

## SCHEDULE 4

(introduced by section 88)

### MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

#### *Teaching Council (Scotland) Act 1965 (c. 19)*

- 1 The Teaching Council (Scotland) Act 1965 is amended as follows.
- 2 In section 6—
  - (a) in subsection (2C), for the words from “included” to “(asp 5)” substitute “listed in the children’s list kept under section 1(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)”,
  - (b) in subsection (2D), for “included (otherwise than provisionally)” substitute “listed”.
- 3 In section 10B(1)(b)—
  - (a) paragraphs (i) to (iii), and
  - (b) the word “and” which follows those paragraphs,are repealed.
- 4 In section 11(8), for the words from “such” to “but” substitute “who has applied to be registered”.

#### *Education (Scotland) Act 1980 (c. 44)*

- 5 The Education (Scotland) Act 1980 is amended as follows.
- 6 In section 98A—
  - (a) in subsection (5)(a)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,
  - (b) in subsection (6), for the definition of “disqualified from working with children” substitute—

““barred from regulated work with children” shall be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);”.
- 7 In section 99(1A)—
  - (a) in paragraph (g)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,
  - (b) in paragraph (h)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”.
- 8 In section 135(1)—
  - (a) after the definition of “attendance order” insert—

““barred from regulated work with children” has the meaning given by section 98A(6) of this Act;”,
  - (b) the definition of “disqualified from working with children” is repealed.

#### *Foster Children (Scotland) Act 1984 (c. 56)*

- 9 The Foster Children (Scotland) Act 1984 is amended as follows.
- 10 In section 7, after subsection (2) insert—

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“(3) A person who lives in the same premises as a barred person shall not maintain a foster child.

(4) In subsection (3) (and in section 15(2A)), “barred person” means a person who is barred from regulated work with children (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)).”.

11 In section 15, after subsection (2) insert—

“(2A) A person shall not be guilty of an offence under subsection (1)(c) above in relation to a contravention of section 7(3) if the person proves that he did not know, and had no reasonable ground for believing, that any other person living in the premises in which the person lives was a barred person.”.

12 In section 21, before the definition of “care home service” insert—

““barred person” has the meaning given by section 7(4);”.

*Criminal Procedure (Scotland) Act 1995 (c. 46)*

13 The 1995 Act is amended as follows.

14 In section 106(1)—

- (a) paragraphs (db) and (dc) are repealed,
- (b) in paragraph (f), sub-paragraphs (ii) and (iii) are repealed.

15 In section 110(1)(a), the words “, the proposal to make a reference was made” are repealed.

16 Section 111(3) is repealed.

17 In section 116, for subsection (2) substitute—

“(2) A person who has appealed against both conviction and sentence (or, as the case may be, against both conviction and a decision mentioned in section 106(1)(bb) or both conviction and disposal and order) may abandon the appeal in so far as it is against conviction and may proceed with it against sentence (or, as the case may be, decision, disposal or order) alone.”.

18 In section 118—

- (a) in subsection (4), for the words “106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f)” substitute “106(1)(ba), (bb), (c), (d), (da), (e) or (f)”,
- (b) subsection (4AA) is repealed,
- (c) in subsection (7)—
  - (i) the words “or, as the case may be,” at the end of paragraph (a), and
  - (ii) paragraph (b),
 are repealed.

19 In section 121A(1), the words “(other than an appeal under section 106(1)(db) or (dc))” are repealed.

20 In section 173(2), the words “or (cb)” are repealed.

21 In section 175—

- (a) in subsection (2)—
  - (i) paragraph (cb) (but not the word “or” which appears immediately after that paragraph) is repealed,

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- (ii) in paragraph (d), sub-paragraphs (ii) and (iii) are repealed,
  - (b) in subsection (8), for the words from “under” to the end of paragraph (c) substitute “against both conviction and sentence may abandon the appeal in so far as it is against conviction and may proceed with it against sentence alone,”,
  - (c) in subsection (9), the words “or (cb)” are repealed.
- 22 Section 181(4) is repealed.
- 23 In section 186—
- (a) the words “or (cb)”, where they appear in subsections (1), (2), (9) and (10), are repealed,
  - (b) in subsection (2)(a)—
    - (i) at the end of sub-paragraph (i) insert “or”,
    - (ii) sub-paragraph (iii) (and the word “or” which immediately precedes it) are repealed.
- 24 In section 187(1), the words “or (cb)” are repealed.
- 25 In section 189—
- (a) subsection (2A) is repealed,
  - (b) in subsection (7)(b)—
    - (i) the words “or, as the case may be,” at the end of paragraph (a), and
    - (ii) paragraph (b),are repealed.
- 26 In section 193A(1), the words “(other than by way of an appeal under section 175(2) (cb) of this Act against a reference only)” are repealed.

*Police Act 1997 (c. 50)*

- 27 Part 5 of the 1997 Act is amended as follows.
- 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).”.
- 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;

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- (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;
  - (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.”.

30 Sections 113C to 113F are repealed.

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

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- (d) a nominee of any person mentioned in paragraphs (a) to (c).”,
- (c) in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “Section 113A(3) to (6)”.
- 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”.
- 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.”.
- 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 reasonably practicable after they have been used for the purpose mentioned in subsection (1).”.
- 35 In section 119A(2), the words from “; and” to the end of the subsection are repealed.
- 36 In section 120(5)(b) for the words from “countersign” to “113B” substitute “—
- (i) 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).”.
- 37 In section 120A—

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- (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,”.

38 Section 121 is repealed.

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)—
  - (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)”.

40 Before section 123 insert—

**“122B Delegation of functions of Scottish Ministers**

- (1) 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.”.

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);”.

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*Protection of Children (Scotland) Act 2003 (asp 5)*

42 The whole Act (other than sections 13 and 16) is repealed.

*Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5)*

43 Section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004 is repealed.

*Charities and Trustee Investment (Scotland) Act 2005 (asp 10)*

44 Paragraph 15 of schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005 is repealed.

*Inquiries Act 2005 (c. 12)*

45 Part 2 of Schedule 2 to the Inquiries Act 2005 is repealed.

*Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)*

46 The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 are repealed—

- (a) section 3(2)(d),
- (b) section 3(8), and
- (c) paragraph 14(2) of schedule 1.