

THE CRIMINAL RECORDS (REHABILITATION
OF OFFENDERS) ACT

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SCHEDULES.

THE CRIMINAL RECORDS (REHABILITATION
OF OFFENDERS) ACT

Acts
18 of 1988,
24 of 1993,
12 of 2014,
5 of 2015
S. 15.

[30th September, 1988.]

1. This Act may be cited as the Criminal Records (Rehabilitation of Offenders) Act. Short title.

2. In this Act—

Interpretation.

“the Board” means the Criminal Records (Rehabilitation of Offenders) Board established in accordance with section 18;

“conviction” includes any finding in any criminal proceedings or in proceedings under the Child Care and Protection Act that an offence has been committed by any person;

“expunged conviction” means any spent conviction expunged from the records under section 23;

“proceedings before a judicial authority” includes any proceedings before a court-martial under service law;

“rehabilitation period” means any period specified under section 5 as a rehabilitation period for the conviction to which it relates, commencing and terminating on such dates as are provided for in this Act;

“rehabilitated person” means any person who is treated as a rehabilitated person under section 3;

“sentence” includes any order, not being an order dismissing the case, made by a court with respect to a conviction and directing any thing to be done or not to be done by the offender;

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“service disciplinary proceedings” means proceedings before a court-martial under service law;

“service law” has the meaning assigned to that expression under the Defence Act;

12/2014
S. 2(a).

“specified offence” means—

Third
Schedule.

(a) any offence specified in the Third Schedule; and

(b) any offence to which, having regard to the sentence imposed, section 3 does not apply;

“spent conviction” means any conviction treated as a spent conviction under section 3.

PART I—*Spent Convictions*

Rehabilitated person
and spent
conviction.

3.—(1) Subject to the provisions of this Act, a person who (whether before or after the 30th day of September, 1988) has been convicted of an offence to which this section applies shall, at the expiration of the appropriate rehabilitation period, be treated as a rehabilitated person in respect of the conviction for that offence and, for the purposes of this Act, the conviction shall be treated as a spent conviction.

24/1993
S. 2.

(2) In relation to a conviction referred to in subsection (1) that occurred before the 30th day of September, 1988, the provisions of this Act shall be deemed to have been in force at the time of such conviction and continued in force thereafter, so, however, that notwithstanding the fact that the appropriate rehabilitation period expired at any time prior to that date, the conviction shall not be treated

as a spent conviction in relation to any time prior to that date.

(3) Subject to sections 6 and 9, this section—

12/2014
S 3(a)

(a) shall apply in relation to any offence for which a person is convicted where the sentence imposed by the court—

(i) does not include a term of imprisonment;
or

(ii) if it includes a term of imprisonment, that term does not exceed five years; and

(b) shall not apply to any offence specified in the Third Schedule.

Third
Schedule

(4) For the purposes of subsection (3), where a sentence includes a term of imprisonment only as an alternative to another penalty that term of imprisonment shall be disregarded.

(5) Subject to the provisions of this Act, for the purposes of this Act, a finding in service disciplinary proceedings that a person is guilty of an offence in respect of any act or omission which was the subject of those proceedings shall be treated as a conviction and any punishment awarded in respect of any such finding shall be treated as a sentence.

(6) Subsection (5) shall apply where the following conditions are satisfied, that is to say—

(a) the offence referred to therein is one to which this subsection applies; and

(b) the punishment awarded for the offence is a punishment to which this subsection applies.

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(7) Subsection (6) shall apply to any offence consisting in the commission of a civil offence within the meaning of the Defence Act and to any offence under sections 40, 54, 55, 68 and 69 of that Act.

(8) Subsection (6) shall apply to the following punishments—

12/2014
S 3(b)

- (a) a term of imprisonment for a period not exceeding five years;
- (b) cashiering;
- (c) discharge with ignominy from Her Majesty's service;
- (d) dismissal from Her Majesty's service;
- (e) any punishment not specified in the preceding paragraphs which is treated under the Defence Act as being less than any of the punishments specified in the preceding paragraphs; and
- (f) fine.

Act to apply
to convictions in
country
other than
Jamaica

4. Where a person has been convicted and sentenced in any country other than Jamaica for an offence against or arising under the law of such country, the provisions of this Act shall apply in like manner as they apply in relation to a conviction and sentence in Jamaica if—

- (a) there is kept and maintained in the Criminal Records Office of Jamaica particulars of that conviction and sentence; and
- (b) the circumstances constituting the offence would if they had occurred in Jamaica constitute an offence against Jamaican law.

5. Where a person is convicted of an offence to which section 3 applies and the person was eighteen or more years of age at the time that the offence was committed, the applicable rehabilitation period with respect to that conviction shall be determined as follows—

Rehabilitation
periods for
persons of
eighteen or
more years
of age
12/2014
S 4

- (a) where the sentence imposed is a sentence described in section 3(3)(a)(i), the rehabilitation period shall be three years;
- (b) where the sentence imposed is a sentence described in section 3(3)(a)(ii), the rehabilitation period shall be—
 - (i) five years, if the term of imprisonment is for a period not exceeding six months;
 - (ii) seven years, if the term of imprisonment is for a period exceeding six months but not exceeding thirty-six months; and
 - (iii) ten years, if the term of imprisonment is for a period exceeding thirty-six months but not exceeding five years.

5A. Where a person is convicted of an offence to which section 3 applies, and the person was under eighteen years of age at the time that the offence was committed, the applicable rehabilitation period with respect to that conviction shall be determined as follows—

Rehabilitation
periods for
persons
under the age
of eighteen
years.
12/2014
S 5.

- (a) where the sentence imposed is a sentence described in section 3(3)(a)(i), the rehabilitation period shall be eighteen months;

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- (b) where the sentence imposed is a sentence described in section 3(3)(a)(ii), the rehabilitation period shall be—
- (i) thirty months, if the term of imprisonment is for a period not exceeding six months;
 - (ii) forty-two months, if the term of imprisonment is for a period exceeding six months but not exceeding thirty-six months; and
 - (iii) five years, if the term of imprisonment is for a period exceeding thirty-six months but not exceeding five years.

Compliance with conditions of sentence necessary for rehabilitation

6. Notwithstanding the provisions of sections 3 and 5, a person shall not be treated as a rehabilitated person for the purposes of this Act if that person has failed to comply with any condition of sentence imposed on him in respect of that conviction.

Commencement of rehabilitation period

7.—(1) Subject to subsection (2), the rehabilitation period applicable to an offence shall commence from the date of the termination of the sentence of imprisonment, or the payment of fine, or the compliance with any condition of sentence imposed in respect of that offence, as the case may be.

(2) Where in respect of a conviction for an offence an order is made imposing on the person convicted more than one penalty for that offence, the rehabilitation period shall commence on the date on which all the penalties are satisfied; and for the purposes of this subsection if any such penalty includes disqualification, disability or prohibition, that aspect of the penalty shall be deemed not to be satisfied until the disqualification, disability or prohibition (as the case may be) ceases.

(3) Where the sentence imposed on any person for an offence that is not a specified offence is a suspended sentence, the rehabilitation period shall commence on the earlier of the following dates, that is to say—

12/2014
S 6

- (a) the date on which the sentence of imprisonment would have terminated had the court not granted a suspended sentence; or
- (b) the date of termination of the operational period (as defined in section 6 of the *Criminal Justice (Reform) Act* of the suspended sentence, unless the person is convicted of another offence during the operational period of the suspended sentence, in which case the provisions of section 9 (1) shall apply.

8. Without prejudice to section 7 (2), where in respect of two or more offences a person has been sentenced to serve terms of imprisonment concurrently or consecutively, the rehabilitation period in respect of each of those offences shall not commence until the termination of all the sentences.

Commencement of rehabilitation period applicable to concurrent and consecutive sentences.

9.—(1) Where during the rehabilitation period applicable to a conviction a person is convicted of a further offence, then—

Effect of other conviction or proceedings during the rehabilitation period.

- (a) if the further conviction is for a specified offence, the offence which is the subject of the earlier conviction shall cease to be one to which section 3 applies; and accordingly the rehabilitation period applicable to the earlier conviction shall cease to have relevance under this Act;
- (b) if the further conviction is for an offence other than a specified offence and the rehabilitation period applicable to either of the convictions would

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OF OFFENDERS)

but for the provisions of this section have ended earlier than the period so applicable in relation to the other, the rehabilitation period which would have ended the earlier shall be extended so as to end at the same time as the other rehabilitation period.

(2) Where proceedings against the convicted person in respect of another offence are incomplete at the time when the conviction would but for the provisions of this subsection have become spent—

- (a) such conviction shall be incapable of becoming spent while such proceedings are incomplete unless the proceedings have been adjourned *sine die* and remain so adjourned for a period of at least three years; and
- (b) the rehabilitation period shall be deemed to continue until the proceedings are completed or the period of three years referred to in paragraph (a) has elapsed, whereupon subsection (1) shall *mutatis mutandis* apply.

Reference to conviction not to be taken to refer to spent conviction

10. Where for any purpose in law reference is made or required to be made (other than in this Act) to a conviction, such reference shall not, unless any enactment makes express provision to the contrary, be taken to be a reference to a spent conviction.

Inadmissibility in proceedings of evidence relating to spent conviction

11.—(1) Subject to sections 13 and 14, and notwithstanding the provisions of any other enactment or the operation of any rule of law to the contrary, in any proceedings before a judicial authority exercising jurisdiction or functions in Jamaica—

- (a) no evidence shall be admissible to prove that a person has been charged with, or prosecuted for,

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- or convicted of, or sentenced for, any offence which was the subject of a spent conviction;
- (b) a person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any questions relating to his past which cannot be answered without acknowledging or referring to a spent conviction or any circumstances ancillary thereto; and
 - (c) where a person has been asked in any proceedings a question relating to his past and he inadvertently discloses a spent conviction or any circumstances ancillary thereto, such disclosure shall be disregarded by the judicial authority.

(2) For the purposes of this section and section 13, any of the following are circumstances ancillary to a conviction, that is to say—

- (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.

12.—(1) In relation to any contract of insurance, any requirement in the contract which relates to the disclosure of a conviction for a criminal offence shall not apply in respect of a spent conviction; and a contract of insurance applied for, or entered into, shall not be avoided or cancelled

Disclosure of criminal conviction for insurance not applicable to spent conviction.

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on the ground of the failure by a person to disclose any particulars of a criminal offence which is the subject of a spent conviction.

(2) The provisions of subsection (1) shall apply in like manner with respect to a contract of marine insurance; and the provisions of sections 23, 24 and 25 of the Marine Insurance Act shall not impose any requirement on a person to disclose particulars of a spent conviction nor shall a contract of marine insurance be avoided or cancelled on the ground of the failure by a person to disclose any particulars in respect of a spent conviction.

Admissibility in criminal and other proceedings of evidence relating to spent conviction.

13. Nothing in section 11 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 (including any appeal or reference in a criminal matter);
- (b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;
- (c) in any proceedings or enquiries relating to adoption or to the guardianship, wardship, marriage, custody, care and control of, access to, any minor, or to the provision by any person of accommodation, care, or schooling for minors;
- (d) in any proceedings in which he is a party or 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 11.

14.—(1) A person shall, if requested so to do disclose in relation to himself, particulars of any spent conviction—

- (a) when seeking to be made a member of a professional body of any of the professions specified in Part I of the First Schedule;
- (b) when seeking to be appointed to any office of employment specified in Part II of the First Schedule;
- (c) when seeking to become engaged in any business of the type specified in Part III of the First Schedule.

Circumstances where person shall disclose particulars of spent conviction in relation to himself. First Schedule.

(2) A disclosure of particulars of a spent conviction pursuant to subsection (1) shall be made—

- (a) to any person duly authorized by—
 - (i) the professional body; or
 - (ii) the organization responsible for the office of employment, as the case may be; or
- (b) in relation to any business as aforesaid, to such person as may be designated by the Minister for the purpose.

(3) The Minister may, by order, subject to negative resolution, amend the First Schedule.

(4) The particulars of a spent conviction, disclosed to a duly authorized person pursuant to this section, may be published or communicated pursuant to the following conditions only, that is to say—

- (a) the publication or communication shall be in accordance with rules or regulations for the time being in force of the professional body, office of employment or business (as the case may be) of which the person making the disclosure under subsection (1) was aware when he made the disclosure; and

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(b) the rules or regulations shall not authorize the general disclosure or publication of the particulars aforesaid other than to persons who, by virtue of their position or relationship with the professional body, office of employment or business (as the case may be) are authorized by the said rules or regulations to have such particulars communicated to them.

(5) It shall be an offence to contravene the provisions of subsection (4).

Offence
for mis-
representa-
tion pur-
suant to
section 14.

15.—(1) It shall be an offence for a person who is required under section 14 to disclose in relation to himself particulars of a spent conviction, with intent to deceive any person authorized to make enquiries for the purposes recognized by that section, to fail to make such disclosure.

(2) A person shall not be convicted of an offence under this section unless the court is satisfied that a benefit was conferred on that person and that such benefit would not have been so conferred if he had not committed the act alleged to constitute the offence.

(3) For the purposes of subsection (2), a benefit shall be deemed to have been conferred on a person against whom an allegation of an offence under this section is made on proof that such person was—

- (a) conferred with membership of a professional body of any of the professions specified in Part I of the First Schedule;
- (b) appointed to any office or employment of the nature specified in Part II of the First Schedule;
or
- (c) authorized to become engaged in any business specified in Part III of the First Schedule.

First
Schedule.

PART II—*Expungement of Spent Convictions*

16. In this Part, “records” means the records kept and maintained in the Criminal Records Office in relation to the conviction of any person for a criminal offence or such other record as may be prescribed.

Interpre-
tation
12/2014
S. 7

17. [*Repealed by Act 12 of 2014, S. 8.*]

12/2014
S 8

18.—(1) For the purposes specified in this Part there shall be established a Board to be called the Criminal Records (Rehabilitation of Offenders) Board.

Establi-
shment of
Criminal
Records
(Rehabil-
itation of
Offenders)
Board
Second
Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

19.—(1) Subject to the provisions of this Act, the functions of the Board shall be—

Functions
of Board.

- (a) to receive and consider applications for the expungement from the records of spent convictions and to grant or reject such applications;
- (b) to consider any representations made to it by or on behalf of the person who has applied to the Board for the expungement from the records of a spent conviction;
- (c) to review, from time to time, the cases of applicants to the Board for the expungement from the records of spent convictions;
- (d) to issue directions to the Criminal Records Office and any person having custody of the records with respect to the expungement from the records of spent convictions;

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- (e) to make reports to the Minister, at such intervals as the Minister may require, upon the discharge by the Board of its functions;
- (f) to carry out such other functions as the Minister may direct as being, in his opinion, necessary for the purposes of this Act.

(2) Hearings by the Board shall be held *in camera* and if the Board sees fit, each applicant may be given permission to appear thereat.

Eligibility
of
rehabilitated
person to
apply to the
Board for
expungement
12/2014
S 9
Restrictions
on eligibility.
12/2014
S. 10

20. Subject to section 20A, a rehabilitated person may, upon the expiration of the rehabilitation period, make an application to the Board for the expungement from the records of a spent conviction.

20A.—(1) Where a person has been convicted of three or more—

- (a) indictable offences arising out of more than one incident; or
- (b) summary offences, all of which involved an offence under the *Dangerous Drugs Act* (other than an offence under section 7C (possession of ganja) where the sentence imposed on conviction of the offence was a fine not exceeding one thousand dollars or such other amount as the Minister may by order prescribe, or an offence under section 7D(c) (possession of pipes or other utensils) or 7D(d) (smoking or other use of ganja)),

the person shall as of the third such conviction, notwithstanding that the applicable rehabilitation period may have elapsed in relation to any of those convictions, be dealt with in accordance with subsection (2).

(2) A person described in subsection (1) shall not be eligible—

- (a) to be treated as a rehabilitated person in respect of any of the convictions referred to in subsection (1), neither shall any of those convictions be capable of being treated as spent;
- (b) to apply for the expungement from the records of any other conviction that has already become spent:
or
- (c) to be treated as a rehabilitated person in relation to any subsequent conviction, neither shall any subsequent conviction be capable of being treated as spent.

(3) Notwithstanding the provisions of the Third Schedule, where a person has been convicted under section 10 of the *Sexual Offences Act* (sexual intercourse with person under sixteen years of age) and that conviction is one to which section 3 of this Act applies—

Third
Schedule

- (a) the person shall after the applicable rehabilitation period, be eligible to apply to the Board for the expungement from the records of that conviction; and
- (b) pursuant to section 23, the person shall, in the course of the application, be required to tender to the Board such evidence as the Board may require so as to satisfy itself, with regard to the offence, that the person—
 - (i) was not in a position of trust or authority towards the other party, and the other party was not in a relationship of dependency with the applicant;
 - (ii) did not use, threaten to use or attempt to use violence, intimidation or coercion in relation to the other party; and
 - (iii) was less than four years older than the other party,

and the Board shall not approve the application for expungement unless it is satisfied that the requirements of subparagraphs (i) to (iii) have been met.

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(4) Where the conviction of a person is expunged consequent upon the Board being satisfied in the manner specified in subsection (3), then with effect from the date of the Board's direction for expungement, the person's registration, reporting, notification or other obligations arising in relation to that conviction under Part VII of the *Sexual Offences Act* and any regulations made thereunder shall cease, and the Board shall, in writing, notify the Registrar of the Sex Offender Registry accordingly.

(5) In this section, "other party" means the person with whom the convicted person engaged or attempted to engage in sexual intercourse.

Application
shall be in
writing, etc

21. Every application, made under section 20, shall be in writing and shall state—

- (a) the full name and age of the applicant;
- (b) the offence for which the applicant was convicted; and the sentence imposed by the court in respect of that conviction;
- (c) the date and place of conviction;
- (d) the court before which the applicant was convicted;
- (e) the date on which (where applicable) the applicant completed the serving of his sentence and shall include the date on which any period of disqualification, disability or prohibition ceased and the extent to which any condition attaching to such sentence has been complied with;
- (f) the date from which the conviction was treated as a spent conviction and the date from which, by virtue of the expiry of the additional rehabilitation period, he became eligible to make the aforesaid application;
- (g) any other written representation on which the applicant relies in support of his application;

(h) such other information as may be prescribed.

22. The Board shall cause proper investigations to be made to ascertain the facts stated in every application made pursuant to section 20, and shall also cause investigations to be made to ascertain the behaviour of the applicant since the date of his conviction.

Board to
make en-
quiries

23. If the Board, upon completion of its investigations, is satisfied, having regard to—

Board if
satisfied
shall make
direction
for spent
conviction
to be ex-
punged
from the
records

- (a) the facts and representations on which the applicant relies in support of his application;
- (b) the behaviour of the applicant since his conviction; and
- (c) the results of any enquiries made by the Board into any matter appertaining to the application,

that the applicant has been rehabilitated, then, if the Board is also satisfied that no interest of justice or of national security would be prejudiced thereby, it shall issue a direction that the spent conviction, in respect of which the application is made, be expunged from the records.

24. A direction issued pursuant to section 23, in respect of a spent conviction, shall be in writing addressed to any person having custody or control of the records and on such direction being delivered to that person he shall forthwith expunge the spent conviction from the records.

Effect of
direction
by the
Board

25. A rehabilitated person shall, in relation to any expunged conviction for all purposes in law, be deemed to be a person who has never been charged with, prosecuted for, convicted of or sentenced for, the offence to which that conviction relates.

Legal status
of person
where
spent con-
viction ex-
punged
from the
records

26. The Board shall in writing inform every person making an application under section 20 or section 27, as the case may be, of the outcome of the application.

Board to
inform appli-
cant in
writing

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Applicant
may re-
apply where
application
rejected.

27. A person whose application for the expungement of a spent conviction has been rejected may re-apply after the expiration of two years from the date of such rejection or such lesser period as may be determined by the Board.

Appeal to
Minister.

28.—(1) Where a person re-applies for the expungement of a spent conviction pursuant to section 27 and that application is rejected, that person may appeal to the Minister within sixty days from the date of such rejection or such longer period as may be permitted by the Minister.

(2) Where an appeal is made pursuant to subsection (1), the Minister shall review all the circumstances of the case and, if the Minister is of the opinion that the Board had failed to give due consideration to any matter which, if that consideration had been given, and having regard to all other circumstances of the case would have constituted sufficient reason for granting the application, he shall direct that the case be remitted to the Board.

(3) In relation to any appeal made under subsection (1)—

- (a) where the Minister is satisfied that due consideration had been given to the application he shall reject the appeal;
- (b) where the Minister is satisfied that the decision of the Board is unjust or perverse, he shall allow the appeal and reverse the decision of the Board.

(4) Where, having regard to a decision made under subsection (3), a direction is required to be made for the expungement from the records of a spent conviction, such direction shall be made in like manner and shall have the same effect as a direction made by the Board under section 23.

(5) The Minister's decision shall be final in relation to any appeal made to him under this section and he shall in writing advise the applicant of the outcome of the appeal.

28A.—(1) Subsection (2) applies to a person (in this section referred to as a “specified person”) convicted of an offence under a prescribed enactment or prescribed provision of an enactment, any of the following provisions of the Dangerous Drugs Act (whether the conviction was before or after the coming into operation of the Criminal Records (Rehabilitation of Offenders) (Amendment) Act, 2014—

Automatic
expunge-
ment.
12/2014
S. 11.

(a) an offence under section 7C (possession of ganja), where the sentence imposed on conviction of the offence is a fine not exceeding one thousand dollars or such other amount as the Minister may by order prescribe; or

(b) [*Deleted by Act 5 of 2015, S. 15(5).*]

(2) Subject to subsection (3), a specified person shall be entitled to the expungement from the records of any conviction referred to in subsection (1) whether or not the rehabilitation period with respect to the conviction has expired.

(3) On receiving an application for expungement of any conviction referred to in subsection (1), the Board shall, unless it is satisfied that the conviction was not for an offence falling within subsection (1), issue a direction that the conviction be expunged from the records which direction shall be treated as one made in accordance with section 23.

(4) The Minister may prescribe the procedure and any other details necessary for automatic expungement under this section.

(5) For the purposes of subsection (1) “prescribed” means prescribed by the Minister, by order subject to affirmative resolution.

PART III—*Miscellaneous*

*CRIMINAL RECORDS (REHABILITATION
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Provisions
of Act not
to affect
any right of
Governor-
General.

29. Nothing contained in this Act shall be construed as affecting any right vested in the Governor-General by virtue of section 90 of the Constitution of Jamaica, or by prerogative or otherwise.

Offence
of un-
authorized
disclosure.

30.—(1) Subject to the provisions of this Act, any person who, in the course of his 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 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.

12/2014
S. 12(a).

(1A) A credit bureau within the meaning of section 2 of the Credit Reporting Act commits an offence if it knowingly discloses any specified information in any credit report or credit information it provides under that Act.

12/2014
S. 12(b).

(2) In any proceedings for an offence under subsection (1) or (1A), it shall be a defence for the defendant to show that the disclosure was made—

- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person;
- (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.

12/2014
S. 12(b).

(3) No proceedings for an offence against subsection (1) or (1A) shall be instituted except by or with the consent of the Director of Public Prosecutions.

(4) Nothing in subsection (3) shall prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of an offence against subsection (1), or the remanding in custody or on bail of any person charged with such offence.

(5) Any person who—

- (a) obtains any specified information from any official record by any fraud, dishonesty or any bribe or unlawful means; or
- (b) falsifies any specified information on any official record,

shall be guilty of an offence.

(6) For the purposes of this section—

“official record” means any record kept for the purposes of its functions by any court, police force, government department, local or public authority or any record kept for the purposes of the Jamaica Defence Force, being in either case a record containing information about persons convicted of offences; and

“specified information” means information to the effect that a named or otherwise identifiable rehabilitated living person has committed or has been charged with, or prosecuted for, or convicted of, or sentenced for, an offence which is the subject of a spent or expunged conviction.

31.—(1) Subject to the provisions of this Act, any person who dismisses or excludes any other person from any office, profession, occupation or employment because of a spent or expunged conviction which he knows or has reasonable cause to suspect is a spent or expunged conviction and which is not required to be disclosed under any law shall be guilty of an offence.

Offence for
exclusion
from em-
ployment,
etc

(2) Subject to the provisions of this Act, any person, who with malice, discloses any spent or expunged conviction or the existence of any record or fact of the conviction shall be guilty of an offence.

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(3) Any person who offers a bribe to any member of the Constabulary Force in Jamaica or to any other person having custody or control of the criminal records to falsify a criminal record so as to show a conviction as a spent or expunged conviction shall be guilty of an offence.

(4) Any insurance company registered in Jamaica which knowingly attempts to avoid a policy of insurance made with the company because of non-disclosure of a spent or expunged conviction shall be guilty of an offence.

Penalties

32.—(1) A person who commits an offence under section 14(5), 30 or 31 shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars and in default thereof to a term of imprisonment not exceeding two years.

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S 13(a)

(2) A person who commits an offence under section 15 shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars and in default thereof to a term of imprisonment not exceeding one year.

12/2014
S 13(b)

Custody of
records

33. The Criminal Records Office shall be responsible for keeping, separate and apart from other criminal records, a record of all spent convictions and shall be responsible to ensure that there is a clear indication, on the criminal record of any person, that a conviction has become a spent conviction for the purposes of this Act.

Regulations

34.—(1) The Minister may make regulations prescribing anything required by this Act to be prescribed and for the better carrying out of the provisions of this Act.

(2) The Minister may, by order, subject to affirmative resolution, vary the circumstances in which spent convictions may be disclosed.

35. The Minister may, by order subject to affirmative resolution, amend—

- (a) the Third Schedule; or
- (b) any monetary penalty imposed by this Act.

Power of
Minister to
amend Third
Schedule
and
monetary
penalties.
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S. 14.

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FIRST SCHEDULE

(Section 14)

PART I

Professions

1. Attorney-at-Law.
2. Certified or Chartered Accountant.
3. Dentist.
4. Medical Practitioner.
5. Midwife.
6. Optician.
7. Pharmacist.
8. State Registered Nurse.
9. Teacher.
10. Veterinary Surgeon.

PART II

Offices of Employment

Categories of Employment

Judicial Service	All
Civil Service	All
Military Service (Civilian)	All
Military Service	All
Jamaica Constabulary Force	All
Island Special Constabulary Force	All
Department of Correctional Services	All
Bank of Jamaica	All
Banks (Commercial)	All
Insurance Companies	All
Building Societies	All
Hospitals	All
Educational Institutions (includ- ing independent schools)	All
Private Nursing Homes	All
Juvenile Correctional Centres and Places of Safety	All
Unit Trust Schemes	All
Security Service Organizations	Director, Manager, Security Guards.

PART II

Nature of Businesses

1. Dealing in Bonds and other Securities.
2. Stockbroking.
3. Firearms Dealer.

SECOND SCHEDULE (Section 18)

The Criminal Records (Rehabilitation of Offenders) Board

1.—(1) The Board shall consist of such number of persons not being less than three or more than five as the Minister may appoint from time to time. **Constitution of Board.**

(2) The Board shall include at least one of each of the following—

- (a) a person who is an attorney-at-law of at least ten years standing or who holds or has held judicial office as—
 - (i) a Judge of the Court of Appeal; or
 - (ii) a Judge of the Supreme Court; or
 - (iii) a Resident Magistrate;
- (b) a person appearing to the Minister to be interested in the rehabilitation of persons convicted of criminal offences, being—
 - (i) a psychiatrist or psychologist; or
 - (ii) a social worker; or
 - (iii) a Minister of Religion;
- (c) a person connected with, or having knowledge of, the keeping and maintenance of records of persons convicted of criminal offences, namely—
 - (i) the Commissioner of Corrections or his nominee; or
 - (ii) the Commissioner of Police or his nominee; or
 - (iii) a senior civil servant.

2.—(1) The Board shall have a seal which shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Board in the presence of the chairman or any other member of the Board and the secretary. **Seal.**

(2) The seal of the Board shall be authenticated by the signature of the chairman or a member of the Board authorized to act in that behalf and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or any other member authorized to act in that behalf, or the secretary.

3. Subject to the provisions of this Schedule, the appointment of members of the Board shall be for a period not exceeding three years and each member shall be eligible for reappointment. **Tenure of office of members.**

4.—(1) The Minister shall appoint a member of the Board to be the chairman of the Board. **Chairman.**

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(2) In the case of the absence or inability to act of the chairman, the Minister may appoint any other member to perform the functions of chairman.

(3) In the case of the absence or inability to act at any meeting of the chairman or a person appointed under sub-paragraph (2), the other members at the meeting shall elect one of their number to act as chairman at the meeting.

Temporary
appoint-
ments.

5. The Minister may appoint any person to act temporarily in the place of any member in the case of the absence or inability to act of that member.

Filling
of
vacancies.

6.—(1) If any vacancy occurs among the members of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(2) In the making of appointments pursuant to this paragraph regard shall be had to the requirements of paragraph 1 (2).

Resigna-
tions.

7.—(1) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of the instrument.

(2) Any member other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.

Revocation
of appoint-
ments.

8. The Minister may at any time revoke the appointment of any member of the Board.

Publica-
tion of
member-
ship.

9. The names of all members of the Board as first constituted and every change in membership shall be published in the *Gazette*.

Procedure
and
meetings.

10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board shall determine.

(2) Minutes in proper form of each meeting of the Board shall be kept.

(3) The decision of the Board shall be by a majority of the Board and shall be in writing.

(4) The chairman or, in the case of the absence or inability to act of the chairman, the person appointed or elected to act as chairman in accordance with the provision of sub-paragraph (2) or (3) of paragraph 4 (as the case may be), shall preside at the meetings of the Board, and when so presiding shall, in addition to an original vote, have a casting vote in any case in which the voting is equal.

(5) The quorum of the Board shall be two.

(6) Subject to the provisions of this Schedule the Board shall regulate its own proceedings.

(7) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.

11. There shall be paid to the chairman and members such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members

12. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any action done *bona fide* in pursuance or execution or intended execution of the functions of the Board. Protection of members

13. The office of chairman or member shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica. Office of chairman or member not public office

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THIRD SCHEDULE

(Section 3)

Offences for which Convictions may not be Expunged

1. Murder.
2. Any offence under section 2, 3 or 4 of the *Treason Felony Act*
- 3 Any offence under section 3 or 10 of the *Malicious Injuries to Property Act*
- 4 Any offence under section 37, 39, 40 or 42A of the *Larceny Act*
- 5 Any offence under the *Firearms Act*, other than an offence under section 11, 12 or 14.
- 6 Any offence under section 8, 13, 14, 15, 16, 17, 20, 33, 69 or 70 of the *Offences Against the Person Act*
- 7 Any offence under section 3, 5, 6, 7, 7A, 8, 8A, 9, 11, or 21A of the *Dangerous Drugs Act*
8. Any offence under section 4 of the Trafficking in Persons (Prevention, Suppression and Punishment) Act.
9. Any offence under section 10 of the *Child Care and Protection Act*
10. Any offence under section 3, 4, 5, 7, 9, 10 (subject to section 20A of this Act), 11, 13, 15, 16, 17, 18, 19, 20 and 21 of the *Sexual Offences Act*
11. Treason.
12. Any offence under section 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 of the *Law Reform (Fraudulent Transactions) (Special Provisions) Act*
13. Any offence under section 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 of the *Terrorism Prevention Act*.
14. Any offence under section 3, 4, 5 or 7 of the *Child Pornography (Prevention) Act*.
15. Any offence under the Criminal Justice (Suppression of Criminal Organizations) Act.