

Status: Point in time view as at 14/07/2008. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Criminal Justice and Immigration Act 2008, Part 4 is up to date with all changes known to be in force on or before 06 January 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)

SCHEDULES

SCHEDULE 27

TRANSITORY, TRANSITIONAL AND SAVING PROVISIONS

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

VALID FROM 16/11/2009

Alternatives to prosecution for offenders under 18

- 18 The amendments made by Schedule 9 do not apply in relation to offences committed before the commencement of section 48.

VALID FROM 19/12/2008

Protection for spent cautions under Rehabilitation of Offenders Act 1974

- 19 (1) Subject to the following provisions of this paragraph, the Rehabilitation of Offenders Act 1974 (c. 53) (as amended by Schedule 10 to this Act) applies to cautions given before the commencement date as it applies to cautions given on or after that date.
- (2) A caution given before the commencement date shall be regarded as a spent caution at a time determined in accordance with sub-paragraphs (3) to (8).
- (3) A caution other than a conditional caution (as defined in section 8A(2)(a) of the 1974 Act) shall be regarded as a spent caution on the commencement date.
- (4) If the period of three months from the date on which a conditional caution was given ends on or before the commencement date, the caution shall be regarded as a spent caution on the commencement date unless sub-paragraph (7) applies.
- (5) If the period of three months from the date on which a conditional caution was given ends after the commencement date, the caution shall be regarded as a spent caution at the end of that period of three months unless sub-paragraph (7) applies.
- (6) Sub-paragraph (7) applies if—
- (a) before the date on which the caution would be regarded as a spent caution in accordance with sub-paragraph (4) or (5) (“the relevant date”), the person concerned is convicted of the offence in respect of which the caution was given, and

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- (b) the rehabilitation period for the offence ends after the relevant date.
- (7) The caution shall be regarded as a spent caution at the end of the rehabilitation period for the offence.
- (8) If, on or after the date on which the caution becomes regarded as a spent caution in accordance with sub-paragraph (4) or (5), the person concerned is convicted of the offence in respect of which the caution was given—
- (a) the caution shall be treated for the purposes of Schedule 2 to the 1974 Act as not having become spent in relation to any period before the end of the rehabilitation period for the offence, and
- (b) the caution shall be regarded as a spent caution at the end of that rehabilitation period.
- (9) In this paragraph, “the commencement date” means the date on which section 49 comes into force.
- 20 In the application of subsection (7) of section 9A of the Rehabilitation of Offenders Act 1974 (as inserted by paragraph 4 of Schedule 10) to offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference to 51 weeks is to be read as a reference to 6 months.

Extension of powers of non-legal staff

- 21 A designation made under section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) which has effect immediately before the date on which section 55 comes into force continues to have effect on and after that date as if made under section 7A as amended by that section.

Commencement Information

- II** Sch. 27 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), Sch. 1 para. 49

VALID FROM 01/12/2008

Compensation for miscarriages of justice

- 22 (1) Section 61(3) has effect in relation to any application for compensation made in relation to—
- (a) a conviction which is reversed, and
- (b) a pardon which is given,
- on or after the commencement date.
- (2) Section 61(4), (6) and (7) have effect in relation to—
- (a) any application for compensation made on or after the commencement date, and
- (b) any application for compensation made before that date in relation to which the question whether there is a right to compensation has not been determined before that date by the Secretary of State under section 133(3) of the 1988 Act.

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- (3) Section 61(5) has effect in relation to any conviction quashed on an appeal out of time in respect of which an application for compensation has not been made before the commencement date.
- (4) Section 61(5) so has effect whether a conviction was quashed before, on or after the commencement date.
- (5) In the case of—
- (a) a conviction which is reversed, or
 - (b) a pardon which is given,
- before the commencement date but in relation to which an application for compensation has not been made before that date, any such application must be made before the end of the period of 2 years beginning with that date.
- (6) But the Secretary of State may direct that an application for compensation in relation to a case falling within sub-paragraph (5) which is made after the end of that period is to be treated as if it had been made before the end of that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.
- (7) In this paragraph—
- “the 1988 Act” means the Criminal Justice Act 1988 (c. 33);
 - “application for compensation” means an application for compensation made under section 133(2) of the 1988 Act;
 - “the commencement date” means the date on which section 61 comes into force;
 - “reversed” has the same meaning as in section 133 of the 1988 Act (as amended by section 61(5)).

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