

SPENT CONVICTIONS AND NON-DISCLOSABLE CONVICTIONS

This guide is information for applicants for taxi driver licences or private hire car driver licences.

All applicants for taxi driver and private hire car driver licences are required, by virtue of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 to disclose both their unspent and their spent convictions when completing the application.

However, certain spent convictions no longer required to be disclosed by applicants.

This document provides information to applicants on the following:

- a summary of the rehabilitation periods after which certain convictions generally become spent convictions
- the statutory definition of "non-disclosable convictions and non-disclosable children's hearings outcome" in Article 2A of the 2013 Order i.e. convictions which are spent but which do not require to be disclosed.
- a link to the offences set out in Schedule A1 to the 2013 Order, being offences which, even if spent, must always be disclosed by applicants for taxi driver and private hire car driver licences.
- a link to the offences set out Schedule B1 to the 2013 Order, being offences which, even if spent, must be disclosed unless at least one of the conditions in Article 2A(2) applies.

If you are in any doubt as to whether a conviction is spent and, if so, whether it is nonetheless "protected", you may wish to seek independent legal advice.

Rehabilitation Periods

For convictions in Scotland the rehabilitation periods after which a conviction generally becomes spent are shown in the table below. The period runs from the date of the conviction. A conviction becomes spent, and a person treated as a protected person in respect of that conviction, on the expiry of the disclosure period applicable to the conviction. Section 6 of the 1974 Act sets out the rules which determine the length of the disclosure period of a conviction. The disclosure period applicable to a conviction depends principally on the disclosure period applicable to the sentence imposed for that conviction. However, just because the disclosure period for a specific sentence has ended does not mean that all of a person's convictions would be spent. This is because the 1974 Act contains rules on what happens if a person receives more than one sentence for a conviction or is convicted of subsequent offences while their existing convictions are not yet spent.

Please also note that this is intended as general guidance only. It must not be regarded as a definitive interpretation of the Rehabilitation of Offenders Act 1974. Anyone in doubt should seek legal advice.

How long will it take for my criminal record to be spent (Scotland)?

The Rehabilitation of Offenders Act 1974 as it applies in Scotland, was amended under the Management of Offenders (Scotland) Act 2019. The following disclosure periods apply:

Disclosure periods for custodial sentences

Sentence/disposal	Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period	Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period
Imprisonment, or detention in a young offender institution for 12 months or less	Length of sentence plus 2 years	Length of sentence plus 1 year
Imprisonment, or detention in a young offender institution for over 12 months and up to and including 30 months (2½ years)	Length of sentence plus 4 years	Length of sentence plus 2 years

Sentence/disposal	Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period	Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period
Imprisonment, or detention in a young offender institution for over 30 months (2½ years) and up to 48 months (4 years)	Length of sentence plus 6 years	Length of sentence plus 3 years
Imprisonment, or detention in a young offender institution for over 48 months (4 years) or a public protection sentence	Never 'spent' (although a review mechanism will be available in due course)	Never 'spent' (although a review mechanism will be available in due course)

Disclosure periods for non-custodial sentences

Sentence/disposal	Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered)	Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered)
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
Fine or compensation order	1 year	6 months
Community Payback Order, Drug Treatment & Testing and Restriction of Liberty Order	12 months or length of order, whichever is longer	6 months or length of order, whichever is longer
Adjournment/Deferral after conviction	Until relevant sentence given	Until relevant sentence given

Sentence/disposal	Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered)	Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered)
An order under section 61 of the Children & Young Persons (Scotland) Act 1937	N/A	12 months
Ancillary Orders (e.g. non-harassment order, antisocial behaviour order, driving disqual.)	Length of order	Length of order
Endorsement made by court in relation to offences in schedule 2 of the Road Traffic Offenders Act 1968	5 years	2½ years
Compulsion Order (mental health)	Length of order (after 12 months, an application can be made for disclosure to end)	Length of order (after 12 months, an application can be made for disclosure to end)
Compulsion Order with Restriction Order	Length of order (if restrictions end and CO remains, application can be made for disclosure of CO to end 12 months after restriction order ends)	Length of order (if restrictions end and CO remains, application can be made for disclosure of CO to end 12 months after restriction order ends)

Alternatives to prosecution

Sentence/disposal	Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period	Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period
Category 1 AtPs*	Spent immediately	Spent immediately

Sentence/disposal	Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period	Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period
Category 2 AtPs	3 months	3 months

*Category 1 AtPs are warnings given by a constable or a procurator fiscal and fixed penalty notices given under s. 129 of the Antisocial Behaviour (Scotland) Act 2004. All others are Category 2 AtPs which are non-court based disposals available to the police and prosecutors.

Non-disclosable convictions and non-disclosable children's hearing outcomes

2A.— (1) For the purposes of this Order, a person's conviction is a non-disclosable conviction if—

(a) it is a spent conviction; and

(b) either—

(i) it is not a conviction for an offence listed in Schedule A1 or B1; or

(ii) it is a conviction for an offence listed in Schedule B1 and at least one of the conditions specified in paragraph (2) is satisfied.

1A) For the purposes of this Order, a person's children's hearing outcome is a non-disclosable children's hearing outcome if—

(a) the offence which led to the children's hearing outcome is not an offence listed in schedule A1 or B1, or

(b) the offence which led to the children's hearing outcome is an offence listed in schedule B1 and either of the conditions in paragraph (2A) is satisfied.

(2) The conditions are—

(a) the sentence imposed in respect of the conviction was an admonition or an absolute discharge;

(b) the person was aged under 18 on the date of conviction and at least 5 years and 6 months have passed since the date of conviction; and

(c) the person was aged 18 or over on the date of conviction and at least 11 years have passed since the date of conviction.

(2A) The conditions are—

(a) the referral to the children's hearing which led to the children's hearing outcome was discharged under—

(i) section 69(1)(b) and (12) of the Children (Scotland) Act 1995, or

(ii) section 91(3)(b), 93(2)(b), 108(3)(b) or 119(3)(b) of the Children's Hearings (Scotland) Act 2011,

(b) at least 5 years and 6 months have passed since the date of the children's hearing outcome.

Schedule A1 – Offences which must be disclosed subject to exceptions

[The Rehabilitation of Offenders Act 1974 \(Exclusions and Exceptions\) \(Scotland\) Order 2013](#)

Schedule B1 – Offences which are to be disclosed subject to rules

[The Rehabilitation of Offenders Act 1974 \(Exclusions and Exceptions\) \(Scotland\) Order 2013](#)