



GUYANA

ACT No. 9 of 1988

REHABILITATION OF OFFENDERS ACT 1988

I assent.

H. D. HOYTE.
President.

1988—07—14.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Interpretation.
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SCHEDULE

AN ACT to make provision for rehabilitation of offenders and for matters connected therewith.

A.D. 1986 Enacted by the Parliament of Guyana:—

Short title
and
commence-
ment.

1. This Act may be cited as Rehabilitation of Offenders Act 1988 and shall come into operation on such date as the Minister may, by order, appoint.

Interpreta-
tion.

2. In this Act —

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- (a) “child” has the same meaning as in the Juvenile Offenders Act;
- (b) “circumstances ancillary to a conviction” means —
 - (i) the offence that was the subject of that conviction;
 - (ii) the conduct constituting that offence; and
 - (iii) 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) to review that conviction or sentence, and anything done in pursuance of or undergone in compliance with that sentence;
- (c) “conviction” includes —
 - (i) a conviction by or before a court outside Guyana;
 - (ii) a finding (other than a finding linked with a finding of insanity) in any criminal proceedings, or in any proceedings under section 17 of the Juvenile Offenders Act, that a person has committed an offence or done the act or made the omission charged or alleged, notwithstanding that the court did not proceed to convict the person, but he was dealt with in any other manner; and

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- (iii) a conviction in respect of which an order is made placing a person on probation, requiring him to enter into a recognisance for keeping the peace and being of good behaviour, or discharging him conditionally;
- (d) "date of conviction", in relation to a conviction of any person, means, where there was any appeal or appeals by him from the conviction or sentence imposed in respect of the conviction, the date on which the appeal or the last of the appeals was finally disposed of;
- (e) "defendant" includes an accused person;
- (f) "the Force" has the same meaning as in the Cap. 15:01 Defence Act;
- (g) "proceedings before a judicial authority" includes, in addition to proceedings before any of the ordinary courts of law, proceedings before a tribunal, body or person having power —
- (i) by virtue of any law (including a written law), custom or practice;
 - (ii) under the rules governing any association, institution, profession, occupation or employment; or
 - (iii) 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;
- (h) "sentence" includes any order (including a sentence under section 15, or any order referred to in section 19, of the Juvenile Offenders Act) made by a court Cap. 10:03 in dealing with a person in respect of his conviction of any offence other than —
- (i) an order for committal to prison, or any other order, made in default of payment of a fine or other sum adjudged to be paid by, or imposed on, a person in respect of a conviction or for want of sufficient distress to satisfy that fine or other sum;

(ii) an order dealing with a person in respect of a suspended sentence of imprisonment;

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(i) "service disciplinary proceedings" means any proceedings under the Defence Act before a court martial or any other court or person authorised under that Act to award a punishment in respect of any offence, whether the proceedings take place in Guyana or elsewhere;

(j) "spent conviction" means a conviction which is a spent conviction under section 3(1);

(k) "suspended sentence" has the same meaning as in the Criminal Law Reform Act 1987;

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(l) "young person" has the same meaning as in the Juvenile Offenders Act.

Rehabilitated persons and spent convictions.

3. (1) Where an individual has been convicted of an offence or offences, whether before or after the commencement of this Act, or whether by or before a court in or outside Guyana, and —

- (a) the sentence or none of the sentences imposed on him in respect of that conviction is a sentence excluded from rehabilitation under this Act;
- (b) he has, except in the cases referred to in subsection (2), served or otherwise undergone or complied with the sentence imposed on him in respect of that conviction; and
- (c) in respect of a subsequent conviction, during the rehabilitation period applicable under this Act in respect of the first mentioned conviction, a sentence excluded from rehabilitation under this Act is not imposed on him.

he shall, for the purposes of this Act, be treated on and from the expiration of the aforementioned rehabilitation period (including where appropriate any extension under section 6 (5) of the rehabilitation period originally applicable to the first mentioned conviction) or, where that period expired before the commencement of this Act, on and from the commencement of this Act, 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, by virtue of subsection (1) (b), be prevented from being treated for the purposes of this Act as a rehabilitated person by reason only of his —

- (a) failure to pay a fine or other sum adjudged to be paid by him or imposed on him in respect of a conviction;
- (b) breach of a condition of a recognisance for keeping the peace and being of good behaviour;
- (c) breach of any condition or requirement applicable in relation to a sentence which renders him liable to be dealt with for the offence for which the sentence was imposed;
- (d) where the sentence was a suspended sentence, being liable to be dealt with in respect of that sentence (whether or not, in any case, he is in fact so dealt with); or
- (e) failure to comply with any requirement of a suspended sentence supervision order.

4. The following sentences are excluded from rehabilitation under this Act —

- (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 President's pleasure, or for a term exceeding thirty months under section 15 of the Juvenile Offenders Act,

Sentences excluded from rehabilitation.

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and any other sentence is a sentence subject to rehabilitation under this Act.

5. (1) The rehabilitation period applicable to a sentence specified in column (1) of the Schedule shall be —

- (a) where the sentence was imposed on a person other than a person referred to in paragraph (b), the period specified in the corresponding entry in column (2) of that Schedule reckoned from the date of his conviction;
- (b) where the sentence was imposed on a person who was a child or young person at the date of the commission of the offence for which the sentence was imposed, half the said period, reckoned from the date of his conviction,

Rehabilitation periods. Schedule

and the rehabilitation periods applicable to the sentences mentioned in subsections (2) to (4) shall be the periods specified in those subsections.

(2) Where in respect of a conviction a person has been discharged conditionally, ordered to enter into a recognisance for keeping the peace and being of good behaviour, or placed on probation, 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 with the date on which the order for conditional discharge, the recognisance for keeping the peace and being of good behaviour, or the probation order, ceases or ceased to have effect, whichever is the longer.

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(3) Where in respect of any child or young person an order referred to in section 19 (b) or (c) of the Juvenile Offenders Act, that is, discharging the offender on his entering into a recognisance or discharging the offender and placing him under the supervision of a probation officer, has been made, the rehabilitation period applicable to the sentence shall be one year from the date of the order or a period beginning with that date and

ending with the date on which the recognisance or probation order ceases or ceased to have effect, whichever is the longer.

(4) Where in respect of a conviction the sentence imposed is an order imposing on the person convicted a disqualification, disability, prohibition or other similar penalty, the rehabilitation period applicable to the sentence shall be a period beginning with the date of conviction and ending with the date on which the disqualification, disability, prohibition or other penalty ceases or ceased to have effect.

(5) For the purposes of this section —

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- (a) consecutive terms of imprisonment or of detention under the Juvenile Offenders Act, or terms which are wholly or partly concurrent (being terms of imprisonment or of detention under the aforesaid Act imposed in respect of offences of which a person is convicted in the same proceedings), shall be treated as a single term;
- (b) no account shall be taken of any order under section 4 of the Criminal Law Reform Act 1987 dealing with a person in respect of whom a suspended sentence was passed; and
- (c) a sentence imposed by a court outside Guyana shall be treated as a sentence described in this section that most nearly corresponds thereto.

Extension of
rehabilita-
tion periods
in certain
cases.

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

the rehabilitation period applicable to the conviction shall be, subject to the provisions of subsections (4) to (7), the rehabilitation period applicable to the sentence in accordance with section 5; and where in respect of a conviction for an offence more sentences than one are imposed on a person, or where in the same proceedings a person is convicted of two or more offences and the sentences imposed on him in respect thereof (in either case none of the sentences being excluded from rehabilitation under this Act) subsection (2) or (3), as the case may be, shall apply in computing the period of rehabilitation in respect of the sentences.

(2) Where in respect of a conviction for an offence —

- (a) more sentences than one are imposed on a person (whether or not in the same proceedings);
- (b) none of the sentences so imposed on him is excluded from rehabilitation under this Act; and
- (c) the rehabilitation periods applicable to those sentences differ,

then, subject to the provisions of subsections (4) to (7), the rehabilitation period applicable in respect of that conviction shall be the longer or the longest, as the case may be, of those rehabilitation periods.

(3) Where in the same proceedings a person —

- (a) is convicted of two or more offences;
- (b) none of the sentences imposed on him for those offences is excluded from rehabilitation under this Act; and
- (c) the rehabilitation period applicable to any sentence or sentences imposed in respect of the conviction for any one of such offences, in accordance with subsection (1) or (2), as the case may be, would end earlier than that applicable in respect of the sentence or sentences for the conviction for the other offence or any of the other offences,

then, subject to the provisions of subsections (4) to (7), the rehabilitation period that would end earlier shall stand extended so as to end at the same time as the one that would end later or last, as the case may be.

(4) Where in respect of a conviction for an offence —

- (a) a person was placed on probation, required to enter into a recognisance for keeping the peace and being of good behaviour or discharged conditionally; and
- (b) after the rehabilitation period applicable to the conviction in accordance with subsection (1), (2) or (3), in consequence of his failure to comply with any provision of the probation order or any condition of the recognisance or discharge, the person is dealt with in respect of the conviction,

then, if, taking into account any sentence imposed when he is so dealt with and the sentence referred to in paragraph (a) imposed on him, the rehabilitation period applicable in respect of the conviction in accordance with subsection (2) or (3) ends later than the rehabilitation period previously applicable to the conviction when the sentence referred to in paragraph (a) was imposed on him, he shall be treated for the purposes of this Act as having become a rehabilitated person in respect of that conviction and the conviction shall for those purposes be treated as having become spent, only on the expiry of the period that so ends later.

(5) Save as otherwise provided in subsection (6), where during the rehabilitation period applicable in respect of a conviction of any person —

- (a) he is convicted of another offence;
- (b) a sentence excluded from rehabilitation under this Act is not imposed on him in respect of the later conviction; and
- (c) the rehabilitation period applicable in respect of either of the convictions would end earlier than that applicable in respect of the other,

the rehabilitation period that would end earlier shall stand extended so as to end at the same time as the other rehabilitation period.

(6) Where --

- (a) the only sentence imposed upon a conviction of a person was an order imposing on him a disqualification, disability, prohibition or other similar penalty; and
- (b) during the rehabilitation period applicable to that sentence, that person is convicted of another offence and a sentence or sentences not excluded from rehabilitation are imposed on him, the rehabilita-

tion period applicable to which is shorter than the rehabilitation period applicable to the sentence referred to in paragraph (a),

the rehabilitation period applicable to the sentence or sentences imposed on the conviction referred to in paragraph (b) shall not as provided in subsection (5) stand extended to the end of the rehabilitation period applicable to the sentence referred to in paragraph (a).

(7) For the purposes of subsection (5) (a) —

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

shall not be deemed to be a conviction of the person of an offence.

7. (1) Save as otherwise provided in this section the provisions of this Act shall apply also to a person found guilty of an offence, whether before or after the commencement of this Act, in service disciplinary proceedings if in those proceedings —

- (a) he is convicted of a civil offence or an offence under, or any offence of attempting to commit an offence under, section 40, 53, 55, 68, 69, 70 or 72 of the Defence Act; or Cap. 15:01
- (b) the punishment imposed on him is any of the following —
 - (i) imprisonment;
 - (ii) cashiering;
 - (iii) discharged with ignominy from the Force;
 - (iv) dismissal from the Force; or
 - (v) detention for not less than three months.

(2) For the purposes of this section references in this Act to —

- (a) “conviction” shall be construed as including references to finding a person guilty of an offence in

respect of any act or omission which was the subject of any service disciplinary proceedings; and

- (b) "sentence" shall be construed as including references to any punishment imposed in service disciplinary proceedings in respect of a conviction.

(3) For the avoidance of doubt it is hereby declared that section 9 (7) shall have no application in relation to a conviction in service disciplinary proceedings or to any punishment imposed in such proceedings.

8. (1) Subject to sections 9 and 10, 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 who has not been charged with, prosecuted for, convicted of or sentenced for, the offence or offences which were the subject of the conviction; and, notwithstanding the provisions of any other written law 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 jurisdiction or functions in Guyana to prove that any such person has committed, or has been charged with, prosecuted for, convicted of, 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 any circumstances ancillary thereto.

(2) Subject to the provisions of any order made under subsection (4), where a question seeking information with respect to a previous conviction, offence, conduct or circumstance, of any person is put to that person or any other person, otherwise than in proceedings before a judicial authority exercising jurisdiction or functions in Guyana, —

- (a) that question shall be treated as not relating to a spent conviction or to any circumstances ancillary to a spent conviction 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 circumstance ancillary to a spent conviction in his answer to the question.

(3) Subject to articles 155 and 156 of the Constitution and the provisions of any order made under subsection (4), —

- (a) an obligation imposed on any person by any written law, rule of law, or the provisions of any agreement or arrangement, to disclose any matter to any other person shall not be deemed to extend to requiring him to disclose a spent conviction or any circumstances ancillary thereto, whether the conviction is his own or that of another; and
- (b) a spent conviction 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.

(4) The Minister may by order —

- (a) make such provision as appears to him to be appropriate for excluding or modifying the application of any or all of the provisions of subsection (2) in relation to any question put in such circumstances as may be specified in the order; and
- (b) provide for such exceptions from the provisions of subsection (3) as appears to him to be appropriate in any such case or class of cases, and in relation to convictions of such description, as may be specified in the order.

9. (1) Nothing in section 8 (1) shall affect —

- (a) the enforcement by any process, or proceedings, to recover any fine or other sum imposed or adjudged to be paid in respect of a spent conviction;
- (b) 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; or
- (c) the operation of any written law by virtue of which, in consequence of any conviction, a person

Limitations
in respect of
rehabilita-
tion.

is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other similar penalty, the period of which extends beyond the rehabilitation period applicable in respect of that conviction in accordance with section 5 or 6.

(2) Nothing in section 8 (1) shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous conviction or any circumstances ancillary thereto —

- (a) in any criminal proceedings before a court in Guyana (including any appeal, review or reference in a criminal cause or matter);
- (b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;
- (c) 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
- (d) 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 the provisions of section 8 (1).

(3) If at any stage in any proceedings before a judicial authority in Guyana (not being proceedings to which, by virtue of the provisions of subsection (2) or of any order made under subsection (4), section 8 (1) has no application, or proceedings to which section 10 applies) that authority is satisfied, in the light of any consideration which appears 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 any spent conviction of a person or any circumstances ancillary thereto, that authority may admit or, as the case may be, require the evidence in question notwithstanding the provisions of section 8 (1), and may determine any issue to which the evidence relates as if section 8(1) had not been enacted.

(4) The Minister may by order exclude the application of section 8 (1) to or in relation to any proceedings specified in the

order (other than proceedings to which section 10 applies) to such extent and for such purposes as may be so specified. Defamation actions.

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

(2) Nothing in section 8 (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 the following provisions of this section shall not apply in any such case.

(3) Save as otherwise provided in subsection (4) or (5), nothing in section 8 (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) Where in any action to which this section applies malice is alleged against a defendant who is relying on a defence of qualified privilege, nothing in section 8 (1) shall be deemed to restrict the matters he may establish in rebuttal of the allegation; but if a publication is proved to have been made by the defendant with malice he shall not be entitled by virtue of subsection (3) to rely on the defence of justification.

(5) Where any action to which this section applies relates to a publication of any report of judicial proceedings, which contained a reference to evidence which was ruled to be inadmissible in the proceedings by virtue of section 8 (1), subsection (3) shall not be deemed to confer on the defendant in the action, save as otherwise provided in subsection (6), any right to rely on any matter or adduce or require any evidence for the purpose of establishing (whether under section 13 of the Defamation Act or otherwise) the defence that the matter published constituted a fair and accurate report of the judicial proceedings. Cap. 6:03

(6) Subsection (3) shall apply without the qualification 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.

Unauthorised disclosure of spent convictions.

11. (1) In this section —

- (a) "official record" means a report kept for the purposes of its functions by any court, police force, Government department, local government or public authority, of Guyana, or a record kept in Guyana or elsewhere for the purposes of the Force, being in either case a record containing information about persons convicted of offences; and
- (b) "specified information" means information imputing that a named or otherwise identifiable rehabilitated living person has committed, or has been charged with, prosecuted for, 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, shall be 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.

(3) In any proceedings for an offence under subsection (2) it shall be a defence for the defendant to show that the disclosure of any specified information relating to a rehabilitated person was made —

- (a) to the rehabilitated person or to any other 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 any other person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(4) Any person who obtains any specified information from any official record by means of fraud, dishonesty or bribery shall be guilty of an offence.

(5) The Minister may by order make such provision as appears to him to be appropriate for exempting the disclosure of specified information derived from an official record from the

provisions of subsection (2) in such case or class of cases as may be specified in the order.

(6) Any person guilty of an offence under subsection (2) shall be liable on summary conviction to a fine of five thousand dollars.

(7) Any person guilty of an offence under subsection (4) shall be liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

(8) Proceedings in respect of an offence under subsection (2) shall not be instituted except by, or with the consent of, the Director of Public Prosecutions.

12. The Minister may make regulations for carrying out the purposes of this Act. Power to make regulations.

SCHEDULE

s. 5 (1)

REHABILITATION PERIODS FOR SENTENCES GENERALLY
(SUBJECT TO REDUCTION BY HALF FOR PERSONS UNDER

SEVENTEEN YEARS OF AGE).

| Sentences (1) | Rehabilitation period (2) |
|---|------------------------------|
| 1. A sentence of imprisonment for a term not exceeding six months. | Seven years. |
| 2. A sentence of imprisonment for a term exceeding six months but not exceeding thirty months. | Ten years. |
| 3. A fine. | Five years. |
| 4. A sentence of cashiering or discharge with ignominy from the Force. | Ten years. |
| 5. A sentence of dismissal from the Force. | Seven years. |
| 6. A sentence of detention for not less than three months in respect of a conviction in service disciplinary proceedings. | Five years. |

| Sentences (1) | Rehabilitation period (2) | |
|--------------------------|---|--------------|
| Cap. 10:03 | 7. A sentence or order of detention of, or committing to custody in a school for young offenders, a child or young person under section 15 or 16 of the Juvenile Offenders Act for a term not exceeding six months. | Three years. |
| Cap. 10:03 | 8. A sentence or order of detention of, or committing to custody in a school for young offenders, a child or young person for a term exceeding six months under section 15 or 16 of the Juvenile Offenders Act; or any order under section 17, or referred to in section 19 (e), of that Act in respect of a child or young person. | Five years. |
| Cap. 10:03 88:01 Cap. | 9. Any order referred to in section 19 (except in paragraph (a), (b), (c), (e) or (i) thereof) of the Juvenile Offenders Act in respect of a child or young person. | Three years. |
| | 10. An order referred to in section 19 (a) of the Juvenile Offenders Act in respect of a child or young person. | One year. |
| Cap. 11:02 | 11. An order under section 3 of the Extra-Mural Work Act. | One year. |
| | 12. Any other sentence subject to rehabilitation under this Act, not being a sentence to which any of subsections (2) to (4) of section 5 applies. | Five years. |

Passed by the National Assembly on 1988—02—18