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**THE REHABILITATION OF OFFENDERS LAW (20 OF 1985)**  
**(1998 Revision)**

Revised under the authority of the Law Revision Law (19 of 1975).

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Law 20 of 1985-29th May, 1985.

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**REHABILITATION OF OFFENDERS LAW**

**(1998 Revision)**

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**REHABILITATION OF OFFENDERS LAW**

**(1998 Revision)**

1. This Law may be cited as the Rehabilitation of Offenders Law (1998 Revision). Short title
2. (1) In this Law - Definition and interpretation
- “sentence” includes any order made by a court dealing with a person in respect of his conviction for any offence, other than -
- (a) an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction; or
  - (b) an order dealing with a person in respect of a suspended sentence of imprisonment.
- (2) In this Law, a reference to a conviction, however expressed, includes a reference -
- (a) to a conviction by or before a court outside the Islands; and
  - (b) to a finding in any criminal proceedings that a person has committed an offence or done the act or made the omission charged,
- and, notwithstanding section 36 of the Penal Code (1995 Revision), a conviction in respect of which an order is made discharging the offender upon his entering into his own recognisance shall be treated as a conviction for the purposes of this Law, and the person in question may become a rehabilitated person in respect of that conviction and the conviction a spent conviction for those purposes accordingly. 1995 Revision
3. (1) Subject to subsection (2), where a person has been convicted of an offence, and - Rehabilitated persons and spent convictions
- (a) he did not have imposed on him, in respect of that conviction, a sentence which is excluded from rehabilitation under this Law; and
  - (b) he has not had imposed on him, in respect of any subsequent conviction during the rehabilitation period applicable to the first mentioned conviction in accordance with section 6, a sentence which is excluded from rehabilitation under this Law,

then, after the end of the rehabilitation period so applicable (including, where appropriate, any extension under section 6(4) of the period originally applicable to the first mentioned conviction), that person shall, for the purposes of this Law, be treated as a rehabilitated person in respect of the first mentioned conviction and that conviction shall, for those purposes, be treated as spent.

(2) A person shall not become a rehabilitated person for the purposes of this Law in respect of a conviction unless he has served or otherwise undergone or complied with any sentence imposed on him in respect of that conviction; but the following shall not, by virtue of this subsection, prevent a person from becoming a rehabilitated person for those purposes -

- (a) failure to pay a fine or other sum adjudged to be paid by or imposed on a conviction, or breach of a condition of a recognisance or of a bond to keep the peace and be of good behaviour; or
- (b) breach of any condition or requirement applicable in relation to a sentence which renders the person to whom it applies liable to be dealt with for the offence for which the sentence was imposed or, where the sentence was a suspended sentence of imprisonment, liable to be dealt with in respect of that sentence (whether or not, in any case, he is in fact so dealt with).

1995 Revision

(3) Where, in respect of a conviction, a sentence of imprisonment has been passed on a person with an order under section 23(4) of the Penal Code (1995 Revision), he is to be treated for the purposes of subsection (2) as having served the sentence -

- (a) if, within a period of two years from the date of the first sentence, he commits in the Islands another offence punishable with imprisonment, two years from the date on which he is sentenced for such other offence; or
- (b) if he does not commit another such offence within a period of two years from the date of such first sentence, two years from the date on which such sentence was passed.

Effect of rehabilitation

4. (1) Subject to sections 7 and 8, a person who has become a rehabilitated person for the purposes of this Law in respect of a conviction shall be treated, for all purposes in law, as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence which was the subject of that conviction; and, notwithstanding any other law but subject as aforesaid -

- (a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Islands to prove that any such person has committed, been

charged with, prosecuted for, convicted of or sentenced for the 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 of that person 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
- (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 proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment.

(5) For the purposes of this section and section 7, the following are circumstances ancillary to a conviction -

- (a) the offence or offences which were the subject of that conviction;
- (b) the conduct constituting that offence or those offences; and
- (c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings (whether by way of appeal or otherwise) for reviewing that conviction or any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.

(6) In this section and section 7-

“proceedings before a judicial authority” includes, in addition to proceedings before any court of law, proceedings before any tribunal, body or person having power -

- (a) by virtue of any 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.

Rehabilitation periods  
for particular sentences

5. (1) Sentences excluded from rehabilitation under this Law are -

- (a) a sentence of imprisonment for life;
- (b) a sentence of imprisonment for a term exceeding thirty months; and
- (c) a sentence of detention during the Governor’s pleasure,

and any other sentence is a sentence subject to rehabilitation under this Law:

Provided that if a sentence referred to in paragraphs (a), (b) or (c) is reduced by an exercise of any prerogative power or privilege, then such reduced sentence is, for the purposes of this subsection, deemed to have been the sentence imposed by the court.

(2) For the purpose of this Law, the rehabilitation period applicable to a sentence specified in the first three items of the first column of the Schedule -

- (a) in the case of a person who had attained the age of seventeen years at the date of his conviction, shall be the period specified in the second column of the Schedule in relation to that sentence; and
- (b) in the case of a person who had not attained the age of seventeen years at the date of his conviction, shall be half that period,

reckoned in either case from the date of the conviction in respect of which the sentence was imposed.

(3) Where, in respect of a conviction, a person was placed on probation, or bound over to keep the peace and be of good behaviour, the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the probation order or, as the



case may be, the recognisance to keep the peace and be of good behaviour ceases or ceased to have effect, whichever is the longer.

(4) Where, in respect of a conviction, an order was made under paragraph (d) of section 20(1) of the Youth Justice Law, 1995, the rehabilitation period applicable to the sentence shall be one year from the date of conviction or a period beginning with that date and ending when the order or requirement ceases or ceased to have effect, whichever is the longer.

Law 8 of 1995

(5) A reference in subsection (4) to the period during which an order under section 20(1) of the Youth Justice Law, 1995 is or was in force includes a reference to any period during which an order made or imposed directly or indirectly in substitution for the first-mentioned order or requirement is or was in force.

(6) Where, in respect of a conviction, an order has been made under section 11 of the Mental Health Law (1997 Revision) the rehabilitation period applicable to the sentence shall be the period of five years from the date of conviction or a period beginning with that date and ending two years after the date on which the order ceases or ceased to have effect, whichever is the longer

1997 Revision

(7) Where, in respect of a conviction, an order was made imposing on the person convicted any disqualification, disability or prohibition, or any other penalty other than a fine or conviction, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending on the date on which such disqualification, disability, prohibition or any other penalty, other than a fine or conviction, cease or ceased to have effect.

(8) For the purposes of this section and the Schedule -

- (a) consecutive terms of imprisonment and terms which are wholly or partly concurrent (being terms of imprisonment imposed in respect of offences of which a person was convicted in the same proceedings) shall be treated as a single term;
- (b) no account shall be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed; and
- (c) a sentence imposed by a court outside the Islands which is substantially the same as a sentence of any description mentioned in this section shall be treated as the sentence so described in this section.

6. (1) Where only one sentence is imposed in respect of a conviction (not being a sentence excluded from rehabilitation under this Law) the rehabilitation

Rehabilitation period  
applicable to a  
conviction

period applicable to the conviction is, subject to subsections (2) to (6), the period applicable to the sentence under section 5.

(2) Where more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings) and none of the sentences imposed is excluded from rehabilitation under this Law, then, subject to subsections (3), (4), (5) and (6), if the periods applicable to those sentences under section 5 differ, the rehabilitation period applicable to the conviction shall be the longer or the longest, as the case may be, of those periods.

(3) Without prejudice to subsection (2), where, in respect of a conviction, a person was placed on probation and after the end of the rehabilitation period applicable to the conviction under subsection (1) or (2) he is dealt with, in consequence of a breach of probation, for the offence for which the probation order was made, then, if the rehabilitation period applicable to the conviction under subsection (2) (taking into account any sentence imposed when he is so dealt with) ends later than the rehabilitation period previously applicable to the conviction, he shall be treated for the purposes of this Law as not having become a rehabilitated person in respect of that conviction, and the conviction shall for the purposes of this section be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period.

(4) Subject to subsection (5), where, during the rehabilitation period applicable to a conviction, -

- (a) the person convicted is convicted of a further offence; and
- (b) no sentence excluded from rehabilitation under this Law is imposed on him in respect of the later conviction,

if the rehabilitation period applicable under this section to either of the convictions would end earlier than the period so applicable in relation to the other, the rehabilitation period which would (apart from this subsection) end the earlier shall be extended so as to end at the same time as the other rehabilitation period.

(5) Where the rehabilitation period applicable to a conviction is the rehabilitation period applicable under section 5(7) to an order imposing on a person any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to another conviction shall not, by virtue of subsection (4), be extended by reference to that period; but if any other sentence is imposed in respect of the first-mentioned conviction for which a rehabilitation period is prescribed by any other provision of section 5, the rehabilitation period applicable to another conviction shall, where appropriate, be extended under subsection (4) by reference to the rehabilitation period applicable in accordance

with that section to that sentence or, where more than one such sentence is imposed, by reference to the longer or longest of the periods so applicable to those sentences, as if the period in question were the rehabilitation period applicable to the first-mentioned conviction.

(6) For the purposes of paragraph (a) of subsection (4), there shall be disregarded -

- (a) any conviction in the Islands of an offence which is not triable upon indictment; and
- (b) any conviction by or before a court outside the Islands for an offence in respect of conduct which, if it had taken place in the Islands, would not have constituted an offence under the law in force in the Islands.

7. (1) Nothing in section 4(1) shall affect -

Limitations on  
rehabilitation

- (a) any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to grant a free pardon, to quash any conviction or sentence or to commute any sentence;
- (b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
- (c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction;
- (d) the operation of any law by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond the rehabilitation period applicable under section 6 to the conviction; or
- (e) 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 -

- (i) in any criminal proceedings before a court in the Islands (including any appeal in a criminal matter);
- (ii) in any proceedings relating to adoption or to the guardianship, wardship, marriage, custody, care or control of, or access to, any minor, or to the provision by any person of accommodation, care or schooling for minors; or
- (iii) 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(1).

(2) If, at any stage in any proceedings before a judicial authority in the Islands (not being proceedings to which, by virtue of subparagraphs (i) to (iii) of paragraph (e) of subsection (1), section 4(1) has no application, or proceedings to which section 8 applies) the authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may thereafter be put before it), that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding section 4(1), and may determine any issue to which the evidence relates in disregard, so far as necessary, of those provisions.

(3) No order made by the court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

Defamation actions

8. (1) This section applies to any action for libel or slander begun by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed, been charged with, prosecuted for, convicted of or sentenced for an offence which was the subject of a spent conviction.

(2) Nothing in section 4(1) shall affect an action to which this section applies where the publication complained of took place before the conviction in question became spent, and subsections (3) to (6) shall not apply in any such case.

(3) Subject to subsection (5), nothing in section 4(1) shall prevent the defendant in an action to which this section applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him, or restrict the matters he may establish in support of any such defence.

(4) Without prejudice to subsection (3), where, in any such action, malice is alleged against a defendant who is relying on a defence of qualified privilege, nothing in section 4(1) shall restrict the matters he may establish in rebuttal of the allegation.

(5) Subject to subsection (6), a defendant in any such action shall not, by virtue of subsection (3), be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing (whether under section 12 of the Defamation Law (1995 Revision) or otherwise) the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled to be inadmissible in the proceedings under section 4(1).

1995 Revision

(6) Subsection (3) shall apply without the qualifications imposed by subsection (5) in relation to -

- (a) any report of judicial proceedings contained in any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law; and
- (b) any report or account of judicial proceedings published for *bona fide* educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.

9. (1) Whoever, 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 is guilty of 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 another person and liable on summary conviction to a fine of five hundred dollars.

Unauthorised disclosure  
of spent convictions

(2) In any proceedings for an offence under subsection (1) it is a defence for the accused person to show that the disclosure was made -

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

(3) Whoever obtains any specified information from any official record by means of any fraud, dishonesty or bribe is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.

(4) In this section -

“official record” means a record kept for the purposes of its functions by any court, the Royal Cayman Islands Police Force, any department of Government or any other public authority in the Islands, or a record kept, whether in the Islands or elsewhere, for the purposes of any of Her Majesty’s forces, being in either case a record containing information about persons convicted of offences; and

“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.

**SCHEDULE**

**(Section 5 (2))**

<b>Sentence</b>	<b>Rehabilitation period</b>
A sentence of imprisonment for a term exceeding six months but not exceeding thirty months	ten years
A sentence of imprisonment for a term not exceeding six months	seven years
A fine or any other sentence subject to rehabilitation under this Law not being a sentence to which any of subsections (3) to (8) of section 5 apply	five years
An order sending the offender to a rehabilitation school under paragraph (b) of section 20(1) as read with paragraph (a) of section 20(3) of the Youth Justice Law, 1995.	three years

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Clerk of Executive Council