



# Rehabilitation of Offenders Act 1974

## 1974 CHAPTER 53

### 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 [<sup>F1</sup>, penalty, requirement, restriction or other regulation of the person's behaviour] 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 [<sup>F2</sup>England and Wales] (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>F3</sup>(bb) in any proceedings under Part 2 of the Sexual Offences Act 2003, or on appeal from any such proceedings;]
  - <sup>F4</sup>[<sup>F5</sup>(c) in any proceedings relating to adoption, the marriage of any minor, [<sup>F6</sup>or the formation of a civil partnership by 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;

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- [<sup>F5</sup>(d) in any proceedings relating to the variation or discharge of a youth rehabilitation order under [<sup>F7</sup>Chapter 1 of Part 9 of the Sentencing Code], or on appeal from any such proceedings;]
- (cc) in any proceedings brought under the Children Act 1989;]
- (e) in any proceedings before a children’s hearing under the <sup>M1</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).
- <sup>F8</sup>(g) ..... [<sup>F9</sup> or
- (h) in any proceedings brought under Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc).]

<sup>F10</sup> . . . <sup>F11</sup> . . . .

- (3) If at any stage in any proceedings before a judicial authority in [<sup>F12</sup>England and Wales] (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.

#### Extent Information

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

#### Textual Amendments

- F1** Words in s. 7(1)(d) 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(14)**, 208(1); S.I. 2023/1128, [reg. 2](#)
- F2** Words in s. 7(2)(a) substituted (E.W.) (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 25 para. 6(2)** (with s. 141(1)-(6)); S.I. 2014/423, [art. 2\(c\)](#) (with [art. 3](#))
- F3** S. 7(2)(bb) substituted (E.W.) (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), **ss. 139, 141, Sch. 6 para. 19**; S.I. 2004/874, [art. 2](#)

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- F4** 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)**
- F5** S. 7(2)(d) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153(7), **Sch. 4 para. 22**; S.I. 2009/3074, **art. 2(p)(iii)**
- F6** Words in s. 7(2)(c) inserted (5.12.2005) by Civil Partnership Act 2004, ss. 261(1), 263(10)(b), {Sch. 27 para. 53}; S.I. 2005/3175, **art. 2(2)**
- F7** Words in s. 7(2)(d) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 34** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F8** 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**
- F9** S. 7(2)(h) and word added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 158(1), 182(5) (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 11
- F10** 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.**
- F11** 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**
- F12** Words in s. 7(3) substituted (E.W.) (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 para. 6(3)** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

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

- C1** S. 7(4): functions transferred (28.2.2003) by The Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415), art. 2, **Sch.** (with art. 5)

#### Marginal Citations

- M1** 1968 c. 49.

## 7 Limitations on <sup>F13</sup>protection under section 4(1) **S**

- (1) Nothing in section 4(1) above shall affect—
- 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;
  - the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
  - 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
  - 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 <sup>F14</sup>requirement, restriction or other way of regulating the person's behaviour] the period of which extends beyond the <sup>F15</sup>disclosure] 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—
- in any criminal proceedings before a court in <sup>F16</sup>Scotland] (including any appeal or reference in a criminal matter);
  - in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;

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- [<sup>F17</sup>(bb) in any proceedings on an application for [<sup>F18</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>F19</sup>(bc) in any proceedings on an application under section 2, 4 or 5 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) or in any appeal under section 6 of that Act;]
- [<sup>F20</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 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;]
- [<sup>F5</sup>(d) in any proceedings relating to the variation or discharge of a youth rehabilitation order under [<sup>F7</sup>Chapter 1 of Part 9 of the Sentencing Code], or on appeal from any such proceedings;]
- <sup>F21</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).
- <sup>F22</sup>(g) . . . . . [<sup>F9</sup> or
- (h) in any proceedings brought under Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc).]

<sup>F10</sup> . . . . . <sup>F11</sup> . . . . .

- (3) If at any stage in any proceedings before a judicial authority in [<sup>F23</sup>Scotland] (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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**E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

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### Textual Amendments

- F5** S. 7(2)(d) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(2), 153(7), **Sch. 4 para. 22**; S.I. 2009/3074, **art. 2(p)(iii)**
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- F11** 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**
- F13** Words in s. 7 heading substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(13)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F14** Words in s. 7(1)(d) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(12)(a)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F15** Word in s. 7(1)(d) substituted (S.) (30.11.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(12)(b)**; S.S.I. 2020/245, reg. 2, sch. (with reg. 3)
- F16** Word in s. 7(2)(a) substituted (S.) (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 para. 16(2)** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)
- F17** 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)**
- F18** 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)**
- F19** S. 7(2)(bc) inserted (S.) (13.12.2010) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 104**, 206(1); S.S.I. 2010/413, **art. 2(1)**, **Sch.**
- F20** S. 7(2)(c)(cc) substituted (S.) (1.11.1996) for s. 7(2)(c) by 1995 c. 36, s. 105(4), **Sch. 4 para. 23(4)(a)**; S.I. 1996/2203, **art. 3(3)**, **Sch.**
- F21** 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)**
- F22** 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**
- F23** Word in s. 7(3) substituted (S.) (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 para. 16(3)** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

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[View outstanding changes](#)

**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\(3\)](#)