

Criminal Conviction Declaration

Rehabilitation of Offenders Act 1974 – Advisory Note



The Rehabilitation of Offenders Act 1974 which was amended under the Management of Offenders (Scotland) Act 2019, is intended to rehabilitate offenders who have not been reconvicted of a serious offence for a given period. It makes it unlawful for employers, or prospective employers, to take into account offences in relation to which the person concerned is deemed to be rehabilitated (i.e. to have a 'spent' conviction).

This means that after a certain period of time (which will depend on the seriousness of the offence and the length and severity of the punishment) the person concerned is to be assessed as if the conviction had never taken place. Unless you are advised otherwise, you should make your declaration (overleaf) based on the guidelines on rehabilitation periods in the tables below.

Please note if the post you have applied for is exempt from the Rehabilitation of Offenders Act 1974 then you are required to disclose all convictions (spent or unspent).

If the post you have applied for is not exempt then you do not have to disclose any spent convictions.

Sentences and Rehabilitation Periods

Disclosure period for custodial sentences		
Type of Sentence	Aged 18 or over when convicted (period for adults from end of sentence including licence period)	Aged under 18 when convicted (period for young people from end of sentence including licence period)
Up to (and including) 12 months	Length of sentence plus 2 years	Length of sentence plus 1 year
Over 12 months & up to (and including) 30 months	Length of sentence plus 4 years	Length of sentence plus 2 years
Over 30 months & up to (and including) 48 months	Length of sentence plus 6 years	Length of sentence plus 3 years
Over 48 months	Never spent although a review mechanism will be available in due course for relevant sentences over 48 months	Never spent although a review mechanism will be available in due course for relevant sentences over 48 months

Disclosure period for non-custodial sentences

Type of Sentence	Aged 18 or over on date of conviction	Aged under 18 on date of conviction
Absolute discharge	Spent immediately	Spent immediately
Admonishment	Spent immediately	Spent immediately
Bond of caution	6 months, or length of caution period, whichever is longer	3 months, or length of caution period, whichever is longer
A fine or compensation order	1 year	6 months
<ul style="list-style-type: none"> Community Payback Order Drug Treatment & Testing Restriction of Liberty Order 	Never spent although a review mechanism will be available in due course for relevant sentences over 48 months	Never spent although a review mechanism will be available in due course for relevant sentences over 48 months
Adjournment/ Deferral after conviction	Until the relevant sentence is given	Until the relevant sentence is given
An order under section 61 of the Children and Young Persons (Scotland) Act 1937	N/A	12 months
Ancillary Orders (e.g., non-harassment order, supervision and treatment order, football banning order, anti-social behaviour order, exclusion from licensed premises order, confiscation order, serious crime prevention order and an order disqualifying someone from driving)	Length of the order	Length of the order
An endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988	5 years	2 ½ years
Compulsion Order (mental health)	Length of order (after 12 months, application can be made for disclosure to end)	Length of order (after 12 months, application can be made for disclosure to end)
Compulsion Order with Restriction Order	Length of order (if restrictions end and the compulsion order remains, application can be made for disclosure of compulsion order to end 12 months after restriction order ends)	Length of order (if restrictions end and the compulsion order remains, application can be made for disclosure of compulsion order to end 12 months after restriction order ends)

Periods of rehabilitation may be halved for offenders under 18 at the time of sentencing.

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)

If you have any doubts about whether you should declare a conviction or whether it is spent under law you should seek further advice. Advice will be available from a solicitor, trade union representative, your local Citizens Advice Bureau, Apex Scotland or the National Association for the Care and Resettlement of Offenders (NACRO) <https://www.nacro.org.uk/>

Rehabilitation of Offenders Act 1974 – Criminal Convictions Declaration Form

Please complete the declaration below after reading the advisory note overleaf. Any information supplied in this form will be processed and held in accordance with the Data Protection Act 2018.

The questions below have been specifically excluded from the job application form to protect confidentiality. If you answer YES to the declaration(s), the subsequent details that you supply below will be treated in strict confidence.

All applicants attending for interview must complete this declaration.

Have you ever been convicted of a criminal offence including a Road Traffic Offence?*

Yes ☐ No ☐

I have previous convictions as follows:

Date(s)	Court(s)	Details of Offence(s)	Sentence(s)

I have Road Traffic Violations as follows:

Date(s)	Details of Violation(s)

Do you have a court appearance pending or have you been charged by the Police with a criminal offence?*

Yes ☐ No ☐

If yes, please provide details:

* please tick

Having read the Advisory Note overleaf, I declare that I have not withheld information that may affect my application for employment. I understand that should my application be successful false information or omissions may lead to dismissal and that you may verify the information I have supplied.

Signed

Date