

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Paragraph 2. (See end of Document for details)

SCHEDULE 5 CONSEQUENTIAL AND MINOR MODIFICATIONS

PROSPECTIVE

PART 1

MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 1

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- (5) In section 5C (disclosure period: caution for good behaviour), in subsection (2), paragraph (b) is repealed.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)—
- (a) in subsection (1), paragraph (b) is repealed,
 - (b) in subsection (3), the words “and (b)(ii)” are repealed.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- (a) in subsection (1), paragraph (b) is repealed,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 - (ii) paragraph (b) is repealed.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

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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.”

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