



What is the Rehabilitation of Offenders Act 1974?

The Rehabilitation of Offenders Act 1974 exists to support the rehabilitation into employment of reformed offenders who have stayed on the right side of the law.

Under the Act, following a specified period of time which varies according to the disposal administered or sentence passed, all cautions and convictions (except those resulting in prison sentences of over 30 months) are regarded as 'spent'. As a result the offender is regarded as rehabilitated.

For most purposes the Act treats a rehabilitated person as if he or she had never committed an offence and, as such, they are not obliged to declare their caution(s) or conviction(s), for example, when applying for employment or insurance.

Who benefits from the Rehabilitation of Offenders Act and how?

All cautions and convictions eventually become spent, with the exception of prison sentences of over 30 months (2 ½ years).

Once a caution or conviction has become spent under the Act, the ex-offender 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 more details of all your cautions or convictions, spent cautions and 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 caution or conviction unless an exception applies.

The exceptions where you may have to declare spent cautions and convictions are listed on the Rehabilitation of Offenders Act 1974 (Exceptions) Order (further details below).

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

Does the Rehabilitation of Offenders Act cover cautions?

Yes. The law was changed on 19 December 2008. The Rehabilitation of Offenders Act now covers simple cautions, reprimands and warnings (which become spent immediately) and conditional cautions (which become spent after 3 months). The change covers all cautions, reprimands, and warnings including those administered before 19 December 2008.

Fixed Penalty Notices and Penalty Notices for Disorder do not form part of a person's criminal record as there is no admission of guilt and they therefore do not need to be covered by the Rehabilitation of Offenders Act.

Which parts of the UK does the Rehabilitation of Offenders Act apply to?

The Rehabilitation of Offenders Act applies throughout the UK. However there are some differences to the way in which it operates in Scotland and Northern Ireland, where it is an area of devolved responsibility. This document should therefore be considered a guide to England and Wales only.

For information on the Rehabilitation of Offenders Act in Scotland please visit <http://www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/publications/law/RehabofOffenders>

When will I have to disclose spent cautions and convictions?

There are certain exceptions, where you do have to disclose your caution or conviction (even if it is spent). These are listed on the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and subsequent amendments. The positions listed in the Exceptions Order primarily relate to particularly sensitive areas such as work with children and vulnerable adults, work in law enforcement and the legal system, and high level financial positions. Exceptions also apply to certain licences (such as a Security Industry Authority licence) and to certain legal proceedings. Where an exception to the Rehabilitation of Offenders Act exists then you must list all cautions and convictions, even if they are spent. Where an exception exists the employer or licensing body will be eligible for Criminal Records Bureau (CRB) checks containing your full criminal record.

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How long will it take before my caution or conviction becomes spent?

The rehabilitation period (the length of time before a caution or conviction becomes spent) is determined by the type of disposal administered or the length of the sentence imposed. It is calculated from the date of conviction or the date the caution is administered. The rehabilitation periods are shown in the table below.

Sentence/disposal	Rehabilitation period for adults (18 or over at the time of conviction or the time the disposal is administered)	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered)
Imprisonment or detention in a young offender institution for over 30 months (2 ½ years)	Never spent	Never spent
Imprisonment or detention in a young offender institution over 6 months but not exceeding 30 months (2 ½ years)	10 years	5 years
Imprisonment up to 6 months	7 years	3 ½ years
Fine	5 years	2 ½ years
Community Sentence	5 years	2 ½ years
Conditional discharge	The period of the order, or a minimum of 12 months (whichever is longer)	The period of the order, or a minimum of 12 months (whichever is longer)
Absolute Discharge	6 months	6 months
Conditional Caution	3 months	3 months
Simple Caution, Reprimand, Final Warning	Spent immediately	Spent immediately
<i>Some sentences carry variable rehabilitation periods. The main ones are as follows:</i>		
Compensation Order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Supervision Order	N/A	The period of the order, or a minimum of 12 months (whichever is longer)
Bind Over	The period of the order, or a minimum of 12 months (whichever is longer)	The period of the order, or a minimum of 12 months (whichever is longer)
Attendance Centre Order	A period ending one year after the order expires	A period ending one year after the order expires
Hospital Order	Five years, or a period ending two years after the order expires (whichever is longer)	Five years, or a period ending two years after the order expires (whichever is longer)

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What happens if I get another caution or conviction before my first conviction becomes spent?

If you already have an unspent conviction (not including unspent conditional cautions), and you get a further caution or conviction before the earlier conviction has become spent, one of the following will apply:

1. If your later outcome is a caution (either a simple caution or a conditional caution), reprimand or warning, neither rehabilitation period will be affected. The caution or conviction for the earlier offence will become spent at the time originally fixed, and the caution for the later offence will become spent after the normal period (immediately for a simple caution or three months for a conditional caution).
2. If your later outcome is a conviction for a summary offence, (one that can only be tried in a magistrates' court), neither rehabilitation period will be affected. The caution or conviction for the earlier offence will become spent at the time originally fixed, and the conviction for the later offence will become spent after the normal period.
3. If your later outcome is a conviction for an either way or an indictable offence (one which could be tried in the Crown Court) then *neither* conviction will become spent until the rehabilitation period for *both* offences are over.
4. If your later outcome is a conviction that results in a prison sentence of more than 2 ½ years then neither the second nor the first conviction will ever become spent.

Once a conviction becomes spent, it remains spent, even if a person is convicted of other offences later.

What happens if I get another conditional caution or conviction before my first conditional caution becomes spent?

If the later conditional caution or conviction is separate to the earlier conditional caution (i.e. not for the offence in respect of which you were cautioned), then neither rehabilitation period will be affected. The conditional caution for the earlier offence will become spent at the time originally fixed, and the caution or conviction for the later offence will become spent after the normal period.

However, if you fail to comply with a conditional caution, and you are subsequently prosecuted and convicted of the offence for which the conditional caution was given, the caution will remain unspent until the conviction for the offence has also become spent.

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For example:

A person receives a conditional caution for shoplifting. A month later he receives a conviction for a separate offence. The conditional caution will become spent in the normal way (three months from date of issue).

A person receives a conditional caution for shoplifting. He fails to comply with the conditions and as result is prosecuted for and convicted of the shoplifting offence. His conditional caution will only become spent at the same time as his later conviction.

I have been sentenced for more than one offence at the same time. Will the rehabilitation periods run concurrently or consecutively?

If you receive more than one sentence at the same time, the total rehabilitation period will depend on whether the sentences run concurrently (at the same time) or consecutively (one after the other).

If concurrent sentences are imposed, then the longest applicable rehabilitation period will apply. *So for example a four month and six month prison sentence ordered to run concurrently will count as a single term of six months (carrying a rehabilitation period of seven years).*

If consecutive sentences are imposed, then the sentences will be added together to calculate the rehabilitation period. *So for example a four month and six month prison sentence running consecutively will count as a ten month sentence, carrying a rehabilitation period of 10 years.*

If any sentence is over 2 ½ years, then none of the sentences will ever become spent, regardless of whether they are running concurrently or consecutively.

Does the Act apply to Service personnel?

The Act applies equally to everyone convicted of a criminal offence, whether in civilian life or in the services. For cashiering, discharge with ignominy or dismissal with disgrace, the rehabilitation 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.

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