

Changes to legislation: Rehabilitation of Offenders Act 1974, Paragraph 3 is up to date with all changes known to be in force on or before 20 April 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 2

PROTECTION FOR SPENT CAUTIONS

Textual Amendments

- F1** Sch. 2 inserted (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 49, 153\(7\), Sch. 10 para. 6](#) (with [Sch. 27 para. 19](#)); [S.I. 2008/3260, art. 2\(1\)\(d\)](#)

Protection relating to spent cautions and ancillary circumstances

- 3 (1) A person who is given a caution for an offence shall, from the time the caution is spent, be treated for all purposes in law as a person who has not committed, been charged with or prosecuted for, or been given a caution for the offence; and notwithstanding the provisions of any other enactment or rule of law to the contrary—
- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in England and Wales to prove that any such person has committed, been charged with or prosecuted for, or been given a caution for the offence; 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 caution or any ancillary circumstances.
- (2) Nothing in sub-paragraph (1) applies in relation to any proceedings for the offence which are not part of the ancillary circumstances relating to the caution.
- (3) Where a question seeking information with respect to a person's previous cautions, 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 cautions or to any ancillary circumstances, and the answer may be framed accordingly; and
 - (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 caution or any ancillary circumstances in his answer to the question.
- (4) 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 caution or any ancillary circumstances (whether the caution is his own or another's).
- (5) A caution which has become spent or any ancillary circumstances, or any failure to disclose such a caution 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.
- (6) This paragraph has effect subject to paragraphs 4 to 6.]

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Modifications etc. (not altering text)

- C1** Sch. 2 para. 3(1) excluded (18.12.2008) by S.I. 1975/1023, art. 5, **Sch. 3** (as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008 (S.I. 2008/3259), **art. 6**)
- C2** Sch. 2 para. 3(1)(5) excluded (7.7.2009) by S.I. 1975/1023, **art. 6(3)** (as inserted by The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2009 (S.I. 2009/1818), **art. 6**)
- C3** Sch. 2 para. 3(3) excluded (18.12.2008) by S.I. 1975/1023, **art. 3** (as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008 (S.I. 2008/3259), **art. 4**)
- C4** Sch. 2 para. 3(3) excluded (7.7.2009) by S.I. 1975/1023, **art. 6(1)** (as inserted by The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2009 (S.I. 2009/1818), **art. 6**)
- C5** Sch. 2 para. 3(3) excluded (31.3.2010) by S.I. 1975/1023, **art. 3A** (as inserted by The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010 (S.I. 2010/1153), **art. 3**)
Sch. 2 para. 3(3) excluded (31.3.2010) by S.I. 1975/1023, **art. 6** (as substituted by The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010 (S.I. 2010/1153), **art. 4**)
- C6** Sch. 2 para. 3(5) excluded (18.12.2008) by S.I. 1975/1023, **art. 4** (as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2008 (S.I. 2008/3259), **art. 5**)

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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\(3\)](#)