

Changes to the Rehabilitation of Offenders Act Employer factsheet

Background

The Government has introduced reforms to the Rehabilitation of Offenders Act 1974 (ROA) through the Legal Aid, Sentencing and Punishment of Offenders Act 2012. These changes were passed in Spring 2012 and will finally be implemented on 10th March 2014.

The ROA is designed to improve the chances of offenders being fully rehabilitated into society by removing some of the barriers that they face. It defines the period of time during which all cautions and convictions are regarded as unspent and must be disclosed in certain instances, for example, when applying for employment or insurance. When a caution or conviction has become spent, the offender is treated as rehabilitated in respect of that offence and is not obliged to declare it for most purposes. For persons under 18 when convicted, the rehabilitation periods are generally halved so the offence is spent more quickly.

Three main changes to the ROA have been made:

1. Increasing the length of maximum sentence capable of becoming spent

The changes extend the scope of the ROA so that prison sentences of up to and including four years in length can become spent. Under the previous legislation, the maximum sentence that could become spent is a 2.5 year prison sentence.

2. Starting the rehabilitation period from the end of the sentence

Currently, rehabilitation periods begin from the date of conviction and for the most minor sentences, (e.g. cautions, reprimands, fines) this will remain the case. However, for convictions resulting in a community, suspended or custodial sentence, the rehabilitation period will start from the end of the entire sentence.

3. Reducing most rehabilitation periods for adults and children

E.g. for prison sentences up to and including 6 months, the conviction will become spent 2 years after the end of the sentence rather than after 7 years from date of conviction as the previous legislation set out.

The changes will be retrospective so anyone who has a sentence from many years ago will benefit as long their sentence was 4 years or less. For example, a person who received a sentence of 4 years 11 years ago will no longer need to disclose it to employers unless they are applying for a role that is subject to a Disclosure and Barring Services check, for which both spent and unspent convictions are disclosed.



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Rehabilitation periods under new and previous legislation

ADULTS - If you were 18 or over on the date of conviction		
Disposal	Previous rehabilitation period	New rehabilitation period
Prison sentence >48 months	Never spent	Never spent
Prison sentence >30-48 months	Never spent	7 years from end of sentence
Prison >6-30 months	10 years from date of conviction	4 years from end of sentence
Prison 6 months or less	7 years from date of conviction	2 years from end of sentence
Probation Order	5 years from date of conviction	12 months from end of order
Community Order	5 years from date of conviction	12 months from end of order*
Fine	5 years from date of conviction	1 year from date of conviction
Conditional Discharge Order	1 year or until the order expires, whichever is longer	The last day on which the order has effect
Compensation	Once compensation paid in full	Once compensation paid in full
Absolute Discharge	6 months	No rehabilitation period

**Where the order does not specify the last day on which the order is to take effect, the rehabilitation period is 2 years from the date of conviction*

JUVENILES - If you were 17 or under on the date of conviction		
Disposal	Previous rehabilitation period	New rehabilitation period
Custodial sentence >48 months	Never spent	Never spent
Custodial sentence >30-48 months	Never spent	3 ½ years from end of complete sentence (inc. time on licence)
Custodial sentence >6-30 months	5 years from date of conviction	2 years from end of complete sentence (inc. time on licence)
Custodial sentence 6 months or less	3.5 years from date of conviction	1 ½ years from end of complete sentence (inc. time on licence)
Community Order/Youth Rehabilitation Order	2.5 years from date of conviction	6 months from end of order*
Referral Order	The last day on which the order has effect	The last day on which the order has effect
Fine	2.5 years from date of conviction	6 months from date of conviction
Conditional Discharge Order	1 year or until the order expires, whichever is longer	The last day on which the order has effect
Compensation	Once compensation paid in full	Once compensation paid in full
Absolute Discharge	6 months	No rehabilitation period

**Where the order does not specify the last day on which the order is to take effect, the rehabilitation period is 2 years from the date of conviction*

For more information about some of the terms in this paper (spent, unspent, rehabilitation period, DBS checks etc) please see Ban the Box FAQs at www.bitc.org.uk/banthebox

For more detailed information and access to training, advice and guidance on ROA changes please visit www.nacro.org.uk or www.unlock.org.uk