

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Disclosure (Scotland) Act 2020, SCHEDULE 5. (See end of Document for details)

SCHEDULE 5 (introduced by section 93)

CONSEQUENTIAL AND MINOR MODIFICATIONS

PROSPECTIVE

PART 1

MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 1

Caravan Sites and Control of Development Act 1960

- 1 In section 32P of the Caravan Sites and Control of Development Act 1960 (fit and proper person: criminal conviction certificate)—
- (a) in subsection (1), for the words from “criminal” to the end substitute “ Level 1 disclosure (within the meaning of section 1 of the Disclosure (Scotland) Act 2020). ”,
 - (b) in subsection (2), for “criminal conviction certificate” substitute “ Level 1 disclosure ”,
 - (c) the title of the section becomes “ Fit and proper person: Level 1 disclosure ”.

Rehabilitation of Offenders Act 1974

- 2 (1) The Rehabilitation of Offenders Act 1974 is amended as follows.
- (2) In section 5 (disclosure periods for particular sentences), after subsection (2A) insert—
- “(2AA) Subsection (2A)(a) is subject to section 5J(1)(ba).”.
- (3) In section 5A(1) (disclosure periods: ordinary cases), in Table A, in each of the following entries, for the period specified in the third column (disclosure period – aged under 18) substitute “ Nil (see section 5J(1)(ba)) ”
- (a) the first entry (a custodial sentence not exceeding 12 months),
 - (b) the fourth entry (a fine),
 - (c) the fifth entry (a compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995),
 - (d) the sixth entry (an order for endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988),
 - (e) the seventh entry (any sentence not mentioned in the entries above or in Table B other than one to which section 5(2D) or any of sections 5C to 5J applies).
- (4) In section 5B (disclosure periods: service disciplinary offences), in Table B, in each of the entries, for the period specified in the third column (disclosure period – aged under 18) substitute “ Nil (see section 5J(1)(ba)) ”.
- (5) In section 5C (disclosure period: caution for good behaviour), in subsection (2), paragraph (b) is repealed.
- (6) In section 5D (disclosure period: particular court orders)—

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- (a) in subsection (1), paragraph (b) is repealed,
- (b) in subsection (3), the words “and (b)(ii)” are repealed.

(7) In section 5I (disclosure period: service disciplinary orders)—

- (a) in subsection (1), paragraph (b) is repealed,
- (b) in subsection (3)—
 - (i) in paragraph (a), for “15” substitute “ 18 ”,
 - (ii) paragraph (b) is repealed.

(8) In section 5J (sentences to which no disclosure period applies)—

- (a) in subsection (1), after paragraph (b) insert—
 - “(ba) any sentence other than an excepted sentence mentioned in subsection (1A) imposed on a person in respect of a conviction for an offence committed when the person was under 18 years of age,”,
- (b) after subsection (1) insert—
 - “(1A) The excepted sentences referred to in subsection (1)(ba) are—
 - (a) an excluded sentence,
 - (b) in the case of a conviction for an offence listed in any of paragraphs 52 to 59 of schedule 1 of the Disclosure (Scotland) Act 2020 (sexual offences), a custodial sentence (within the meaning of section 5(12)) for a term exceeding 12 months.

(1B) For the purposes of subsection (1)(ba), it is to be presumed, in the absence of evidence to the contrary, that a person convicted of an offence was of the same age at the time the offence was committed as the person was at the date of conviction.”.

Police Act 1997

3 In the Police Act 1997, Part 5 (certificates of criminal records etc.) is repealed.

Antisocial Behaviour etc. (Scotland) Act 2004

4 In section 85A of the Antisocial Behaviour etc. (Scotland) Act 2004 (fit and proper person: criminal record certificate)—

- (a) in subsection (1), for the words from “criminal” to the end substitute “ Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020). ”,
- (b) in each of subsections (2) and (3), for “criminal record certificate” substitute “ Level 2 disclosure ”,
- (c) in subsection (3), in each of paragraphs (a) and (b), for “certificate” substitute “ Level 2 disclosure ”,
- (d) the title of the section becomes “ Fit and proper person: Level 2 disclosure ”.

Protection of Vulnerable Groups (Scotland) Act 2007

5 (1) The PVG Act is amended as follows.

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- (2) In section 18 (police information etc.)—
- (a) in subsection (4), for paragraph (b) substitute—
- “(b) any person who holds central records to provide them with the prescribed details of every relevant matter relating to the individual that is recorded those records.”,
- (b) after subsection (4) insert—
- “(5) In subsection (4)(b)—
- “central records” has the meaning given in section 69 of the Disclosure (Scotland) Act 2020,
- “relevant matter” means—
- (a) a conviction that is not a non-disclosable conviction within the meaning of section 9 of the Disclosure (Scotland) Act 2020,
- (b) a caution within the meaning given in section 69 of that Act that is not spent by virtue of schedule 3 of the Rehabilitation of Offenders Act 1974, and
- (c) a prescribed civil court order.”.
- (3) In section 49 (vetting information)—
- (a) in subsection (1), for paragraph (a) substitute—
- “(a) the prescribed details of every relevant matter relating to the scheme member that is recorded in central records,”,
- (b) after subsection (1) insert—
- “(1A) Section 33 of the Disclosure (Scotland) Act 2020 (Level 2 disclosure: considering relevance and whether to include certain information) applies for the purposes of subsection (1)(c) of this section as it applies for the purposes of the sections mentioned in subsection (1) of that section, but as if—
- (a) references to a person considering whether a conviction, children's hearing outcome or other information is relevant for the purpose of a Level 2 disclosure were references to the chief constable considering whether information is relevant to the type of regulated role in relation to which the scheme member participates in the Scheme,
- (b) references to a person considering whether a conviction, children's hearing outcome or other information ought to be included in a Level 2 disclosure were references to the chief constable considering whether information ought to be included in the scheme member's scheme record,
- (c) references to a conviction or children's hearing outcome were omitted, and
- (d) references to other information were references to information mentioned in subsection (1)(c) of this section.”,
- (c) after subsection (2) insert—
- “(3) In subsection (1)(a), “central records” and “relevant matter” have the same meanings as in section 18(5).”.
- (4) In section 51 (correction of inaccurate scheme record)—

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- (a) in subsection (1), after “section 50” insert “ or a review under section 21 of the Disclosure (Scotland) Act 2020, ”,
 - (b) subsections (2) to (7) are repealed.
- (5) Section 52ZA (procedure following correction of inaccurate scheme record) is repealed.
- (6) Section 52 (disclosure of scheme records) is repealed.
- (7) Section 52A (review of vetting information in scheme record) is repealed.
- (8) Section 53 (disclosure of short scheme records) is repealed.
- (9) Section 55 (disclosure conditions) is repealed.
- (10) Section 56 (Crown work) is repealed.
- (11) Section 57 (disclosure restrictions) is repealed.
- (12) Section 57A (meaning of “conviction” and “protected conviction”) is repealed.
- (13) In section 97 (general interpretation)—
- (a) in subsection (1)—
 - (i) in the definition of “prescribed” the words “(except where used in sections 18(4)(b) and 49(1)(a))” are repealed,
 - (ii) the following definitions are repealed—
 - “disclosure declaration”,
 - “disclosure record”,
 - “disclosure request”,
 - (b) in subsection (2), for the words from “doing” in the first place it occurs to the end of that subsection substitute “carrying out a regulated role for an organisation if they—
 - (a) have made available, in respect of the individual—
 - (i) a confirmation of scheme membership under section 54,
 - (ii) a Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020) where section 17 of that Act applies,
 in relation to that regulated role,
 - (b) know that the confirmation of scheme membership or (as the case may be) the Level 2 disclosure was sought for the purpose of enabling or assisting the organisation to consider the scheme member's suitability to carry out that type of regulated role for the organisation (or to be offered such a role by the organisation), and
 - (c) have not been satisfied that the individual has not been engaged to carry out, or has stopped carrying out, that type of regulated role for the organisation.”,
 - (c) in subsection (4), for “Part 5 of the 1997 Act” substitute “ Part 1 of the Disclosure (Scotland) Act 2020 ”,
 - (d) in subsection (5), for “in relation to an application under section 113B of the 1997 Act” substitute “ for the purposes of section 49 of the Disclosure (Scotland) Act 2020 ”.

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- (14) In schedule 5 (index), the following entries are repealed—
- disclosure condition,
 - disclosure declaration,
 - disclosure information,
 - disclosure record,
 - disclosure request,
 - short scheme record.

Housing (Scotland) Act 2014

- 6 In section 35 of the Housing (Scotland) Act 2014 (fit and proper person: criminal record information), in subsection (2), for the words from “criminal” to “1997 (c. 50)” substitute “ Level 1 disclosure (within the meaning of section 1 of the Disclosure (Scotland) Act 2020) ”.

Age of Criminal Responsibility (Scotland) Act 2019

- 7 (1) The Age of Criminal Responsibility (Scotland) Act 2019 is amended as follows.
- (2) In section 8 (disapplication of sections 6 and 7)—
- (a) in subsection (1), for the words from “in—” to the end substitute “ in a Level 2 disclosure. ”,
 - (b) in subsection (3)(a), for “an enhanced criminal record certificate or, as the case may be, a scheme record” substitute “ a Level 2 disclosure ”,
 - (c) in subsection (4)—
 - (i) in paragraph (a), for “for which the certificate or, as the case may be, scheme record is provided” substitute “ of the disclosure ”,
 - (ii) in paragraph (b), for “certificate or record” substitute “ Level 2 disclosure ”,
 - (d) subsection (5) is repealed,
 - (e) in subsection (6), for “certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”,
 - (f) in subsection (7), for “certificate or record” substitute “ Level 2 disclosure ”.
- (3) In section 10 (disclosure of information relating to time when person under 12), subsections (1), (2) and (4) are repealed.
- (4) In section 11 (independent reviewer), in paragraph (a), for the words from “information—” to the end substitute “ information in a Level 2 disclosure, and ”.
- (5) In section 12 (period and terms of appointment), in subsection (7)(a), for “8A or 8B of the 1997 Act” substitute “ 1 or 2 of the 2020 Act ”.
- (6) In section 14 (referral of information to independent reviewer)—
- (a) in subsection (1), in paragraph (a)—
 - (i) for “113B(4) of the 1997 Act” substitute “ 14(1) of the 2020 Act ”,
 - (ii) for “an enhanced criminal record certificate issued under section 113B(1) of that Act” substitute “ a Level 2 disclosure ”,
 - (b) in subsection (1), paragraph (b) is repealed,
 - (c) in subsection (2)—

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- (i) in paragraph (a), for the words from “described” to the end substitute “ of the disclosure, ”,
 - (ii) paragraph (b) is repealed,
 - (iii) in paragraph (c), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (7) In section 16 (notification to applicant or scheme member), in subsection (2)(b), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (8) In section 18 (review of information referred under section 14)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for the words from “in relation to” to the end substitute “ for the purpose of the disclosure, and ”,
 - (ii) in paragraph (b), for “that certificate” substitute “ the disclosure ”,
 - (b) after subsection (1) insert—
 - “(1A) Section 33 of the 2020 Act (Level 2 disclosure: considering relevance and whether to include certain information) applies for the purposes of subsection (1) of this section as it applies for the purposes of the sections mentioned in subsection (1) of that section, but as if—
 - (a) references to a conviction or a children's hearing outcome were omitted, and
 - (b) references to other information were references to information mentioned in section 14(1)(a) of this Act.”,
 - (c) subsection (2) is repealed,
 - (d) in subsection (4)(a), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (9) After section 20 insert—

“20A Removal of information from scheme record following review or appeal

- (1) This section applies where, in the case of a scheme member—
 - (a) information that is the subject of a review under section 18 is also contained in the scheme member's scheme record in relation to a type of regulated role to which the purpose of the disclosure referred to in section 18(1)(a) relates, and
 - (b) subsection (2) or (3) applies in relation to the review.
- (2) This subsection applies if the independent reviewer determines under section 18(4)(a) that the information ought not to be included in the disclosure and—
 - (a) no appeal under section 20 is taken, or
 - (b) such an appeal having been taken, the sheriff confirms the determination under section 20(3)(a).
- (3) This subsection applies if the sheriff, on an appeal under section 20, determines under subsection (3)(b) of that section that the information ought not to be included in the disclosure.

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- (4) The Scottish Ministers must remove the information from the scheme member's scheme record so far as relating to the type of regulated role mentioned in subsection (1)(a).
- (5) The information is to be treated for the purposes of the 2007 Act as not being vetting information.”.
- (10) In section 23 (regulation of procedure for review)—
- (a) in subsection (1), for “enhanced criminal record certificates and scheme records” substitute “ Level 2 disclosures ”,
- (b) in subsection (2)(a), for “an enhanced criminal record certificate or, as the case may be, a scheme record” substitute “ a Level 2 disclosure ”.
- (11) Section 25 (amendments consequential on Chapter 2) is repealed.
- (12) In section 26 (interpretation of Part 2)—
- (a) the definitions of “1997 Act” and “enhanced criminal record certificate” are repealed,
- (b) after the definition of “2007 Act” insert—
- ““2020 Act” means the Disclosure (Scotland) Act 2020,”,
- (c) in the definition of “applicant” for “113B of the 1997 Act for an enhanced criminal record certificate” substitute “ 11 of the 2020 Act for a Level 2 disclosure ”,
- (d) after the definition of “independent reviewer” insert—
- ““Level 2 disclosure” means a Level 2 disclosure under section 8 of the 2020 Act,
- “purpose of the disclosure”, in relation to a Level 2 disclosure, has the meaning given in section 69 of the 2020 Act,”.

PROSPECTIVE

PART 2

MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 2

Education (Scotland) Act 1980

- 8 (1) The Education (Scotland) Act 1980 is amended as follows.
- (2) In section 98A (application for registration of independent school)—
- (a) in subsection (5)(a)(ii), for “work” substitute “ roles ”,
- (b) in subsection (6), for the definition of “barred from regulated work with children” substitute—
- ““barred from regulated roles with children” is to be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007;”.

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(3) In section 99 (complaints), in each of paragraphs (g)(ii) and (h)(ii) of subsection (1A) for “work” substitute “ roles ”.

(4) In section 135(1) (interpretation), for the definition of “barred from regulated work with children” substitute—

““barred from regulated roles with children” has the meaning given in section 98A(6) of this Act;”.

Foster Children (Scotland) Act 1984

9 In section 7(4) (persons disqualified from keeping foster children) of the Foster Children (Scotland) Act 1984 for “work” substitute “ roles ”.

Protection of Vulnerable Groups (Scotland) Act 2007

10 (1) The PVG Act is amended as follows.

(2) In section 2 (referral ground)—

(a) in paragraph (a), for the opening words substitute—

“(a) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with children, is that the individual has, whether or not in the course of the individual carrying out that role—”.

(b) in paragraph (b), for the opening words substitute—

“(b) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with adults, is that the individual has, whether or not in the course of the individual carrying out that role—”.

(3) In section 3 (reference following disciplinary action etc.)—

(a) in subsection (1)—

(i) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,

(ii) in paragraph (a)(ii) for “work” substitute “ role ”,

(iii) in paragraph (b)(i) for “doing regulated work” substitute “ carrying out the regulated role ”,

(b) in subsection (2)—

(i) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,

(ii) in paragraph (a) for “doing the regulated work” substitute “ carrying out the regulated role ”,

(iii) in paragraph (b) for “doing regulated work” substitute “ carrying out the regulated role ”,

(iv) in paragraph (c)(ii) for “doing regulated work” substitute “ carrying out the regulated role ”,

(c) in subsection (3)—

(i) in paragraph (a) for the words from “regulated” to the end of that paragraph substitute “ a regulated role is not to be treated as having stopped carrying out that role, ”,

(ii) in paragraph (b) for “work” substitute “ role ”.

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- (4) In section 4 (reference by employment agency)—
 - (a) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (b) in paragraph (b)(i) for “further regulated work” substitute “ another regulated role ”,
 - (c) in paragraph (b)(ii) for “such work” substitute “ another regulated role ”.
- (5) In section 5 (reference by employment business)—
 - (a) in the opening words for “regulated work” substitute “ a regulated role ”,
 - (b) in paragraph (b) for “doing regulated work” substitute “ carrying out the regulated role ”,
 - (c) in paragraph (c) for “further regulated work” substitute “ another regulated role ”.
- (6) In section 6(1) (reference relating to matters occurring before provisions come into force) for “doing the regulated work” substitute “ carrying out the regulated role ”.
- (7) In section 8(1) (reference by certain other persons) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (8) In section 10(4) (consideration whether to list: organisational referrals etc.) for the words from “work” to the end of that subsection substitute “ role (if any) which the individual is or has been carrying out. ”.
- (9) In section 12 (consideration whether to list: vetting information etc.) in each of subsections (1)(b) and (2)(b) for “do regulated work” substitute “ carry out a regulated role ”.
- (10) In section 13 (consideration whether to list: inquiries)—
 - (a) in each of paragraphs (a) and (b) of subsection (1) for “doing regulated work” substitute “ carrying out a regulated role. ”,
 - (b) in subsection (4) for the words from “work” to the end of that subsection substitute “ role which the individual was carrying out ”.
- (11) In section 15 (inclusion in children's list after consideration) for “work” substitute “ carry out regulated roles ”.
- (12) In section 16 (inclusion in adults' list after consideration) for “work with protected” substitute “ carry out regulated roles with ”.
- (13) In section 18 (police information etc.) in each of subsections (1) and (4)(a) for “work” substitute “ role ”.
- (14) In section 19(2)(a) (information held by public bodies etc.) for “work” substitute “ role ”.
- (15) In section 20 (information held by regulated work providers)—
 - (a) in subsection (2)—
 - (i) in paragraph (a) for “doing, or has done, regulated work” substitute “ carrying out, or has carried out, a regulated role ”,
 - (ii) in paragraph (b) for the words from “regulated” to the end of that paragraph substitute “ a regulated role by the person (whether or not the individual subsequently carried out the role), ”,
 - (iii) in paragraph (c) for “regulated work” substitute “ a regulated role ”,

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- (iv) in paragraph (d) for “do regulated work” substitute “ carry out a regulated role ”,
 - (b) the title of the section becomes “ Information held by providers of regulated roles ”.
- (16) In section 21 (appeals against inclusion in children's list), in subsection (3)(a) for “work” substitute “ carry out regulated roles ”.
- (17) In section 22 (appeals against inclusion in adults' list), in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (18) In section 26 (determination of application for removal from list)—
- (a) in subsection (1)(a) for “work” substitute “ carry out regulated roles ”,
 - (b) in subsection (2)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (19) In section 27 (appeals against refusal to remove individual from list)—
- (a) in subsection (2)(a) for “work” substitute “ carry out regulated roles ”,
 - (b) in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (20) In section 30 (notice of listing etc.)—
- (a) in subsection (1)(c), after “13” insert “ or section 45B(7) ”,
 - (b) in each of subsections (1)(b) and (2)(a) for “doing regulated work” substitute “ regulated roles ”,
 - (c) in subsection (3)(b)—
 - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
 - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (d) in subsection (3)(c)—
 - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
 - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (e) in each of paragraphs (b) and (c) of subsection (4) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (21) The italic heading before section 34 becomes “ Offences relating to regulated roles ”.
- (22) In section 34 (barred individuals not to do regulated work)—
- (a) in subsection (1), for “do, or to seek or agreed to do, any regulated work” substitute “ carry out, or to seek or agree to carry out, any regulated role ”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), for “work” substitute “ role ”,
 - (ii) in paragraph (b), for “work concerned was regulated work” substitute “ role concerned was a regulated role ”,
 - (c) the title of the section becomes “ Barred individuals not to carry out regulated roles ”.
- (23) In section 35 (organisations not to use barred individuals for regulated work)—
- (a) in subsection (1), for “regulated work to an individual barred from that work” substitute “ a regulated role to an individual barred from that role ”,
 - (b) in subsection (2)—

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- (i) for “do” substitute “ carry out ”,
 - (ii) for “regulated work” substitute “ a regulated role ”,
 - (c) in subsection (3)(a)(ii), for “work” substitute “ roles ”,
 - (d) in subsection (5), for “regulated work” substitute “ a regulated role ”,
 - (e) in subsection (6), for “doing that regulated work” substitute “ that regulated role ”,
 - (f) in subsection (7)—
 - (i) for “regulated work” substitute “ a regulated role ”,
 - (ii) for “do that work” substitute “ carry out that role ”,
 - (g) the title of the section becomes “ Organisations not to use barred individuals for regulated roles ”.
- (24) In section 36 (personnel suppliers not to supply barred individuals for regulated work)—
- (a) in subsection (1)—
 - (i) in paragraph (a) for “doing regulated work” substitute “ regulated roles ”,
 - (ii) in paragraph (b) for “do regulated work” substitute “ carry out a regulated role ”,
 - (b) in subsection (2) for “doing the regulated work” substitute “ the regulated role ”,
 - (c) The title of the section becomes “ Personnel suppliers not to supply barred individuals for regulated roles ”.
- (25) The title of section 37 becomes “ Penalties for offences relating to regulated roles ”.
- (26) In section 39(1) (restrictions on listing in children's list) for “work” substitute “ roles ”.
- (27) In section 40(1) (restrictions on listing in adults' list) for “work” substitute “ roles ”.
- (28) In section 44 (the Scheme) for “do, or wish to do, regulated work” substitute “ carry out, or wish to carry out, regulated roles ”.
- (29) In section 48 (scheme record), for paragraph (a) substitute—
“(a) the information to be contained in a confirmation of scheme membership under section 46(2), and”.
- (30) In section 49(1)(c)(i) (vetting information) for “work” substitute “ role ”.
- (31) In section 58(1) (removal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
 - (b) in paragraph (a) for “doing that work” substitute “ carrying out that type of role ”,
 - (c) in paragraph (b) for “doing that work” substitute “ that type of regulated role ”.
- (32) In section 59 (withdrawal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
 - (b) in paragraph (b) for “doing that type of regulated work” substitute “ carrying out that type of regulated role ”.
- (33) In section 60 (notice of removal)—

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- (a) in subsection (1), after “section” insert “ 45B(3)(a) or (6), ”,
 - (b) in subsection (2)(a), for “work” substitute “ role ”.
- (34) In section 62 (evidence of identity), in subsection (1), for paragraph (c) substitute—
“(c) a request for confirmation of scheme membership under section 54.”.
- (35) The italic heading before section 65 becomes “ Offences relating to confirmation of scheme membership ”.
- (36) In section 65 (falsification of scheme records etc.)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (b) and (c), for “a disclosure record” substitute “ such a confirmation ”,
 - (iii) in paragraph (c), for “disclosed” substitute “ made available ”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
 - (ii) in paragraph (b), for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (c) the title of the section becomes “ Falsification of confirmation of scheme membership ”.
- (37) In section 66 (unlawful disclosure of scheme records etc.)—
- (a) in subsection (1), for “disclosure information is disclosed under section 51, 52, 53 or 54” substitute “ a confirmation of scheme membership is made available under section 54 ”,
 - (b) in subsection (2)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) in paragraph (c), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
 - (c) in each of subsections (2)(c) and (4)(b) for “do, or to be offered or supplied for, regulated work” substitute “ carry out, or to be offered or supplied for, a regulated role ”,
 - (d) in subsection (3), for “disclosure information” substitute “ a confirmation of scheme membership ”,
 - (e) in subsection (4)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) in paragraph (a), for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (iii) in paragraph (b), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
 - (f) in subsection (5), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,

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- (g) in subsection (6), for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (h) in subsection (7), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (i) in subsection (8)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (j) in subsection (9), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (k) the title of the section becomes “ Unlawful disclosure of confirmation of scheme membership ”.
- (38) In section 67 (unlawful requests for scheme records etc.)—
- (a) in subsection (1), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
 - (b) in subsection (2), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (c) in subsection (3)—
 - (i) for “record or information” substitute “ confirmation of scheme membership ”,
 - (ii) for paragraph (a), substitute—
 - “(a) to carry out, or to be offered or supplied for, the type of regulated role to which the confirmation of scheme membership relates,”,
 - (iii) in paragraph (b), for “do that type of regulated work” substitute “ carry out that type of regulated role ”,
 - (d) subsection (4) is repealed,
 - (e) the title of the section becomes “ Unlawful requests for and use of confirmation of scheme membership ”.
- (39) In section 68 (unlawful disclosure etc.: supplementary)—
- (a) in subsection (2), for “do, or to be offered or supplied for, the type of regulated work” substitute “ carry out, or to be offered or supplied for, the type of regulated role ”,
 - (b) in subsection (1)—
 - (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
 - (c) in subsection (2)—
 - (i) for “disclosure information made” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) for “corresponding disclosure request was made” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (d) in subsection (3)—

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- (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
 - (e) for subsection (4) substitute—
 - “(4) In sections 66 and 67(2) and in this section, references to a confirmation of scheme membership include references to any information contained in a confirmation of scheme membership.”.
- (40) The title of section 69 becomes “ Penalties for offences relating to confirmation of scheme membership ”.
- (41) In section 70 (fees)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (ii) in paragraph (b), for “disclosure requests” substitute “ requests for confirmations of scheme membership under section 54 ”,
 - (b) in subsection (2), after paragraph (c) insert—
 - “(d) the manner in which fees are to be paid.”,
 - (c) in subsection (4)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme, ”,
 - (ii) in paragraph (b), for “disclosure request” substitute “ request for confirmation of scheme membership under section 54 ”,
 - (iii) in the closing words, after “paid” insert “ in the manner provided for in the regulations. ”
- (42) In section 71 (forms)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (ii) for paragraph (c) substitute—
 - “(c) requests for confirmation of scheme membership under section 54 (including a statement under subsection (3) of that section),”,
 - (b) in each of subsections (2) and (3), for “declaration” substitute “ statement ”.
- (43) In section 72 (procedure), in subsection (2)—
- (a) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (b) paragraph (c) is repealed,
 - (c) for paragraph (d) substitute—
 - “(d) prescribe further procedure for making requests for confirmations of scheme membership under section 54 and making such confirmations available in pursuance of such requests.”.
- (44) In section 73 (consideration of suitability)—

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- (a) in the opening words, for “to do, or to be offered or supplied for, any type of regulated work” substitute “to carry out, or to be offered or supplied for, any type of regulated role”,
 - (b) in each of paragraphs (a) and (b), for “do that type of regulated work” substitute “carry out that type of regulated role”,
 - (c) paragraphs (c) to (f) are repealed.
- (45) In section 76(1)(b) (police access to scheme information) for “regulated work” substitute “regulated roles”.
- (46) In section 77 (statements of scheme membership: disclosure of whether individual under consideration for listing)—
- (a) in subsection (1)—
 - (i) for “Despite section 46(2)(c), a statement of scheme membership” substitute “A confirmation of scheme membership made available under section 54 or a Level 2 disclosure made available under section 18 of the Disclosure (Scotland) Act 2020”,
 - (ii) after “individual” insert “(or details of any conditions that Ministers have imposed under section 13A(1))”,
 - (b) after subsection (1), insert—
 - “(1A) Subsection (1) applies despite—
 - (a) section 46(2)(c) or (d) of this Act,
 - (b) section 16(4)(a)(iii) or (iv) or (b)(iii) or (iv) of the Disclosure (Scotland) Act 2020, or
 - (c) section 17(3)(b) or (c) of that Act,(as the case may be).”
 - (c) in subsection (2)(b), for “or 13” substitute “, 13 or 45B(7)”.
- (47) The title of section 77 becomes “Disclosure of whether an individual is under consideration for listing”.
- (48) In section 92 (individuals barred from regulated work)—
- (a) in the opening words of each of subsections (1) and (2), for “work” substitute “roles”,
 - (b) in each of subsections (3) and (4) for “work” substitute “roles”.
- (49) The title of section 92 becomes “Individuals barred from regulated roles”.
- (50) Section 95 (work) is repealed.
- (51) In section 96 (fostering)—
- (a) in subsection (2), for “doing work” substitute “carrying out a regulated role with children”,
 - (b) in subsection (3)—
 - (i) after “37” insert “and sections 45C to 45F”,
 - (ii) for “work” in the first place it occurs substitute “the carrying out of a regulated role”,
 - (iii) for “work is done” substitute “role is carried out”,
 - (c) subsection (4) is repealed,
 - (d) in subsection (5), for “doing regulated work” substitute “carrying out a regulated role”.

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(52) In section 97(3) (general interpretation), for “11, 12 or 13” substitute “ 12, 13 or 45B(7) ”.

(53) In section 100 (orders and regulations), in subsection (4)—

- (a) for “Paragraph 28 of schedule 2 (except an order of the type mentioned in paragraph 15 of that schedule)” substitute “ Paragraph 33 of schedule 2 ”,
- (b) for “Paragraph 13 of schedule 3” substitute “ Paragraph 25 of schedule 3 ”.

(54) In schedule 5 (index)—

- (a) in the entry relating to—
 - (i) “barred from regulated work”, in the left hand column substitute “ barred from regulated roles ”,
 - (ii) “regulated work”, in the left hand column substitute “ regulated role ”,
 - (iii) “regulated work with adults”, in the left hand column substitute “ regulated role with adults ”,
 - (iv) “regulated work with children”, in the left hand column substitute “ regulated role with children ”,
 - (v) “scheme member”, in the right hand column substitute “ section 45(1)(a) ”,
- (b) at the appropriate place insert—

“confirmation of scheme membership section 46(2)”,

“type of regulated role section 91(5)”,

- (c) the following entries are repealed—
 - statement of scheme membership,
 - type of regulated work,
 - work, worker, working.

Age of Criminal Responsibility (Scotland) Act 2019

11 In section 26 of the Age of Criminal Responsibility (Scotland) Act 2019 (interpretation of Part 2), in the definition of “regulated work”, for “work” substitute “ role ”.

PART 3

OTHER CONSEQUENTIAL AND MINOR MODIFICATIONS

Protection of Vulnerable Groups (Scotland) Act 2007

12 (1) The PVG Act is amended as follows.

- (2) In section 10(1)(b) (consideration whether to list: organisational referrals etc.), for “Independent Safeguarding Authority” substitute “ Disclosure and Barring Service ”.

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- (3) In section 17(5)(c)(i) (information relevant to listing decisions), for “the Council of the Pharmaceutical Society of Great Britain” substitute “ the General Pharmaceutical Council ”.
- (4) In section 19(3) (information held by public bodies etc.), after the entry in the list for Health Boards and Special Health Boards insert— “ An integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 ”.
- (5) In section 38(2) (police access to lists), for the words from “purpose of” to the end of that subsection substitute “ law enforcement purposes within the meaning of section 31 of the Data Protection Act 2018. ”.
- (6) In section 39 (restrictions on listing in children's list)—
- (a) in subsection (2)(a), for “Independent Safeguarding Authority (“ISA”)” substitute “ Disclosure and Barring Service (“DBS”) ”,
 - (b) in each of subsections (4)(b), (5) and (6)(b), for “ISA” substitute “ DBS ”.
- (7) In section 40 (restrictions on listing in adults' list)—
- (a) in subsection (2)(a), for “Independent Safeguarding Authority (“ISA”)” substitute “ Disclosure and Barring Service (“DBS”) ”,
 - (b) in each of subsections (4)(b), (5) and (6)(b), for “ISA” substitute “ DBS ”.
- (8) In section 76(2) (police access to scheme information), for the words from “the purpose” to the end of that subsection insert “—
- (a) the performance of the chief constable's functions under this Part, or
 - (b) the law enforcement purposes within the meaning of section 31 of the Data Protection Act 2018”.
- (9) In section 96 (fostering)—
- (a) in subsection (1)(a) the words “(“the 1995 Act”)” are repealed,
 - (b) in each of subsections (1)(b) and (2)(a) for “1995 Act” substitute “ Children (Scotland) Act 1995 ”,
 - (c) in subsection (8), in the definition of “parental responsibilities” and “parental rights”, for “1995 Act” substitute “ Children (Scotland) Act 1995 ”.
- (10) In section 97(1) (general interpretation)—
- (a) after the definition of “disciplinary proceedings”, insert—

““Disclosure and Barring Service” and “DBS” mean the body established by section 87(1) of the Protection of Freedoms Act 2012,”,
 - (b) the definition of “Independent Safeguarding Authority” (and “ISA”) is repealed,
 - (c) for the definition of “police force” substitute—

““police force” has the same meaning as in section 69 of the Disclosure (Scotland) Act 2020,”
- (11) In schedule 5 (index)—
- (a) at the appropriate place insert—

“Disclosure and Barring Service, DBS section 97(1)”,

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(b) the entry relating to “Independent Safeguarding Authority, ISA” is repealed.

Commencement Information

II Sch. 5 para. 12 in force at 10.12.2021 by S.S.I. 2021/380, reg. 2, sch.

PROSPECTIVE

Children's Hearings (Scotland) Act 2011

- 13 In the Children's Hearings (Scotland) Act 2011, the following provisions are repealed—
- (a) section 187 (Rehabilitation of Offenders Act 1974: treatment of certain disposals by children's hearings),
 - (b) section 188 (criminal record certificates).

Status:

This version of this schedule contains provisions that are prospective.

Changes to legislation:

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