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## SCHEDULE 4 MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

### *Police Act 1997 (c. 50)*

27 Part 5 of the 1997 Act is amended as follows.

#### **Commencement Information**

- I1** Sch. 4 para. 27 in force at 11.1.2008 for specified purposes by S.S.I. 2007/564, art. 2, Sch.
- I2** Sch. 4 para. 27 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

28 In section 113A, after subsection (5) insert—

“(5A) The Scottish Ministers need not issue a criminal record certificate under subsection (1) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14).”.

#### **Commencement Information**

- I3** Sch. 4 para. 28 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

29 After section 113B insert—

#### **“113CA Suitability information relating to children**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
  - (a) whether the applicant is barred from regulated work with children;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
  - (d) whether the Independent Barring Board is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

#### **113CB Suitability information relating to protected adults**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
  - (a) whether the applicant is barred from regulated work with adults;

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- (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
- (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
- (d) whether the Independent Barring Board is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

### 113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
  - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”.

#### Commencement Information

- I4** Sch. 4 para. 29 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.
- I5** Sch. 4 para. 29 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

30 Sections 113C to 113F are repealed.

#### Commencement Information

- I6** Sch. 4 para. 30 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

- 31 In section 114—
- (a) in subsection (2), for “a Minister of the Crown” substitute “ a person mentioned in subsection (2A) ”,
  - (b) after subsection (2) insert—
    - “(2A) Any of the following persons may make a statement for the purposes of subsection (2)—
      - (a) a Minister of the Crown;
      - (b) a member of the Scottish Executive;
      - (c) any other office-holder in the Scottish Administration; or
      - (d) a nominee of any person mentioned in paragraphs (a) to (c).”

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- (c) in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “Section 113A(3) to (6)”.

**Commencement Information**

**I7** Sch. 4 para. 31 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

- 32 In section 116—
- (a) in subsection (2), for “a Minister of the Crown, or a person nominated by a Minister of the Crown,” substitute “a person mentioned in subsection (2A)”,
- (b) after subsection (2) insert—
- “(2A) Any of the following persons may make a statement for the purposes of subsection (2)—
- (a) a Minister of the Crown;
- (b) a member of the Scottish Executive;
- (c) any other office-holder in the Scottish Administration; or
- (d) a nominee of any person mentioned in paragraphs (a) to (c).”
- (c) in subsection (3), for “113C to 113F” substitute “113CA to 113CC”.

**Commencement Information**

**I8** Sch. 4 para. 32 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

- 33 In section 117, after subsection (2) insert—
- “(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).
- (4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still thinks that the information concerned might be relevant for the purpose in respect of which it was requested.”.

**Commencement Information**

**I9** Sch. 4 para. 33 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

- 34 In section 118—
- (a) in subsection (2A)(a), for “United Kingdom Passport Agency” substitute “Identity and Passport Service”,
- (b) after subsection (2A) insert—
- “(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant's identity.”,
- (c) for subsection (3) substitute—
- “(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as

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reasonably practicable after they have been used for the purpose mentioned in subsection (1).”.

**Commencement Information**

**I10** Sch. 4 para. 34 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

35 In section 119A(2), the words from “; and” to the end of the subsection are repealed.

**Commencement Information**

**I11** Sch. 4 para. 35 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

36 In section 120(5)(b) for the words from “countersign” to “113B” substitute “—  
 (“) countersign applications under section 113A or 113B; or  
 (ii) make declarations in relation to disclosure requests made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).”.

**Commencement Information**

**I12** Sch. 4 para. 36 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

37 In section 120A—  
 (a) in subsection (3)(b), for “included in any list mentioned in section 113C(3) or 113D(3)” substitute “barred from regulated work with children or adults (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14))”,  
 (b) in subsection (4)(b)(iii), after “applications” insert “, or the making of declarations,”.

**Commencement Information**

**I13** Sch. 4 para. 37 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

38 Section 121 is repealed.

**Commencement Information**

**I14** Sch. 4 para. 38 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

39 In section 122—  
 (a) in subsection (3)—  
 (i) after “113B” insert “, or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).”,  
 (ii) after “application” insert “ or, as the case may be, made the declaration in relation to the disclosure request”,  
 (iii) after “countersigned”, where it appears in paragraph (b), insert “ or, as the case may be, made the declaration”,  
 (b) in subsection (4)(b)—

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- (i) the words after “person” become sub-paragraph (i), and
- (ii) after that new sub-paragraph insert “; or  
(ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)”.

#### Commencement Information

**I15** Sch. 4 para. 39 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

40 Before section 123 insert—

#### Delegation of functions of Scottish Ministers

“122B) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.

- (2) An excepted function is a function—
  - (a) relating to the making of regulations or orders;
  - (b) relating to the publishing or revising of a code of practice;
  - (c) relating to the laying of a code of practice before the Scottish Parliament;
  - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
  - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.”.

#### Commencement Information

**I16** Sch. 4 para. 40 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

41 In section 126(1), after the definition of “Minister of the Crown” insert—

““office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);”.

#### Commencement Information

**I17** Sch. 4 para. 41 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

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