to prosecution given to any person (whether before or after the commencement of this Schedule) becomes spent—
- (a) in the case of—
 - (i) a warning referred to in paragraph (a) of subsection (1) of section 8B, or
 - (ii) a fixed penalty notice referred to in paragraph (d) of that subsection, at the time the warning or notice is given,
 - (b) in any other case, at the end of the relevant period.
- (2) The relevant period in relation to an alternative to prosecution is the period of 3 months beginning on the day on which the alternative to prosecution is given.
- (3) Sub-paragraph (1)(a) is subject to sub-paragraph (5).
- (4) Sub-paragraph (2) is subject to sub-paragraph (6).
- (5) If a person who is given a fixed penalty notice referred to in section 8B(1)(d) in respect of an offence is subsequently prosecuted and convicted of the offence, the notice—
- (a) becomes spent at the end of the [^{F2}disclosure] period for the offence, and
 - (b) is to be treated as not having become spent in relation to any period before the end of that [^{F2}disclosure] period.
- (6) If a person who is given an alternative to prosecution (other than one to which sub-paragraph (1)(a) applies) in respect of an offence is subsequently prosecuted and convicted of the offence—
- (a) the relevant period in relation to the alternative to prosecution ends at the same time as the [^{F3}disclosure] period for the offence ends, and
 - (b) if the conviction occurs after the end of the period referred to in sub-paragraph (2), the alternative to prosecution is to be treated as not having become spent in relation to any period before the end of the [^{F3}disclosure] period for the offence.

Textual Amendments

- F2** Word in Sch. 3 para. 1(5) substituted (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), s. [63\(2\)](#), [sch. 2 para. 1\(18\)\(a\)](#); S.S.I. 2020/245, [reg. 2](#), [sch.](#) (with [reg. 3](#))
- F3** Word in Sch. 3 para. 1(6) substituted (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), s. [63\(2\)](#), [sch. 2 para. 1\(18\)\(b\)](#); S.S.I. 2020/245, [reg. 2](#), [sch.](#) (with [reg. 3](#))

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- 2 (1) In this Schedule, “ ancillary circumstances ”, in relation to an alternative to prosecution, means any circumstances of the following—
- (a) the offence in respect of which the alternative to prosecution is given or the conduct constituting the offence,
 - (b) any process preliminary to the alternative to prosecution being given (including consideration by any person of how to deal with the offence and the procedure for giving the alternative to prosecution),
 - (c) any proceedings for the offence which took place before the alternative to prosecution was given (including anything that happens after that time for the purpose of bringing the proceedings to an end),
 - (d) any judicial review proceedings relating to the alternative to prosecution,
 - (e) anything done or undergone in pursuance of the terms of the alternative to prosecution.
- (2) Where an alternative to prosecution is given in respect of two or more offences, references in sub-paragraph (1) to the offence in respect of which the alternative to prosecution is given includes a reference to each of the offences.
- (3) In this Schedule, “ proceedings before a judicial authority ” has the same meaning as in section 4.]

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

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

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

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