



**Isle of Man**

*Ellan Vannin*

**AT 6 of 2001**

# **REHABILITATION OF OFFENDERS ACT 2001**

The text of this Act is shown “as amended” by amendments found within the Justice Reform Act 2021, and any additional amendments set out within the Justice and Home Affairs (Reform and Miscellaneous Amendments) Bill 2025 once these take effect.





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## REHABILITATION OF OFFENDERS ACT 2001

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**Isle of Man***Ellan Vannin*

## REHABILITATION OF OFFENDERS ACT 2001

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**AN ACT** to rehabilitate offenders who have not been reconvicted of any serious offence for periods of years; to penalise the publication, etc. of their previous convictions; and for connected purposes.

### **1 Rehabilitated persons and spent convictions**

[P1974/53/1]

- (1) Where an individual has been convicted, whether before or after the commencement of this Act, of any offence, and the conditions specified in subsection (2) are satisfied, then —

- (a) after the end of the rehabilitation period applicable to the conviction; or
- (b) where that rehabilitation period ended before the commencement of this Act, after the commencement of this Act,

that individual shall for the purposes of this Act be treated as a rehabilitated person in respect of the conviction which shall for those purposes be treated as spent.

- (2) The conditions referred to in subsection (1) are that —

- (a) the individual did not have imposed on him in respect of the conviction a sentence which is excluded from rehabilitation under this Act; and
- (b) he has not had imposed on him in respect of a subsequent conviction during the rehabilitation period applicable to the original conviction a sentence which is excluded from rehabilitation under this Act; and
- (c) he has served or otherwise undergone or complied with any sentence imposed on him in respect of the conviction and has complied with all conditions, requirements and orders which are applicable in respect of the decision.

## 2 Sentences excluded from rehabilitation

[P1974/53/5(1)-(1A)]

- (1) The sentences excluded from rehabilitation under this Act are —
- (a) a sentence of custody for life;
  - (b) a sentence of custody for a term exceeding ~~30~~ 48 months;
  - (c) a sentence of detention during Her Majesty's pleasure passed under section 8 of the *Custody Act 1995* (detention of certain young offenders),
- and any other sentence is a sentence subject to rehabilitation under this Act.
- (2) The Department may by order amend subsection (1).
- (3) An order under subsection (2) may make consequential amendments to other provisions of this Act (and, in particular to Schedule 1) and include such other consequential, supplementary, transitional and transitory provision as the Department considers appropriate.

## 3 Spent convictions: offence to publish or broadcast

- (1) Subject to the following provisions of this section and to any order under section 10(1), any person who —
- (a) publishes, or causes or permits to be published; or
  - (b) broadcasts, or causes or permits to be broadcast,
- any matter imputing that a rehabilitated person has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.<sup>1</sup>
- (2) In proceedings against a person for an offence under subsection (1) it shall be a defence for him to satisfy the court that —
- (a) the publication or broadcast took place before the conviction in question became spent; or
  - (b) the rehabilitated person, or a person whom he reasonably believed to be the rehabilitated person, had given his express consent to the publication or broadcast; or
  - (c) the publication or broadcast was ordered by a court in the Island; or
  - (d) the person took all reasonable steps and exercised all due diligence to avoid committing the offence; or
  - (e) the publication or broadcast took place not less than 30 years after the death of the rehabilitated person.

- (3) A person shall not be entitled to rely on the defence provided by subsection (2)(d) by reason of his reliance on information given by another unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular —
- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information, and
  - (b) to whether he had any reason to disbelieve the information.
- (4) Where in any proceedings for an offence under subsection (1) the defence provided by subsection (2)(d) involves an allegation that the commission of the offence was due —
- (a) to the act or default of another; or
  - (b) to reliance on information given by another,
- the person shall not, without the leave of the court, be entitled to rely on the defence unless he has served a notice under subsection (5) on the person bringing the proceedings not less than 7 clear days before the hearing of the proceedings.
- (5) A notice under this subsection shall give such information identifying or assisting in the identification of the person who committed the act or default, or gave the information, as is in the possession of the person serving the notice at the time he serves it.
- (6) Subsection (1) shall not apply in relation to —
- (a) any report of judicial proceedings contained in any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law;
  - (b) any report or account of judicial proceedings published for *bona fide* educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes; and
  - (c) any person to whom section 8(1) applies, but only in respect of official records or information contained therein which he has or at any time has had custody of or access to.
- (7) In this section, “broadcast” means the transmission by wireless telegraphy, or by an electronic communications network, or by any electronic media, of words, visual images, sounds or other information which —
- (a) is capable of being lawfully received by members of the public; or
  - (b) is transmitted for presentation to members of the public.<sup>2</sup>

#### 4 Effect of rehabilitation on obligations to disclose, etc spent convictions

[P1974/53/4(3)-(5)]

- (1) Any obligation imposed on any person by —

- (a) any rule of law; or
  - (b) 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 conviction or any circumstances ancillary to a spent conviction (whether the conviction is his own or another's).
- (2) Where a question seeking information with respect to a person's previous convictions, 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 convictions or to any circumstances ancillary to spent convictions, 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 conviction or any circumstances ancillary to a spent conviction in his answer to the question.
  - (3) A conviction which has become spent or any circumstances ancillary thereto, or any failure to disclose a spent conviction 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.

## 5 **Spent convictions: disclosure in criminal and civil proceedings**

[P1974/53/4(2) and 7(2)-(5)]

- (1) Notwithstanding any other statutory provision or rule of law to the contrary, but subject to subsections (2) and (3) and to section 6, —
  - (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Island to prove that any person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; 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 conviction or spent convictions or any circumstances ancillary to a spent conviction.
- (2) Nothing in this Act shall prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto —
  - (a) in any criminal proceedings before a court in the Island (including any appeal or reference in a criminal matter);
  - (b) in any proceedings relating to adoption, the marriage of any minor, or to the formation of a civil partnership by any minor, the exercise

of the inherent jurisdiction of the High Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;<sup>3</sup>

- (c) in any proceedings brought under the *Children and Young Persons Act 2001* (including proceedings relating to the variation or discharge of a supervision order under Schedule 9 to that Act, or on appeal from any such proceedings);<sup>4</sup>
  - (d) in any proceedings in which he is a party or a witness, if, on the occasion when the admission or requirement of the evidence falls to be determined, he consents to the admission or requirement of the evidence.
- (3) If at any stage in any proceedings before a judicial authority in the Island the judicial authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question.
- (4) Subsection (3) does not apply to proceedings referred to in paragraphs (a) to (c) of subsection (2) nor specified in any order for the time being in force under section 10(1).
- (5) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

## 6 Sections 4 and 5: supplementary definitions

- (1) For the purposes of sections 4 and 5, any of the following are circumstances ancillary to a conviction —
- (a) the offence or offences which were the subject of that conviction;
  - (b) the conduct constituting that offence or those offences; and
  - (c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings (whether by way of appeal or otherwise) for reviewing that conviction or any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.
- (2) For the purposes of sections 4 and 5, "proceedings before a judicial authority" includes, in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power —
- (a) by virtue of any statutory provision, law, custom or practice;

- (b) under the rules governing any association, institution, profession, occupation or employment; or
- (c) under any provision of an agreement providing for arbitration with respect to questions arising thereunder;

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.

## 7 Rehabilitation periods

[P1974/53/5 and 6]

- (1) For the purposes of this Act, the rehabilitation periods shall be determined in accordance with Schedule 1.
- (2) The ~~Department of Home Affairs~~ **Department** may by order amend Schedule 1.

## 7A Protection afforded to spent cautions

P1974/53/8A

- (1) Schedule 1A (protection for spent cautions) has effect.
- (2) A reference in this Act to a caution —
  - (a) if the caution is given in the Island, is to be construed in accordance with Part 6 of the *Justice Reform Act 2021*;
  - (b) if the caution is given in England and Wales, is to be construed in accordance with section 8A(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (of Parliament) ;
  - (c) includes anything which corresponds to a caution falling within paragraph (a) or (b) (however described) which is given to a person in respect of an offence under the law of a country or territory outside the Island.

## 8 Unauthorised disclosure of spent convictions from official records, etc

[P1974/53/9]

- (1) Subject to the provisions of any order under subsection (7), any person who, in the course of his official duties, has or at any time has had custody of or access to any official record or the information contained therein, shall be guilty of an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained in the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.
- (2) Any person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.<sup>5</sup>

- (3) In any proceedings for an offence under subsection (1) it shall be a defence for the defendant to show that the disclosure was made —
- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person; or
  - (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.
- (4) Proceedings for an offence under subsection (1) shall not be instituted except by or on behalf of the Attorney General.
- (5) Any person who obtains any specified information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months, or to both.<sup>6</sup>
- (6) In this section —
- “official record” means a record kept for the purposes of its functions by any court, police force, department, statutory board, local or other public authority in the Island, or a record kept, in the Island or elsewhere, for the purposes of any of Her Majesty’s forces, being in either case a record containing information about persons convicted of offences;
- “specified information” means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction.
- (7) The ~~Department of Home Affairs~~ **Department** may by order make such provision as appears to it to be appropriate for excepting the disclosure of specified information derived from an official record from the provisions of subsection (1) in such cases or classes of case as may be specified in the order.

## **8A Unauthorised disclosure of spent cautions**

P1974/53/9A

- (1) In this section, —
- (a) “official record” means a record which, —
    - (i) contains information about persons given a caution for any offence or offences; and
    - (ii) is kept for the purposes of its functions by any court, police force, Department, Statutory Board or other public authority in the Island;
  - (b) “caution information” means information imputing that a named or otherwise identifiable living person (“the named person”) has

committed, been charged with or prosecuted or given a caution for any offence which is the subject of a spent caution; and

- (c) “relevant person” means any person who, in the course of his or her official duties, has or at any time has had custody of or access to any official record or the information contained in it.
- (2) Subject to the terms of any order made under subsection (5), a relevant person commits an offence if, knowing or having reasonable cause to suspect that any information he or she has obtained in the course of his or her official duties is caution information, he or she discloses it, otherwise than in the course of those duties, to another person.

Maximum penalty (summary) — level 4 fine.

- (3) In any proceedings for an offence under subsection (2), it is a defence for the defendant to show that the disclosure was made, —
  - (a) to the named person or to another person at the express request of the named person;
  - (b) to a person whom the defendant reasonably believed to be the named person or to another person at the express request of a person whom he or she reasonably believed to be the named person.
- (4) Any person who obtains any caution information from any official record by means of any fraud, dishonesty or bribe commits an offence.

Maximum penalty (summary) — 12 months’ custody or a level 5 fine.

- (5) The Department may by order make such provision as appears to it to be appropriate for excepting the disclosure of caution information derived from an official record from the provisions of subsection (2) in such cases or classes of case as may be specified in the order.

Tynwald procedure — approval required.

## 9 Offences by bodies corporate

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) For the purposes of subsection (1), “body corporate” includes a limited liability company constituted under the *Limited Liability Companies Act*

1996 and, in relation to such a company, any reference to a director, or other officer of a body corporate is a reference to a member and to the company's manager and registered agent.

## 10 Orders

- (1) The ~~Department of Home Affairs~~ **Department** may by order —
- (a) make such provisions as seems to it appropriate for excluding or modifying the application of sections 3(1), 4 or 5(1) in relation to such questions, cases, circumstances or proceedings as may be specified in the order;
  - (b) provide for such exceptions from the provisions of sections 3(1), 4 or 5(1) as seem to it appropriate;
  - (c) apply the provisions of this Act to sentences imposed in service disciplinary proceedings subject to such exceptions, adaptations and modifications as may be specified.
- (2) An order under any provision of this Act, except section 14(2), shall not come into operation unless it is approved by Tynwald.

## 11 Interpretation

- (1) In this Act —

**“custody”** means imprisonment, custody or detention ~~and includes penal servitude~~;

**“Department”** means the Department of Home Affairs;

**“rehabilitation period”** means the period applicable under section 7 and Schedule 1;

**“service disciplinary proceedings”** means any of the following —

- (a) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (whether before a court-martial or before any other court or person authorised thereunder to award a punishment in respect of any offence);
- (b) any proceedings under any Act previously in force corresponding to any of the Acts mentioned in paragraph (a);
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976 (an Act of Parliament);
- (d) any proceedings under any corresponding statutory provision or law applying to a force, other than a home force, to which section 4 of the Visiting Forces (British Commonwealth) Act 1933 (an Act of Parliament) applies or applied at the time of the proceedings, being proceedings in respect of a member of a home force who is or was at that time attached to the first-mentioned force under that section;

whether in any event those proceedings take place in the Island or elsewhere;

**“spent conviction”** means a spent conviction for the purposes of this Act.

(2) In this Act **“sentence”** includes any order made by a court in dealing with a person in respect of his conviction of any offence or offences, other than —

- (a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction;
- (b) an order dealing with a person in respect of a suspended sentence of custody.

(3) In this Act, references to a conviction, however expressed, include references —

- (a) to a conviction by or before a court outside the Island; and
- (b) to any finding (other than a finding linked with a finding of insanity) in any criminal proceedings or in care proceedings under section 53 of the *Children and Young Persons Act 1966* that a person has committed an offence or done the act or made the omission charged;

and notwithstanding anything in section 9 of the *Criminal Justice Act 1963* (conviction of a person put on probation or discharged to be deemed not to be a conviction) a conviction in respect of which an order is made placing the person convicted on probation or discharging him absolutely or conditionally shall be treated as a conviction for the purposes of this Act and accordingly the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction.

(4) In this Act, references to any sentence under an enactment are to be construed as including references to any sentence previously in force corresponding to that sentence.

## 12 Civil remedies

This Act shall not be construed as conferring any right of action in civil proceedings in respect of any publication, broadcast or disclosure made in contravention of this Act.

## 13 Amendments

The enactments specified in Schedule 2 are amended in accordance with that Schedule.

## 14 Citation and commencement

(1) This Act may be cited as the Rehabilitation of Offenders Act 2001.

- (2) This Act shall come into operation on such day as the ~~Department of Home Affairs~~ **Department** may by order appoint.<sup>7</sup>

Provisional consolidation for reference purpose only



## SCHEDULE 1

### REHABILITATION PERIODS

#### Section 7

#### **PART 1 - REHABILITATION PERIOD APPLICABLE TO A CONVICTION**

1. Where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Act) the rehabilitation period applicable to the conviction is, subject to the provisions of this Part, the period applicable to the sentence in accordance with Part 2.

2. Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Act, then, subject to the provisions of this Part, if the periods applicable to those sentences in accordance with Part 2 differ, the rehabilitation period applicable to the conviction shall be the longer or the longest (as the case may be) of those periods.

3. Without prejudice to paragraph 2, where in respect of a conviction a person was conditionally discharged or placed on probation and after the end of the rehabilitation period applicable to the conviction under paragraph 1 or 2 he is dealt with, in consequence of a breach of conditional discharge or probation, for the offence for which the order for conditional discharge or probation order was made, then, if the rehabilitation period applicable to the conviction in accordance with paragraph 2 (taking into account any sentence imposed when he is so dealt with) ends later than the rehabilitation period previously applicable to the conviction, he shall be treated for the purposes of this Act as not having become a rehabilitated person in respect of that conviction, and the conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.

4. Subject to paragraph 5, where during the rehabilitation period applicable to a conviction, —

- (a) the person convicted is convicted of a further offence; and
- (b) no sentence excluded from rehabilitation under this Act is imposed on him in respect of the later conviction,

if the rehabilitation period applicable to either of the convictions would end earlier than the period applicable in relation to the other, the rehabilitation period which would end the earlier shall be extended so as to end at the same time as the other rehabilitation period.

5. Where the rehabilitation period applicable to a conviction is the rehabilitation period applicable in accordance with paragraph 12 to an order imposing on a person any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to another conviction shall not by virtue of paragraph 4 be extended by reference to that period; but if any other sentence is imposed in respect of the first-mentioned conviction for which a rehabilitation period is prescribed by any other provision of Part 2, the rehabilitation period applicable to another conviction shall, where appropriate, be extended under paragraph 4 by reference to the rehabilitation period applicable in accordance with that Part to that sentence or, where more than one such sentence is imposed, by reference to the longer or longest of the periods so applicable to those sentences, as if the period in question were the rehabilitation period applicable to the first-mentioned conviction.

6. (1) For the purposes of paragraph 4(a) there shall be disregarded —
- (a) any conviction in the Island of a summary offence prescribed under sub-paragraph (2); and
  - (b) any conviction by or before a court outside the Island of an offence in respect of conduct which, if it had taken place in the Island, would not have constituted an offence under the law in force in the Island.
- (2) The ~~Department of Home Affairs~~ Department may by order prescribe summary offences for the purposes of sub-paragraph (1)(a).

## PART 2 – REHABILITATION PERIODS FOR PARTICULAR SENTENCES

7. For the purposes of this Act the rehabilitation period for a sentence is the period beginning with the date of the conviction in which the sentence is imposed and ending at the time listed in the following Table in relation to that sentence —

- (a) the rehabilitation period applicable to a sentence specified in column 1 of the Table for a person aged 18 or over at the date of his or her conviction is the period specified in column 2 of the Table in relation to that sentence;
- (b) where the sentence was imposed on a person who was under 18 years of age at the date of his or her conviction, the rehabilitation period applicable to a sentence specified in column 1 of the Table is the period specified in column 3 of the Table in relation to that sentence.<sup>8</sup>

TABLE<sup>9</sup>

Sentence	Rehabilitation Period offenders aged 18 or over	Rehabilitation period offenders under 18 years of age
A custodial sentence of over 6 months but not exceeding 30 months	48 months from the date on which the sentence (including any licence period) is completed	24 months from the date on which the sentence (including any licence period) is completed
A custodial sentence of up to 6 months	24 months from the date on which the sentence (including any licence period) is completed	18 months from the date on which the sentence (including any licence period) is completed
Fine	12 months from the date of the conviction in respect of which the fine was imposed	6 months from the date of the conviction in respect of which the fine was imposed
Community order	12 months from the last day on which the order has effect	6 months from the last day on which the order has effect
Compensation order	On discharge of the order (i.e. when it is paid in full)	On discharge of the order (i.e. when it is paid in full)

8. The rehabilitation period applicable to an order discharging a person absolutely for an offence shall be 6 months from the date of conviction.

9. (1) Where in respect of a conviction a sentence to which this paragraph applies is imposed, the rehabilitation period applicable to the sentence shall be one year from —

- (a) the date of conviction; or
- (b) a period beginning with that date and ending when the sentence ceases or ceased to have effect,

whichever is the longer.

(2) Sub-paragraph (1) applies to the following sentences —

- (a) an order for conditional discharge;
- (b) a recognisance to keep the peace or be of good behaviour;
- (c) a probation order;
- (d) a curfew order;
- (e) an attendance centre order;
- (f) a reparation order.

10. Where in respect of a conviction any of the following sentences was imposed, that is to say —

- (a) an order under section 50 of the *Children and Young Persons Act 1966*;

- (b) any other care order under the Children and Young Persons Acts 1966 to 1990;
- (c) a supervision order under any provision of the Children and Young Persons Acts 1966 to 1990 or the *Custody Act 1995* or under Schedule 9 to the *Children and Young Persons Act 2001*;<sup>10</sup>

the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.

11. Where in respect of a conviction a hospital order under Part 3 of the *Mental Health Act 1998* (with or without a restriction order) was made, the rehabilitation period applicable to the sentence shall be the period of 5 years from the date of conviction or a period beginning with that date and ending 2 years after the date on which the hospital order ceases or ceased to have effect, whichever is the longer.

12. Where in respect of a conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which the disqualification, disability, prohibition or penalty (as the case may be) ceases or ceased to have effect.

13. For the purposes of this Schedule —

- (a) consecutive terms of custody and terms which are wholly or partly concurrent (being terms of custody or detention imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
- (b) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of custody, of the term originally imposed; and
- (c) a sentence imposed by a court outside the Island shall be treated as a sentence of that one of the descriptions mentioned in this Part which most nearly corresponds to the sentence imposed.

14. References in this Part to the period during which a probation order, or a care order or supervision order under the *Children and Young Persons Acts 1966 to 1990* or the *Custody Act 1995* or under Schedule 9 to the *Children and Young Persons Act 2001* is or was in force include references to any period during which any order or requirement to which this paragraph applies, being an order or requirement made or imposed directly or indirectly in substitution for the first-mentioned order or requirement, is or was in force.<sup>11</sup>

**SCHEDULE 1A****PROTECTION FOR SPENT CAUTIONS**

[Section 7A(1)]

**1 Preliminary**

P1974/53/Sch.2 para 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 57 of the *Justice Reform Act 2021*), at the end of the relevant period for the caution;
  - (b) in any other case, at the time the caution is given.
- (2) In sub-paragraph (1)(a) “the relevant period for the caution” means (subject to sub-paragraph (3)) the period of 3 months from the date on which the conditional caution was given.
- (3) If the person concerned is subsequently prosecuted and convicted of the offence in respect of which a conditional caution was given, —
  - (a) the relevant period for the caution shall end at the same time as the rehabilitation period for the offence; and
  - (b) if the conviction occurs after the end of the period mentioned in sub-paragraph (1)(a), the caution shall be treated for the purposes of this Schedule as not having become spent in relation to any period before the end of the rehabilitation period for the offence.

**2 Meaning of “ancillary circumstances” for a caution**

P1974/53/Sch.2 para 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 proceedings under a petition of doleance relating to the caution;

- (e) 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 2 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 6(2).

### 3 Protection relating to spent cautions and ancillary circumstances

P1974/53/Sch.2 para 3

- (1) A person who is given a caution for an offence, from the time the caution is spent, is to 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 is admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Island 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 must not, in any such proceedings, be asked and, if asked, is not required to answer, any question relating to his or her 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 her 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 or her 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 does not extend to requiring him or her to disclose a spent caution or any ancillary circumstances (whether the caution is his or her 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, does not constitute a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment.
- (6) This paragraph has effect subject to paragraphs 4 to 6.

#### **4 Power to amend by order**

P1974/53/Sch.2 para 4

The Department of Home Affairs 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.

Tynwald procedure — approval required.

#### **5 Exceptions from paragraph 3**

P1974/53/Sch.2 para 5

Nothing in paragraph 3 affects, —

- (a) the operation of the caution in question; or
- (b) the operation of any enactment by virtue of which, in consequence of any caution, a person is subject to any disqualification, disability, prohibition or other restriction or effect, the period of which extends beyond the rehabilitation period applicable to the caution.

#### **6 Application of section 5 for the purposes of Schedule**

P1974/53/Sch.2 para 6

Section 5(2), (3) and (4) apply for the purposes of this Schedule as follows, —

- (a) subsection (2) 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 to such convictions; and
- (b) 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 to such convictions.

**7 Application of section 10 for the purposes of Schedule**

Section 10(1) applies as if a reference to sections 3(1), 4 and 5(1) included a reference to paragraph 3(1).

Provisional consolidation for reference purpose only

## **SCHEDULE 2**

### **AMENDMENTS**

#### Section 13

[Sch 2 amends the following Acts —

Road Traffic Regulation Act 1985 q.v.

Wildlife Act 1990 q.v.]

Provisional consolidation for reference purpose only



## ENDNOTES

### Table of Endnote References

<sup>1</sup> Subs (1) amended by Fines and Penalties Act 2024 Sch 4.

<sup>2</sup> Subs (7) amended by Communications Act 2021 Sch 9.

<sup>3</sup> Para (b) substituted by Children and Young Persons Act 2001 Sch 12 and amended by Civil Partnership Act 2011 Sch 14.

<sup>4</sup> Para (c) substituted by Children and Young Persons Act 2001 Sch 12.

<sup>5</sup> Subs (2) amended by Fines and Penalties Act 2024 Sch 3.

<sup>6</sup> Subs (5) amended by Fines and Penalties Act 2024 Sch 5.

<sup>7</sup> ADO (whole Act) 21/6/2001 (SD316/01).

<sup>8</sup> Para 7 substituted by SD2019/0328.

<sup>9</sup> Table substituted by SD2019/0328.

<sup>10</sup> Subpara (c) amended by Children and Young Persons Act 2001 Sch 12.

<sup>11</sup> Para 14 amended by Children and Young Persons Act 2001 Sch 12.