

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 18 – Miscellaneous

Rehabilitation of offenders

Section 187 – Rehabilitation of Offenders Act 1974: treatment of certain disposals by children's hearings

271. This section amends the Rehabilitation of Offenders Act 1974 (“the 1974 Act”). It inserts into the Act a new section 8B(1A) which provides for certain matters to be treated as an “alternative to prosecution” under that Act and so benefit from the protections contained in that Act. A child is to be treated as having been given an “alternative to prosecution” where following a referral on a relevant offence ground the ground has been accepted or established, and a compulsory supervision order has been made, varied, continued or the referral has been discharged. Similar provision is made in relation to offence proceedings under the Children (Scotland) Act 1995. Provision is also made for the “alternative to prosecution” to become spent and so no longer require to be disclosed by the individual in situations where convictions and alternative to prosecutions require to be disclosed by the individual.
272. Paragraph 1 of schedule 6 to this Act repeals the existing meaning in the 1974 Act which caused such offence referral grounds to be regarded as a conviction.
273. [Section 187](#) severs the link between Children's Hearing disposals and the Police Act 1997 (“the 1997 Act”), through which Disclosure Scotland discharges its functions of providing criminal record checks for recruitment and other purposes. These changes will be retrospective. Subsection (3) also provides protection for these disposals under the 1974 Act. The protection afforded will mean that an “alternative to prosecution” will become spent after 3 months of the offence grounds being accepted or established, or of a compulsory supervision order being made.