



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 5

SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.

CHAPTER 4

DISREGARDING CERTAIN CONVICTIONS FOR BUGGERY ETC. [F1: ENGLAND AND WALES]

Effect of disregard

95 Effect of disregard on police and other records

- (1) The Secretary of State must by notice direct the relevant data controller to delete details, contained in relevant official records, of a disregarded conviction or caution.
- (2) A notice under subsection (1) may be given at any time after condition A in section 92 is met but no deletion may have effect before condition B in that section is met.
- (3) Subject to that, the relevant data controller must delete the details as soon as reasonably practicable.
- (4) Having done so, the relevant data controller must give notice to the person who has the disregarded conviction or caution that the details of it have been deleted.
- (5) In this section—
 - “delete”, in relation to such relevant official records as may be prescribed, means record with the details of the conviction or caution concerned—
 - (a) the fact that it is a disregarded conviction or caution, and
 - (b) the effect of it being such a conviction or caution,
 - “the names database” means the names database held by the [F1Secretary of State] for the use of constables,

Changes to legislation: *Protection of Freedoms Act 2012, Cross Heading: Effect of disregard is up to date with all changes known to be in force on or before 08 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“official records” means records containing information about persons convicted of, or cautioned for, offences and kept by any court, police force, government department or local or other public authority in England and Wales for the purposes of its functions,

“prescribed” means prescribed by order of the Secretary of State,

“relevant data controller” means—

- (a) in relation to the names database, any chief officer of police of a police force in England and Wales who is a data controller in relation to the details concerned,
- (b) in relation to other relevant official records, such person as may be prescribed,

“relevant official records” means—

- (a) the names database, and
- (b) such other official records as may be prescribed.

(6) An order under this section—

- (a) may make different provision for different purposes,
- (b) is to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F1 Words in s. 95(5) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 185](#); [S.I. 2013/1682](#), art. 3(v)

Commencement Information

I1 S. 95 in force at 1.10.2012 by [S.I. 2012/2234](#), art. 3(f)

96 Effect of disregard for disclosure and other purposes

(1) A person who has a disregarded conviction or caution is to be treated for all purposes in law as if the person has not—

- (a) committed the offence,
- (b) been charged with, or prosecuted for, the offence,
- (c) been convicted of the offence,
- (d) been sentenced for the offence, or
- (e) been cautioned for the offence.

(2) In particular—

- (a) no evidence is to be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in England and Wales to prove that the person has done, or undergone, anything within subsection (1)(a) to (e), and
- (b) the person is not, in any such proceedings, to be asked (and, if asked, is not to be required to answer) any question relating to the person's past which cannot be answered without acknowledging or referring to the conviction or caution or any circumstances ancillary to it.

(3) Where a question is put to a person, other than in such proceedings, seeking information with respect to the previous convictions, cautions, offences, conduct or circumstances of any person—

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- (a) the question is to be treated as not relating to any disregarded conviction or caution, or any circumstances ancillary to it (and the answer to the question may be framed accordingly), and
 - (b) the person questioned is not to be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose that conviction or caution or any circumstances ancillary to it in answering the question.
- (4) Any obligation imposed on any person by any enactment or rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person is not to extend to requiring the disclosure of a disregarded conviction or caution or any circumstances ancillary to it.
- (5) A disregarded conviction or caution, or any circumstances ancillary to it, is not a proper ground for—
- (a) dismissing or excluding a person from any office, profession, occupation or employment, or
 - (b) prejudicing the person in any way in any office, profession, occupation or employment.
- (6) This section is subject to section 97 but otherwise applies despite any enactment or rule of law to the contrary.
- (7) See also section 98 (meaning of “proceedings before a judicial authority” and “circumstances ancillary to a conviction or caution”).

Commencement Information

I2 S. 96 in force at 1.10.2012 by [S.I. 2012/2234](#), [art. 3\(g\)](#)

97 Saving for Royal pardons etc.

Nothing in section 96 affects 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.

Commencement Information

I3 S. 97 in force at 1.10.2012 by [S.I. 2012/2234](#), [art. 3\(h\)](#)

98 Section 96: supplementary

- (1) In section 96 “proceedings before a judicial authority” includes (in addition to proceedings before any of the ordinary courts of law) proceedings before any tribunal, body or person having power—
- (a) by virtue of any enactment, 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 under that agreement,

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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.

- (2) For the purposes of section 96, circumstances ancillary to a conviction are any circumstances of—
- (a) the offence which was the subject of the conviction;
 - (b) the conduct constituting the offence;
 - (c) any process or proceedings preliminary to the conviction;
 - (d) any sentence imposed in respect of the conviction;
 - (e) any proceedings (whether by way of appeal or otherwise) for reviewing the conviction or any such sentence;
 - (f) anything done in pursuance of, or undergone in compliance with, any such sentence.
- (3) For the purposes of section 96, circumstances ancillary to a caution are any circumstances of—
- (a) the offence which was the subject of the caution;
 - (b) the conduct constituting the offence;
 - (c) any process preliminary to the caution (including consideration by any person of how to deal with the offence and the procedure for giving the caution);
 - (d) any proceedings for the offence which take place before the caution is given;
 - (e) anything which happens after the caution is given for the purpose of bringing any such proceedings to an end;
 - (f) any judicial review proceedings relating to the caution;
 - (g) in the case of a warning under section 65 of the Crime and Disorder Act 1998 (reprimands and warnings for persons aged under 18), anything done in pursuance of, or undergone in compliance with, a requirement to participate in a rehabilitation programme under section 66(2) of that Act.

Commencement Information

I4 S. 98 in force at 1.10.2012 by [S.I. 2012/2234](#), [art. 3\(i\)](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)