

FACTSHEET

Disclosing offences committed overseas

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1 What is The Rehabilitation of Offenders Act, 1974?

The aim of the Act is to help people who have been convicted of certain crimes in the past to rebuild their lives by giving them the opportunity to re-establish themselves in the community. The Act allows some criminal convictions to be ignored (“spent”) after a certain period of time has elapsed (“rehabilitation period”). The disclosure of previous convictions, no matter how much time has lapsed since the date of the conviction, could prejudice a person’s chances of getting a job or living a life as a fully rehabilitated member of society. Before this law came into force, a person was obliged, if asked, to disclose details of any past convictions, for example when applying for a job or for insurance. This applied to all convictions whether by courts in Britain or abroad. The Committee report on which the Act was based, explained the reason for the legislation as follows: “when a man has demonstrably done all he can to rehabilitate himself, and enough time has passed to establish his sincerity, it is in society’s interest to accept him for what he now is and, as long as he does not offend again, to ensure that he is no longer liable to have his present pulled from under his feet by his past”.

2 How does the Act work?

The Act specifies that after a certain period of time has elapsed since conviction and a person has not subsequently been convicted of any other crime, certain convictions may be treated as ‘spent’. A conviction that has become ‘spent’ in terms of the Act can be ignored for most purposes. It need not be disclosed in applications for employment or insurance, or in judicial proceedings other than criminal proceedings or in proceedings relating to minors. Not only is a person not obliged to disclose the spent convictions, he can actually say that no convictions exist, so no negative inference can be drawn from a refusal to answer the question.

3 Foreign convictions

Section 1(4) specifically provides that the Act is applicable to convictions by foreign courts, and section 5(8)(d) provides that a sentence imposed by a court outside of Great Britain must be treated as the most closely corresponding sentence described in the Act.

4 Can any conviction become spent under the Act?

Not every conviction may become spent. A conviction resulting in a custodial sentence (imprisonment or corrective training) of more than 30 months will never become spent.

5 When does a Conviction become spent?

The period after which a conviction becomes spent (the 'rehabilitation period') is calculated from the date of the conviction, and with reference to the sentence imposed, not the time actually served. The table below sets out the rehabilitation periods applicable to various convictions covered by the Act. These rehabilitation periods are halved if the convicted person was under the age of 17 at the date of conviction.

SENTENCE	REHABILITATION PERIOD
Imprisonment or corrective training: more than 6 months but not more than 2 years (inc. suspended sentences)	10 years
Imprisonment: six months or less (inc. suspended sentences)	7 years
Fines, Probation (after Feb 1995), Community Service, Combination Order, Curfew Order, etc.	5 years
Absolute Discharge	6 months
Conditional Discharge, Binding over, Probation (before Feb 1995)	1 year or the until termination of the period of the order, whichever is the longer

6 Multiple convictions

The Act is intended to help rehabilitate people who have shown a genuine desire to turn over a new leaf. Therefore if a person is convicted of any further offences during the rehabilitation period applicable to an earlier offence, she/he will lose the benefits conferred under the Act. The rehabilitation period for the first conviction is extended so that it does not expire before the rehabilitation period of the later offence i.e. they will expire at the same time. This does not however apply if the later offence is a minor ('summary') offences that can only be tried in the magistrate's court – in this

case the rehabilitation period for the earlier conviction runs and is not affected by the later minor offence. Once a conviction becomes spent it remains so, even if later a person commits another offence.

7 Police Criminal Records

Spent convictions remain on the Police National Computer. However guidelines from the Association of Chief Police Officers sets out when different offences should be deleted. The guidelines say that:

- Offences that could or were tried in a Crown Court should be deleted from the computer after 10 years.
- If a person has more than 3 convictions for offences that can be tried in the Crown Court they will not be deleted for 20 years.
- Where a person has received a custodial sentence the record will never be deleted
- Where a person has been convicted of an offence involving indecency, a sexual or violent offence, the possession or trafficking of class A drugs, or the importation or supply of any drug, the record will never be deleted.
- If a person has been found unfit to plead, or detained under the Mental Health Act then the record will never be deleted;
- If the offence involved a child or a vulnerable adult the record will never be deleted.

It must be remembered that these are guidelines only, and so individual Chief Constables are not obliged to follow them.

8 Spent convictions

All previous convictions can be referred to in criminal proceedings, even if they are spent. However, spent convictions should be marked as such and the Home Office and the Lord Chief Justice have advised that spent convictions should be ignored and not referred to unless there are exceptional circumstances for doing so.

Spent convictions must still be disclosed when applying for, or being appointed to certain jobs. These are:

- Where a job will involve the care of children, for example posts such as teachers, school caretakers, youth social workers and child minders.
- Jobs involving the provision of social services to the elderly, the mentally ill, the disabled, those addicted to alcohol or drugs, or those who are chronically ill.

- Any job involving the administration of justice, which includes police officers, probation officers and traffic wardens.
- The admission to certain professions such as lawyers, accountants, doctors, dentists, nurses, and chemists.
- Jobs involving national security, for example some civil service jobs.
- Application forms for jobs which the Act does not apply to will make it clear that spent convictions must be disclosed. If you are in any doubt however check, as some employers may claim certain jobs are exempted from the Act when in fact they are not.

Further advice on these issues can be obtained from:

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 169 Clapham Road
 London SW9 0PU
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 Fax: 020 7735 4666
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