



Rehabilitation of Offenders Act 1974

1974 CHAPTER 53

^{F1}6 The ^{F2}[rehabilitation]^{F2}[disclosure] period applicable to a conviction.

- (1) Where only one sentence is imposed in respect of a conviction ^{F3}[not being a sentence excluded from rehabilitation under this Act)] the ^{F4}[rehabilitation]^{F4}[disclosure] period applicable to the conviction is, subject to the following provisions of this section, the period applicable to the sentence in accordance with ^{F5}[section 5]^{F5}[sections 5 to 5I] above.
- (2) Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) ^{F6}[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 ^{F5}[section 5]^{F5}[sections 5 to 5I] above differ, the ^{F7}[rehabilitation]^{F7}[disclosure] period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.

^{F8}[In subsections (1) and (2), the references to sentences do not include excluded ^{F8}(2A) sentences.]

- (3) ^{F9}[Without prejudice to subsection (2) above, where in respect of a conviction a person was conditionally discharged ^{F10}[or ^{F11}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 ^{F12}[^{F13}or a breach of the order]], for the offence for which the order for conditional discharge ^{F10}[or probation order] was made 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.]

[Subsection (3ZB) applies where—

- ^{F14}(3ZA) (a) an order listed in subsection (3ZC) is imposed on a person in respect of a conviction for an offence,

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- (b) after the expiry of the disclosure period applicable to the conviction in accordance with subsection (1) or (2) (“the original disclosure period”), a further sentence for the offence is imposed on the person in consequence of breaching the order, and
- (c) by virtue of the further sentence, the disclosure period applicable to the conviction in accordance with subsection (2) (“the new disclosure period”) ends later than the original disclosure period.

(3ZB) Despite the expiry of the original disclosure period, the person is not to be treated for the purposes of this Act as a protected person in respect of the conviction until the expiry of the new disclosure period (and accordingly the conviction is not to be treated as spent until that period has expired).

(3ZC) The list is—

- (a) an order for conditional discharge,
- (b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995,
- (c) a drug treatment and testing order under section 234B of that Act,
- (d) a restriction of liberty order under section 245A of that Act.

(3ZD) The Scottish Ministers may by regulations modify the list in subsection (3ZC) by—

- (a) amending an entry,
- (b) removing an entry,
- (c) adding an entry.

(3ZE) Regulations under subsection (3ZD) are subject to the affirmative procedure.]

[Without prejudice to subsection (2), where—

- ^{F15}(3A) (a) an order is made under section 1(2A) of the Street Offences Act 1959 in respect of a conviction,
- (b) after the end of the [^{F16}rehabilitation][^{F16}disclosure] period applicable to the conviction the offender is dealt with again for the offence for which that order was made, and
 - (c) the [^{F16}rehabilitation][^{F16}disclosure] period applicable to the conviction in accordance with subsection (2) (taking into account any sentence imposed when so dealing with the offender) ends later than the [^{F16}rehabilitation][^{F16}disclosure] period previously applicable to the conviction,

the offender shall be treated for the purposes of this Act as not having become a [^{F17}rehabilitated][^{F17}protected] person in respect of that conviction, and that conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new [^{F16}rehabilitation][^{F16}disclosure] period.]

(4) [^{F18}Where—

- (a) during the disclosure period applicable to a conviction, the person convicted is convicted of a further offence, and
- (b) the disclosure periods applicable to the two convictions under this section would end on different dates,

the disclosure period which would end earlier is extended so as to end at the same time as the other disclosure period (but this rule is subject to subsections (4A) to (5B)).]

[Subsection (4B) applies where—

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- ^{F19}(4A) (a) in relation to the conviction of a person (“the first conviction”) the court adjourns the case, or defers sentence,
(b) during the disclosure period applicable to the adjournment or deferral, the person is convicted of a further offence,
(c) a relevant sentence is imposed on the person in respect of the first conviction, and
(d) there is, by virtue of section 5J, no disclosure period applicable to that sentence.

(4B) Section 4 does not operate so as to extend the disclosure period applicable to the first conviction.

(4C) In subsection (4A)—

- (a) references to adjournments and deferrals are to those matters as mentioned in section 5E(1),
(b) a “relevant sentence” is any sentence other than an adjournment or deferral (as mentioned in section 5E(1)) or, where applicable, a further such adjournment or deferral.]

(5) [^{F20}A disclosure period is not extended in accordance with subsection (4) so as to end at the same time as another disclosure period if—

- (a) the other disclosure period is applicable in accordance with section 5(2E) to an order—
(i) imposing on a person any disqualification, disability, prohibition, requirement or restriction, or
(ii) which is otherwise intended to regulate behaviour, and
(b) that order is the only sentence imposed in respect of the conviction to which the other disclosure period is applicable.

(5A) Subsection (5B) applies where—

- (a) more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings),
(b) none of the sentences is an excluded sentence, and
(c) one of the sentences is an order mentioned in subsection (5) in respect of which the disclosure period is applicable in accordance with section 5(2E).

(5B) In determining whether the disclosure period applicable to another conviction is, in accordance with subsection (4), extended by virtue of the disclosure period applicable to the conviction mentioned in subsection (5A)(a), the disclosure period applicable to the order is to be disregarded.]

[^{F22}(6) ^{F23} . . . [^{F24}In subsection (4)(a), the reference to a conviction for a further offence does not include—]

- (a) any conviction in England and Wales of [^{F25}a summary offence or of a scheduled offence (within the meaning of [^{F26}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);]

[^{F27}(b) any conviction by or before a criminal court in summary proceedings;]

[^{F28}(bb) any conviction in service disciplinary proceedings for an offence listed in [^{F29}Schedule 1];]

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- (c) any conviction by or before a court outside [^{F30}Scotland] of an offence in respect of conduct which, if it had taken place in [^{F31}Scotland], would not have constituted an offence under the law in force in [^{F32}Scotland].]

^{F33}(7)]

Textual Amendments

- F1** Words substituted by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **Sch. 7 para. 24(a)(ii)**
- F2** Word in s. 6 heading substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(11)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F3** Words in s. 6(1) repealed (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(a)(i)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F4** Word in s. 6(1) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(a)(ii)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F5** Words in s. 6(1)(2) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(2)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F6** Words in s. 6(2) repealed (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(b)(i)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F7** Word in s. 6(2) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(b)(ii)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F8** S. 6(2A) inserted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(c)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F9** S. 6(3) repealed (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(3)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F10** Words in s. 6(3) repealed (S.) (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2)**, 206(1), **sch. 2 para. 32(3)**; S.S.I. 2010/413, **art. 2(1)**, Sch. (with art. 3(1))
- F11** 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)**
- F12** Words in s. 6(3) repealed (S.) (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2)**, 206(1), **sch. 2 para. 32(3)**; S.S.I. 2010/413, **art. 2(1)**, Sch. (with art. 3(1))
- F13** 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)**
- F14** S. 6(3ZA)-(3ZE) inserted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(4)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F15** S. 6(3A) inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), **ss. 18(3)**, 116(1); S.I. 2010/507, **art. 5(e)** (with art. 6)
- F16** Word in s. 6(3A) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(d)(i)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F17** Word in s. 6(3A) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(10)(d)(ii)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F18** S. 6(4) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(5)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F19** S. 6(4A)-(4C) inserted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(6)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F20** S. 6(5)-(5B) substituted for s. 6(5) (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(7)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F21** Words in s. 6(5) substituted (E.W.) (with application in accordance with s. 193(16)-(18) of the amending Act) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 193(13)**, 208(1); S.I. 2023/1128, reg. 2
- F22** S. 6(6) omitted (E.W.) (10.3.2014) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 139(5)(b)**, 151(1) (with s. 141(1)-(6)); S.I. 2014/423, art. 2(a)

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- F23** 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.**
- F24** Words in s. 6(6) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(8)(a)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F25** Words substituted by Criminal Law Act 1977 (c. 45), s. 65(7), **Sch. 12**
- F26** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 134**
- F27** S. 6(6)(b) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(8)(b)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F28** S. 6(6)(bb) inserted (1.10.1996) by 1996 c. 46, **s. 13(3)(b)**; S.I. 1996/2474, **art. 2**
- F29** Words in s. 6(6) substituted (E.W) (19.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 49, 153(7), **Sch. 10 para. 2** (with Sch. 27 para. 19); S.I. 2008/3260, **art. 2(1)(d)**; and those same words substituted (S.) (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 203, 206(1), **Sch. 7 para. 9**; S.S.I. 2011/354, **art. 2(1)**, Sch.
- F30** Word in s. 6(6)(c) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(8)(c)(i)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F31** Word in s. 6(6)(c) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(8)(c)(ii)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F32** Word in s. 6(6)(c) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 30(8)(c)(iii)**, 63(2) (with s. 37); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F33** 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.**

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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\(3\)](#)