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SCHEDULE 5 CONSEQUENTIAL AND MINOR MODIFICATIONS

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;”.
- (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—”.

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- (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 ”.
- (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)—

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- (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 ”,
 - (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 ”,

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- (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)—
 - (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 ”.

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- (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)—
(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.)—

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- (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 ”,
 - (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—

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- “(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)—
 - (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 ”,

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- (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)—
- (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

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- (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 ”.
- (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)”,

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