

# WIPING THE SLATE CLEAN

This leaflet gives advice to people who think they may be affected by the Rehabilitation of Offenders act, which came into force on 1 July 1975.

it explains how the Act can help to restore the reputation of a person who has been convicted but has stayed on the right side of the law for a specified period afterwards.

### What is the Act?

The Act is called the Rehabilitation of Offenders Act 1974. It applies to Scotland as well as to England and Wales. Some of the details in this leaflet apply only to England and Wales, but the provisions for Scotland are similar.

### What does it do?

The Act sets out to make life easier for many people who have been convicted of a criminal offence in civilian life, or in the Services, in Great Britain or abroad, and who have since lived on the right side of the law.

### Who benefits?

Anyone who has been convicted of a criminal offence, and received a sentence of not more than 2½ years in prison, benefits as a result of the Act, *if* he is not convicted again during a specified period (the 'rehabilitation period').

### How does the Act work?

If someone who can benefit under the Act is not convicted again during his rehabilitation period, he becomes what the Act calls a 'rehabilitated person', and his conviction becomes 'spent'. The rehabilitation period depends on the sentence for the original offence and runs from the date of conviction. At the end of this leaflet you will see the main advantages of becoming 'rehabilitated'. The Act applies to convictions that took place before 1 July 1975 as well as to those that have happened since that date.

### How long are the rehabilitation periods?

Some sentences carry fixed rehabilitation periods. The main ones are:

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For a sentence of imprisonment or detention in a young offender institution (previously youth custody) between 6 months and 2½ years.	10 years
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For a sentence of imprisonment or detention in a young offender institution (previously youth custody) of 6 months or less.	7 years
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For a fine or other sentence (eg a compensation or community service order, or a probation order received on or after 3 February 1995) for which the Act does not specify a different rehabilitation period	5 years
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For an absolute discharge	6 months
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(All these periods, except the last one, are halved if the person convicted was under 18 at the time. If a person under 18 receives a probation order on or after 3 February 1995, the rehabilitation period is 2½ years or until the order expires, whichever is longer).

In the past there were sentences that could be imposed only on young people. The rehabilitation periods for the main sentences in the category are:

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Borstal	7 years
Detention centre	3 years

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An order for custody in a remand home or an approved school order	A period ending 1 year after the order expires
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Some sentences carry variable rehabilitation periods. The main ones are as follows:

A probation order, received before 3 February 1995, conditional discharge or bind over	One year, or until the order expires (whichever is longer)
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A care order or supervision order	One year, or until the order expires (whichever is longer)
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An attendance centre order	A period ending one year after the order expires
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A hospital order (with or without a restriction order)	Five years, or a period ending two years after the order expires (whichever is longer)
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In Scotland, supervision requirements made by children's hearings attract similar rehabilitation periods to care or supervision orders.

**If anyone is sentenced to more than 2½ years in prison his conviction can never become 'spent'. This applies to life sentences, preventive detention, and their equivalents for young offenders. It is the sentence imposed by the court that counts, even if it is a suspended sentence, not the time actually spent in prison.**

### What about Servicemen?

For imprisonment in the Services the rehabilitation periods are the same as in civilian life. For cashiering, discharge with ignominy or dismissal with disgrace, the period is 10 years. For simple dismissal from the Service it is 7 years, and for detention 5 years. These periods are halved if the offender was under 18 at the time.

### **What about later convictions?**

It depends, what these are for. If it is one of the less serious offences which can be tried *only* in a magistrates' court (some more serious ones can be tried both by the Crown Court and by the magistrates) the first conviction becomes spent at the time originally fixed. The rehabilitation period for the second offence will then run for its normal length. But if the later conviction is for an offence which *could* be tried in the Crown Court (eg stealing) then neither conviction will become spent until the rehabilitation periods for both offences are over. And if the second conviction is so serious that it incurs a prison sentence of more than 2½ years then neither the second *nor the first* conviction will ever become spent. A later conviction affects the rehabilitation period for an earlier conviction only if it happens before the first period has run out.

### **What are the Act's main advantages?**

Once a conviction has become spent under the Act, the convicted person does not have to reveal it or admit its existence in most circumstances. *There are some exceptions*, but unless you are told one of these applies and are asked for details of all your convictions, spent convictions need not be disclosed when filling in a form, or at an interview, for instance for a job. An employer cannot refuse to employ someone (or dismiss someone) because he or she has a spent conviction unless an exception applies. (The main exceptions relate broadly to work with children, the sick, the handicapped and in the administration of justice.)

Official records will continue to be kept of spent convictions, but these may not be disclosed to others unless there is an official reason for doing so. The act says that spent convictions may still be mentioned in *criminal* proceedings, or in any court proceedings to do with children. But in *civil* proceedings the court would have to be satisfied that justice could not be done without the disclosure of a spent conviction; otherwise it cannot be mentioned in court.

*Note:* This is intended as general guidance only. It must not be regarded as a definitive interpretation of the Act. Any one in doubt should seek legal advice.