



BERMUDA

REHABILITATION OF OFFENDERS ACT 1977

1977 : 6

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SCHEDULE

[preamble and words of enactment omitted]

Entitlement to rehabilitation

1 (1) Subject to the following provisions of this Act, where an individual person has been convicted of a criminal offence or offences in Bermuda, whether before or after 22 March 1977, and the following conditions are satisfied in his case, that person shall for the purposes of this Act be treated as a rehabilitated person in respect of that conviction or those convictions and that conviction or those convictions shall for those purposes be treated as spent.

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

- (a) that such a person did not have imposed upon him in respect of that conviction or those convictions a sentence which is excluded from rehabilitation under this Act;
- (b) that a period of seven years has elapsed since he was last convicted or since he was released from prison after serving a sentence of imprisonment imposed upon him in respect of his last conviction, whichever period last expires.

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(3) In this Act, references however expressed to a conviction of a criminal offence include references to a finding by a court (other than one linked to insanity) that a person has committed an offence or done the act or made the omission charged but do not include references to the conviction of a traffic offence, that is to say an offence against any Act contained in Title 21 of the revised edition of the laws of Bermuda prepared under the Computerization and Revision of Laws Act 1989.

2 *[Section 2 repealed]*

Sentences that are excluded from rehabilitation

3 The sentences excluded from rehabilitation under this Act are—

- (a) a sentence of death;
- (b) a sentence of imprisonment for life;
- (c) a sentence of imprisonment for a term exceeding three years;
- (d) *[Deleted]*
- (e) a sentence or order of detention during Her Majesty's pleasure.

[Section 3 para (d) deleted by 2001:29 s.11(1) & Sch effective 29 October 2001]

Effect of rehabilitation

4 (1) Subject to section 5, a person who has become a rehabilitated person for the purposes of this Act in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction; and, notwithstanding the provisions of any other enactment or rule of law to the contrary but subject as aforesaid—

- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Bermuda to prove that any such person has committed or been charged with or prosecuted for or convicted 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 thereto.

(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 thereto may be framed accordingly; and

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- (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) 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 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).

(4) 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 ground for dismissing or excluding a person from any office, profession, occupation or employment or from prejudicing him in any way in any occupation or employment.

(5) For the purposes of this section and section 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 provision of 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.

Limitations on rehabilitation

5 Nothing in section 4 shall affect the determination of any issue, or 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 Bermuda, (including any appeal or reference in a criminal matter);
- (b) in any civil proceedings for libel or slander before such a court;
- (c) in any proceedings under the Children Act 1998;
- (d) [deleted]; or
- (e) in any proceedings in which he is a party or a witness if, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding section 4.

[Section 5 amended by 1998:38 effective 1 January 2000; reference to "Protection of Children Act 1943" deleted under the powers of the Computerization and Revision of Laws Act 1989 s. 11(h) as Act was repealed by "Children Act 1998"]

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Unauthorized disclosure of spent convictions an offence

6 (1) In this section—

“official record” means a record kept for the purposes of its functions by any court, police force, Government department or other public authority in Bermuda being 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.

(2) Subject to the provisions of any order made under subsection (5), 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, commits 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 any other person.

(3) In any proceedings for an offence under subsection (2) it shall be a defence for the accused person to show that the disclosure was made—

(a) to the rehabilitated person, or to another person at his expressed request; or

(b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of such first-named person.

(4) Any person who obtains any specified information from any official record by means of any—

(a) fraud;

(b) dishonesty; or

(c) bribe,

commits an offence.

(5) The Governor may by order make such provision as appears to him, acting in his discretion in the exercise of his special responsibilities under the Constitution [*title 2 item 1*], to be appropriate for excepting the disclosure of specified information derived from an official record from subsection (2) in such cases or classes of case as may be specified in the order.

(6) Where a person commits an offence under subsection (2):

Punishment on summary conviction: a fine of \$500.

(7) Where a person commits an offence under subsection (4):

Punishment on summary conviction: imprisonment for 6 months or a fine of \$1,000 or both such imprisonment and fine.

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(8) Proceedings for an offence under this section shall not be instituted except with the consent of the Attorney General.

(9) No person shall be charged with an offence under subsection (4)(c) committed wholly on or after the commencement date of the Bribery Act 2016.

[Section 6 amended by 2016 : 47 s. 24(1) & Sch 2 effective 1 September 2017]

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SCHEDULE

[repealed]

[Assent Date: 22 March 1977]

[Amended by

1982 42

1986 22

1998 38

2001 29

2016 47]