

**Changes to legislation:** Rehabilitation of Offenders Act 1974 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

## [<sup>F1</sup>][<sup>F2</sup>][<sup>F3</sup>SCHEDULE 1]

### SECTION 6(4): SERVICE DISCIPLINARY CONVICTIONS

#### Textual Amendments

- F1** Sch. 1 omitted (E.W.) (10.3.2014) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 25 para. 11](#) (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)
- F2** Sch. inserted (1.10.1996) by [1996 c. 46](#), s. 13(4)(5)(6), [Sch. 4](#); S.I. 1996/2474, art. 2
- F3** Sch. renumbered as Sch. 1 (E.W.) (19.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 49, 153(7), [Sch. 10 para. 5](#) (with Sch. 27 para. 19); S.I. 2008/3260, [art. 2\(1\)\(d\)](#); and Sch. so renumbered (S.) (1.11.20011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. 203, 206(1), Sch. 7 para. 10; S.S.I. 2011/354, [art. 2](#), Sch.

- 1 Any conviction for an offence mentioned in this Schedule is a conviction referred to in section 6(6)(bb) of this Act (convictions to be disregarded for the purposes of extending a [<sup>F4</sup>disclosure period] following subsequent conviction).

#### Textual Amendments

- F4** Words in Sch. 1 para. 1 substituted (S.) (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), s. 63(2), [sch. 2 para. 1\(16\)](#); S.S.I. 2020/245, reg. 2, sch. (with reg. 3)

#### *Provisions of the Army Act 1955 and the Air Force Act 1955*

- 2 Any offence under any of the provisions of the <sup>M1</sup> Army Act 1955 or the <sup>M2</sup> Air Force Act 1955 listed in the first column of the following table:—

<i>Provision</i>	<i>Subject-matter</i>
Section 29	Offences by or in relation to sentries, persons on watch etc.
Section 29A	Failure to attend for duty, neglect of duty etc.
Section 33	Insubordinate behaviour.
Section 34	Disobedience to lawful commands.
Section 34A	Failure to provide a sample for drug testing.
Section 35	Obstruction of provost officers.
Section 36	Disobedience to standing orders.
Section 38	Absence without leave.
Section 39	Failure to report or apprehend deserters or absentees.
Section 42	Malingering.
Section 43	Drunkenness.
Section 43A	Fighting, threatening words etc.

---

**Changes to legislation:** *Rehabilitation of Offenders Act 1974 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*

---

Section 44	Damage to, and loss of, public or service property etc.
Section 44A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.
Section 44B	Interference etc. with equipment, messages or signals.
Section 45	Misapplication and waste of public or service property.
Section 46	Offences relating to issues and decorations.
Section 47	Billeting offences.
Section 48	Offences in relation to requisitioning of vehicles.
Section 50	Inaccurate certification.
Section 51	Low flying.
Section 52	Annoyance by flying.
Section 54	Permitting escape, and unlawful release of prisoners.
Section 55	Resistance to arrest.
Section 56	Escape from confinement.
Section 57	Offences in relation to courts-martial.
Section 61	Making of false statements on enlistment.
Section 62	Making of false documents.
Section 63	Offences against civilian population.
Section 69	Conduct to prejudice of military discipline or air-force discipline.

---

**Marginal Citations**

**M1** 1955 c. 18.

**M2** 1955 c. 19.

- 3 Any offence under section 68 (attempt to commit military offence) or 68A (aiding and abetting etc. , and inciting, military offence) of the <sup>M3</sup> Army Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

---

**Marginal Citations**

**M3** 1955 c. 18.

**Changes to legislation:** Rehabilitation of Offenders Act 1974 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

- 4 Any offence under section 68 (attempt to commit air-force offence) or 68A (aiding and abetting etc. , and inciting, air-force offence) of the <sup>M4</sup> Air Force Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

**Marginal Citations**

**M4** 1955 c. 19.

*Provisions of the Naval Discipline Act 1957*

- 5 Any offence under any of the provisions of the <sup>M5</sup> Naval Discipline Act 1957 listed in the first column of the following table:—

<i>Provision</i>	<i>Subject-matter</i>
Section 6	Offences by or in relation to sentries, persons on watch etc.
Section 7	Failure to attend for duty, neglect of duty etc.
Section 11	Insubordinate behaviour.
Section 12	Disobedience to lawful commands.
Section 12A	Failure to provide a sample for drug testing.
Section 13	Fighting, threatening words etc.
Section 14	Obstruction of provost officers.
Section 14A	Disobedience to standing orders.
Section 17	Absence without leave etc.
Section 18	Failure to report deserters and absentees.
Section 21	Low flying.
Section 22	Annoyance by flying.
Section 25	Inaccurate certification.
Section 27	Malingering.
Section 28	Drunkenness.
Section 29	Damage to, and loss of, public or service property etc.
Section 29A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.
Section 29B	Interference etc. with equipment, messages or signals.
Section 30	Misapplication and waste of public or service property.

**Changes to legislation:** *Rehabilitation of Offenders Act 1974 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*

Section 31	Offences relating to issues and decorations.
Section 32	Billeting offences.
Section 33	Offences in relation to the requisitioning of vehicles etc.
Section 33A	Permitting escape, and unlawful release of prisoners.
Section 33B	Resistance to arrest.
Section 33C	Escape from confinement.
Section 34A	False statements on entry.
Section 35	Falsification of documents.
Section 35A	Offences against civilian population.
Section 38	Offences in relation to courts-martial.
Section 39	Conduct to the prejudice of naval discipline.

**Marginal Citations**

**M5** [1957 c. 53.](#)

- 6 Any offence under section 40 (attempt to commit naval offence) or 41 (aiding and abetting etc. , and inciting, naval offence) of the <sup>M6</sup> Naval Discipline Act 1957 in relation to an offence under any of the provisions of that Act listed in paragraph 5.

**Marginal Citations**

**M6** [1957 c. 53.](#)

*<sup>F5</sup>Provisions of the Armed Forces Act 2006*

**Textual Amendments**

**F5** Sch. 1 para. 7 and cross-heading inserted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by virtue of [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 66](#); [S.I. 2009/812](#), [art. 3](#); [S.I. 2009/1167](#), [art. 4](#) (and see savings (having effect from 24.4.2009 for specified purposes and 31.10.2009 otherwise) in [S.I. 2009/1059](#), arts 1(2)(3), 205, [Sch. 1 para. 14](#))

- 7 Any service offence within the meaning of the Armed Forces Act 2006 except one punishable in the case of an offender aged 18 or over with imprisonment for more than two years.]]]

*Changes to legislation: Rehabilitation of Offenders Act 1974 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*

## [<sup>F6</sup>SCHEDULE 2

### PROTECTION FOR SPENT CAUTIONS

#### Textual Amendments

- F6** 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\(1\)\(d\)](#)

#### *Preliminary*

- 1 (1) For the purposes of this Schedule a caution shall be regarded as a spent caution—
- (a) in the case of a conditional caution (as defined in section 8A(2)(a)) [<sup>F7</sup>—
    - (i) at the end of the period of three months from the date on which the caution is given, or
    - (ii) if earlier, when the caution ceases to have effect; and]
  - (b) in any other case, at the time the caution is given.

<sup>F8</sup>(2) .....

<sup>F9F8</sup>(3) .....

#### Textual Amendments

- F7** Sch. 2 para. 1(1)(a)(i)(ii) substituted for words (10.3.2014) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 139\(7\)\(a\)](#), 151(1) (with s. 141(1)-(6)); S.I. 2014/423, [art. 2\(a\)](#) (with [art. 3](#))
- F8** Sch. 2 para. 1(2)(3) omitted (10.3.2014) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 139\(7\)\(b\)](#), 151(1) (with s. 141(1)-(6)); S.I. 2014/423, [art. 2\(a\)](#) (with [art. 3](#))
- F9** By [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), s. 63(2), [sch. 2 para. 1\(17\)\(a\)](#); S.S.I. 2020/245, [reg. 2](#), [sch.](#) (with [reg. 3](#)) it is provided that (S.) (30.11.2020) in Sch. 2 para. 1(3)(a)(b) the word “disclosure” is substituted for “rehabilitation” in each place where it occurs [Editorial note: The purported substitution cannot be applied because the affected provision does not extend to Scotland.]

- 2 (1) In this Schedule “ancillary circumstances”, in relation to a caution, means any circumstances of the following—
- (a) the offence which was the subject of the caution or the conduct constituting that offence;
  - (b) any process preliminary to the caution (including consideration by any person of how to deal with that offence and the procedure for giving the caution);
  - (c) any proceedings for that offence which take place before the caution is given (including anything which happens after that time for the purpose of bringing the proceedings to an end);
  - (d) any judicial review proceedings relating to the caution;
  - (e) in the case of a [<sup>F10</sup>youth caution given under section 66ZA] of the Crime and Disorder Act 1998 (c. 37), anything done in pursuance of or undergone in compliance with a requirement to participate in a rehabilitation programme under section [<sup>F11</sup>66ZB(2) or (3)] of that Act;

---

*Changes to legislation: Rehabilitation of Offenders Act 1974 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*

---

- (f) in the case of a conditional caution, any conditions attached to the caution or anything done in pursuance of or undergone in compliance with those conditions.
- (2) Where the caution relates to two or more offences, references in sub-paragraph (1) to the offence which was the subject of the caution include a reference to each of the offences concerned.
- (3) In this Schedule “proceedings before a judicial authority” has the same meaning as in section 4.

#### **Textual Amendments**

- F10** Words in Sch. 2 para. 2(1)(e) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 24 para. 3(a)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F11** Words in Sch. 2 para. 2(1)(e) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 24 para. 3(b)** (with s. 135(4)); S.I. 2013/453, art. 4(f)

#### *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

**Changes to legislation:** Rehabilitation of Offenders Act 1974 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

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.

#### 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**)

- 4 The Secretary of State may by order—
- (a) make provision for excluding or modifying the application of either or both of paragraphs (a) or (b) of paragraph 3(3) in relation to questions put in such circumstances as may be specified in the order;
  - (b) provide for exceptions from the provisions of sub-paragraphs (4) and (5) of paragraph 3, in such cases or classes of case, and in relation to cautions of such a description, as may be specified in the order.
- 5 Nothing in paragraph 3 affects—
- (a) the operation of the caution in question; or
  - <sup>F12</sup>(b) the operation of any enactment by virtue of which, in consequence of any caution, a person is subject to any disqualification, disability, prohibition [<sup>F13</sup>, requirement] or other restriction or effect, the period of which extends beyond the rehabilitation period applicable to the caution.

#### Textual Amendments

- F12** By Management of Offenders (Scotland) Act 2019 (asp 14), s. 63(2), **sch. 2 para. 1(17)(b)**; S.S.I. 2020/245, **reg. 2, sch.** (with **reg. 3**) it is provided that (S.) (30.11.2020) in Sch. 2 para. 5(b) the word “disclosure” is substituted for “rehabilitation” [Editorial note: The purported substitution cannot be applied because the affected provision does not extend to Scotland.]
- F13** Word in **Sch. 2 para. 5(b)** inserted (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(15), 208(1)**; S.I. 2023/1128, **reg. 2**

*Changes to legislation: Rehabilitation of Offenders Act 1974 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*

- 6 (1) Section 7(2), (3) and (4) apply for the purposes of this Schedule as follows.
- (2) Subsection (2) (apart from paragraphs (b) and (d)) applies to the determination of any issue, and the admission or requirement of any evidence, relating to a person's previous cautions or to ancillary circumstances as it applies to matters relating to a person's previous convictions and circumstances ancillary thereto.
- (3) Subsection (3) applies to evidence of a person's previous cautions and ancillary circumstances as it applies to evidence of a person's convictions and the circumstances ancillary thereto; and for this purpose subsection (3) shall have effect as if—
- (a) any reference to subsection (2) or (4) of section 7 were a reference to that subsection as applied by this paragraph; and
- (b) the words “or proceedings to which section 8 below applies” were omitted.
- (4) Subsection (4) applies for the purpose of excluding the application of paragraph 3(1); and for that purpose subsection (4) shall have effect as if the words “(other than proceedings to which section 8 below applies)” were omitted.
- (5) References in the provisions applied by this paragraph to section 4(1) are to be read as references to paragraph 3(1).]

[<sup>F14</sup>SCHEDULE 3

(introduced by section 8B(3))

PROTECTION FOR SPENT ALTERNATIVES TO PROSECUTION: SCOTLAND

**Textual Amendments**

**F14** 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).



**Changes to legislation:** Rehabilitation of Offenders Act 1974 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

- (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 [F15disclosure] 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 [F15disclosure] 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 [F16disclosure] 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 [F16disclosure] period for the offence.

#### Textual Amendments

**F15** 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)

**F16** 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)

- 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.

#### *Protection for spent alternatives to prosecution and ancillary circumstances*

- 3 (1) A person who is given an alternative to prosecution in respect of an offence is, from the time the alternative to prosecution becomes spent, to be treated for all purposes in law as a person who has not committed, been charged with or prosecuted for, or been given an alternative to prosecution in respect of, the offence.

---

*Changes to legislation: Rehabilitation of Offenders Act 1974 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*

---

- (2) Despite any enactment or rule of law to the contrary—
- (a) where an alternative to prosecution given to a person in respect of an offence has become spent, evidence is not admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Scotland to prove that the person has committed, been charged with or prosecuted for, or been given an alternative to prosecution in respect of, the offence,
  - (b) a person must not, in any such proceedings, be asked any question relating to the person's past which cannot be answered without acknowledging or referring to an alternative to prosecution that has become spent or any ancillary circumstances, and
  - (c) if a person is asked such a question in any such proceedings, the person is not required to answer it.
- (3) Sub-paragraphs (1) and (2) do not apply in relation to any proceedings—
- (a) for the offence in respect of which the alternative to prosecution was given, and
  - (b) which are not part of the ancillary circumstances.
- 4 (1) This paragraph applies where a person (“A”) is asked a question, otherwise than in proceedings before a judicial authority, seeking information about—
- (a) A's or another person's previous conduct or circumstances,
  - (b) offences previously committed by A or the other person, or
  - (c) alternatives to prosecution previously given to A or the other person.
- (2) The question is to be treated as not relating to alternatives to prosecution that have become spent or to any ancillary circumstances and may be answered accordingly.
- (3) A is not to be subjected to any liability or otherwise prejudiced in law because of a failure to acknowledge or disclose an alternative to prosecution that has become spent or any ancillary circumstances in answering the question.
- 5 (1) An obligation imposed on a person (“A”) by a rule of law or by the provisions of an agreement or arrangement to disclose any matter to another person does not extend to requiring A to disclose an alternative to prosecution (whether one given to A or another person) that has become spent or any ancillary circumstances.
- (2) An alternative to prosecution that has become spent or any ancillary circumstances, or any failure to disclose an alternative to prosecution that has become spent or any ancillary circumstances, is not a ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing the person in any way in any occupation or employment.
- 6 The Scottish Ministers may by order—
- (a) exclude or modify the application of either or both of sub-paragraphs (2) and (3) of paragraph 4 in relation to questions put in such circumstances as may be specified in the order,
  - (b) provide for exceptions from any of the provisions of paragraph 5 in such cases or classes of case, or in relation to alternatives to prosecution of such descriptions, as may be specified in the order
- 7 Paragraphs 3 to 5 do not affect—
- (a) the operation of an alternative to prosecution, or

---

*Changes to legislation: Rehabilitation of Offenders Act 1974 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*

---

- (b) the operation of an enactment by virtue of which, because of an alternative to prosecution, a person is subject to a disqualification, disability, prohibition or other restriction or effect for a period extending beyond the time at which the alternative to prosecution becomes spent
- 8 (1) Section 7(2), (3) and (4) apply for the purpose of this Schedule as follows.
- (2) Subsection (2), apart from paragraphs (b) and (d), applies to the determination of any issue, and the admission or requirement of evidence, relating to alternatives to prosecution previously given to a person and to ancillary circumstances as it applies to matters relating to a person's previous convictions and circumstances ancillary thereto.
- (3) Subsection (3) applies to evidence of alternatives to prosecution previously given to a person and ancillary circumstances as it applies to evidence of a person's previous convictions and the circumstances ancillary thereto.
- (4) For that purpose, subsection (3) has effect as if—
- (a) a reference to subsection (2) or (4) of section 7 were a reference to that subsection as applied by this paragraph, and
  - (b) the words “or proceedings to which section 8 below applies” were omitted.
- (5) Subsection (4) applies for the purpose of excluding the application of paragraph 3.
- (6) For that purpose, subsection (4) has effect as if the words “(other than proceedings to which section 8 below applies)” were omitted.
- (7) References in the provisions applied by this paragraph to section 4(1) are to be read as references to paragraph 3.]
- [<sup>F179</sup> (1) The powers conferred on the Scottish Ministers by—
- (a) paragraph 6, and
  - (b) section 7(4), as applied by paragraph 8,
- may be exercised to make provision relating to reserved matters and are not subject to the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.
- (2) In this paragraph, “reserved matters” has the same meaning as in the Scotland Act 1998.]

#### Textual Amendments

- F17** Sch. 3 para. 9 inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 19**, 95(1); [S.I. 2015/778](#), art. 3, Sch. 1 para. 15

**Changes to legislation:**

Rehabilitation of Offenders Act 1974 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 3 omitted by [2012 c. 10 Sch. 25 para. 4](#)
- s. 3 repealed by [2011 asp 1 sch. 6](#)
- s. 4(1)(a)(b) restricted by [2020 asp 13 s. 32\(1\)\(2\)](#)
- s. 4(1)(a)(b) restricted by [2020 asp 13 s. 32\(3\)\(4\)](#)
- s. 4(2)(a)(b) restricted by [2020 asp 13 s. 32\(1\)\(2\)](#)
- s. 4(2)(a)(b) restricted by [2020 asp 13 s. 32\(3\)\(4\)](#)
- s. 4(3)(a)(b) restricted by [2020 asp 13 s. 32\(3\)\(4\)](#)
- s. 4(3)(a) restricted by [2020 asp 13 s. 32\(1\)\(2\)](#)
- s. 5(1)(d) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 18 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(1)(d) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 18 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(1)(d) words inserted by [2021 c. 11 Sch. 13 para. 33\(a\)](#)
- s. 5(1)(d) words inserted by [2021 c. 11 Sch. 13 para. 34\(2\)\(a\)](#)
- s. 5(1)(f) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(3\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 18 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(2) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(4\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(2F)(a)(ii) words inserted by [2021 c. 11 Sch. 13 para. 34\(2\)\(b\)](#)
- s. 5(3)(b) and word repealed by [2011 asp 1 sch. 6](#)
- s. 5(4A) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(5\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4B) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(6\)\(a\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4B)(a) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(6\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4B)(a) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(6\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4C) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(7\)\(a\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4C)(a) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(7\)\(b\)\(i\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(4C)(a) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)para. 33\(7\)\(b\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(5)(f) repealed by [2011 asp 1 sch. 6](#)
- s. 5(5)(da) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(8\)](#) (This amendment not applied to legislation.gov.uk. 2019 asp 14, s 19 in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)

- s. 5(6A) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(9\)](#) (This amendment not applied to [legislation.gov.uk. 2019 asp 14, s 19](#) in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(8) words inserted by [2021 c. 11 Sch. 13 para. 33\(b\)](#)
- s. 5(9)(b) words inserted by [2020 c. 17 Sch. 24 para. 33\(1\)\(10\)](#) (This amendment not applied to [legislation.gov.uk. 2019 asp 14, s 19](#) in force at 30/11/2020 by S.S.I. 2020/245, reg. 2, sch.)
- s. 5(10) words repealed by [2011 asp 1 sch. 6](#)
- s. 5A words substituted by [2020 asp 13 sch. 5 para. 2\(3\)](#)
- s. 5B Table B words inserted by [2021 c. 11 Sch. 13 para. 34\(3\)](#)
- s. 5B words substituted by [2020 asp 13 sch. 5 para. 2\(4\)](#)
- s. 5C(2)(b) repealed by [2020 asp 13 sch. 5 para. 2\(5\)](#)
- s. 5D(1)(b) repealed by [2020 asp 13 sch. 5 para. 2\(6\)\(a\)](#)
- s. 5D(3) words repealed by [2020 asp 13 sch. 5 para. 2\(6\)\(b\)](#)
- s. 5I(1)(b) repealed by [2020 asp 13 sch. 5 para. 2\(7\)\(a\)](#)
- s. 5I(3)(a) word substituted by [2020 asp 13 sch. 5 para. 2\(7\)\(b\)\(i\)](#)
- s. 5I(3)(b) repealed by [2020 asp 13 sch. 5 para. 2\(7\)\(b\)\(ii\)](#)
- s. 8A(2)(d) words substituted by [2022 c. 32 Sch. 11 para. 2\(b\)](#)
- s. 8B(2) words substituted by [2011 asp 1 s. 187\(2\)\(b\)](#)
- Sch. 2 para. 1(1)(a) words substituted by [2022 c. 32 Sch. 11 para. 3\(2\)](#)
- Sch. 2 para. 2(1)(f) words substituted by [2022 c. 32 Sch. 11 para. 3\(3\)](#)

**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\(3\)](#)