
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 329

REHABILITATION OF OFFENDERS

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015

Made - - - - *9th September 2015*

Coming into force - - *10th September 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 4(4), 7(4) and 10(1) of the Rehabilitation of Offenders Act 1974(1) and all other powers enabling them to do so.

In accordance with section 10(2)(2) of that Act, a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015 and comes into force on 10th September 2015.

(2) In this Order, “the 2013 Order” means the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013(3).

Interpretation

2.—(1) In article 2(1) of the 2013 Order (interpretation)—

(a) in the appropriate places insert—

““the 1997 Act” means the Police Act 1997(4);”;

““higher level disclosure” means—

(1) 1974 c.53. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2003 (S.I. 2003/415).

(2) Section 10(2) was modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(3) S.S.I. 2013/50, amended by S.S.I. 2013/204.

(4) 1997 c.50.

- (a) a criminal record certificate issued under section 113A(1)(5) or section 114(1)(6) of the 1997 Act;
 - (b) an enhanced criminal record certificate issued under section 113B(1)(7) or section 116(1) of that Act; or
 - (c) a scheme record disclosed under section 52(3) or (7) of the 2007 Act;”
- ““protected conviction” means a spent conviction of a kind mentioned in article 2A(1);”; and
- ““sent” means—
- (a) in relation to a criminal record certificate or an enhanced criminal record certificate issued under section 113A(1) or 113B(1) of the 1997 Act, sent in accordance with section 116ZA(2) or (4) of that Act to the registered person who countersigned the application for that certificate under section 113A(2) or, as the case may be, 113B(2)(a) of that Act;
 - (b) in relation to a criminal record certificate or enhanced criminal record certificate issued under section 114(1) or 116(1)(8) of the 1997 Act, sent in accordance with section 116ZA(2) or (4) of that Act to the person who made the statement under section 114(2) or, as the case may be, 116(2) of that Act; and
 - (c) in relation to a scheme record disclosed under section 52(3) or (7) of the 2007 Act, disclosed to the registered person who made the declaration mentioned in condition C in section 55 of that Act;”; and
- (b) for the definition of “lay representative” substitute—
- ““lay representative” means a person who—
- (a) is representing a party in civil proceedings in the sheriff court or proceedings in the Court of Session; and
 - (b) is not—
 - (i) a solicitor or an advocate; or
 - (ii) someone having the right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(9)
- (2) After article 2 of the 2013 Order insert—

“Protected convictions

- 2A.—**(1) For the purposes of this Order, a person’s conviction is a protected conviction if—
- (a) it is a spent conviction; and
 - (b) either—
 - (i) it is not a conviction for an offence listed in Schedule A1 or B1; or

(5) Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) and was relevantly amended by sections 78(2) and 79(1) of and paragraph 28 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the 2007 Act”).

(6) Section 114 was amended by S.S.I. 2006/50 and by section 79(1) of and paragraph 31 of schedule 4 to the 2007 Act.

(7) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) (“the 2005 Act”) and was relevantly amended by sections 79(1) and 80 of the 2007 Act and by section 108(2) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

(8) Section 116 was amended by paragraph 3 of Schedule 14 to the 2005 Act, section 79(1) of and paragraph 32 of schedule 4 to the 2007 Act and S.S.I. 2006/50.

(9) 1990 c.40.

- (ii) it is a conviction for an offence listed in Schedule B1 and at least one of the conditions specified in paragraph (2) is satisfied.
- (2) The conditions are—
- (a) the sentence imposed in respect of the conviction was an admonition or an absolute discharge;
 - (b) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of conviction; and
 - (c) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction.
- (3) In subsection (2)(a), the reference to an absolute discharge includes a reference to the discharge of the referral of a child’s case to a children’s hearing under—
- (a) section 69(1)(b) and (12) of the Children (Scotland) Act 1995⁽¹⁰⁾; or
 - (b) section 91(3)(b), 93(2)(b), 108(3)(b) or 119(3)(b) of the Children’s Hearings (Scotland) Act 2011⁽¹¹⁾.”.

Amendment of article 3

- 3.—(1) Article 3 of the 2013 Order (exclusion of section 4(1) of the Act) is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) After that paragraph insert—
- “(2) But the application of section 4(1) of the Act is not excluded in relation to any protected conviction, or any circumstances ancillary to such a conviction, in relation to—
- (a) proceedings specified in paragraphs 1, 2, 6, 8, 9, 13, 15, 16, 18, 20, 25 or 28 of Schedule 1; or
 - (b) proceedings specified in paragraph (1)(b).”.

Amendment of article 4

- 4.—(1) Article 4 of the 2013 Order (exclusion of section 4(2)(a) and (b) of the Act) is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) After that paragraph insert—
- “(2) But the application of section 4(2)(a) and (b) of the Act is not excluded in relation to any question relating to a spent conviction, or any circumstances ancillary to that conviction, if that conviction is—
- (a) a protected conviction; or
 - (b) a conviction for an offence listed in Schedule B1 which—
 - (i) is not a protected conviction; and
 - (ii) is not included in a higher level disclosure sent in connection with the purpose for which the question is put.
- (3) Paragraph (2) does not apply to—
- (a) any question put to assess the suitability of a person to hold—
 - (i) any certificate or permit mentioned in paragraph 3(3)(a) of Schedule 3;

⁽¹⁰⁾ 1995 c.36. Section 69 was repealed by paragraph 1 of schedule 6 to the Children’s Hearings (Scotland) Act 2011 (asp 1).

⁽¹¹⁾ 2011 asp 1.

- (ii) a certificate mentioned in paragraph 3(3)(c) of that Schedule;
- (iii) a licence mentioned in paragraph 3(3)(ca)(12) of that Schedule;
- (b) any question mentioned in paragraph 6(1) of Schedule 3; or
- (c) any question put to assess the suitability of a person to hold an occupation mentioned in paragraph 1 or 4 of Part 3 of Schedule 4.

(4) If a spent conviction for an offence listed in Schedule B1 is included in a higher level disclosure, the application of section 4(2)(a) and (b) of the Act is not excluded in relation to any failure to disclose that conviction, or any circumstances ancillary to that conviction, which occurred before that higher level disclosure was sent.”.

Amendment of article 5

5.—(1) Article 5 of the 2013 Order (exceptions from section 4(3) of the Act) is amended as follows.

(2) The existing text becomes paragraph (1).

(3) After that paragraph insert—

“(2) But the exceptions in paragraph (1)(a) and (c) do not apply in relation to a spent conviction, or any circumstances ancillary to that conviction, if that conviction is—

- (a) a protected conviction; or
- (b) a conviction for an offence listed in Schedule B1 which—
 - (i) is not a protected conviction; and
 - (ii) is not included in a higher level disclosure sent in connection with the profession, office, employment, occupation, decision or proposed decision to which the exception would otherwise apply.

(3) Paragraph (2) does not apply in relation to an occupation listed in paragraph 1 or 4 of Part 3 of Schedule 4.

(4) If a spent conviction for an offence listed in Schedule B1 is included in a higher level disclosure, the exceptions in paragraph (1)(a) and (c) do not apply to any failure to disclose that conviction, or any circumstances ancillary to that conviction, which occurred before that higher level disclosure was sent.”.

Lists of convictions

6. Before Schedule 1 to the 2013 Order (proceedings) insert—

“SCHEDULE A1

Article 2A

OFFENCES WHICH MUST ALWAYS BE DISCLOSED

Common law offences

1. Abduction.
2. Abortion.
3. Assault to severe injury.
4. Assault with intent to rape or ravish.

5. Assault with intent to commit the statutory offence of rape.
6. Bestiality.
7. Cruel and unnatural treatment of persons.
8. Culpable homicide.
9. Drugging.
10. Extortion.
11. Hamesucken.
12. Hijacking.
13. Piracy.
14. Plagium.
15. Reset of plagium.
16. Treason.
17. Uttering threats.

Statutory offences

Armed forces

18. An offence under section 42 of the Armed Forces Act 2006⁽¹³⁾ (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this Schedule.

Aviation and maritime

19. An offence under the Piracy Act 1837⁽¹⁴⁾.
20. An offence under any of the following provisions of the Aviation Security Act 1982⁽¹⁵⁾—
 - (a) section 1 (hijacking);
 - (b) section 2 (destroying, damaging or endangering safety of aircraft);
 - (c) section 3 (other acts endangering or likely to endanger safety of aircraft); and
 - (d) section 4 (offences in relation to certain dangerous articles).
21. An offence under section 9 of the Aviation and Maritime Security Act 1990⁽¹⁶⁾ (hijacking of ships).
22. An offence under article 241 of the Air Navigation Order 2009⁽¹⁷⁾ in respect of a contravention of article 137 of that Order (endangering safety of aircraft).

⁽¹³⁾ 2006 c.52.

⁽¹⁴⁾ 1837 c.88. The Act was relevantly amended by the Statute Law Revision (No. 2) Act 1890 (c.51).

⁽¹⁵⁾ 1982 c.36.

⁽¹⁶⁾ 1990 c.31.

⁽¹⁷⁾ S.I. 2009/3015. Article 241 was amended by S.I. 2012/1751 and S.I. 2014/3302.

Children

23. An offence under section 12 of the Children and Young Persons (Scotland) Act 1937(**18**) (cruelty to persons under 16).

24. An offence under section 6 of the Child Abduction Act 1984(**19**) (offence in Scotland of parent, etc. taking or sending child out of United Kingdom).

Explosives

25. An offence under the Explosive Substances Act 1883(**20**).

Firearms and other weapons

26. An offence under any of the following provisions of the Firearms Act 1968(**21**)—

- (a) section 16 (possession of firearm with intent to injure);
- (b) section 16A(**22**) (possession of firearm with intent to cause fear or violence);
- (c) section 17(**23**) (use of firearm to resist arrest); and
- (d) section 18 (carrying firearm with criminal intent).

27. An offence under the Chemical Weapons Act 1996(**24**).

Forced marriage

28. An offence under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014 (offence of forced marriage: Scotland)(**25**).

Human trafficking and exploitation

29. An offence under section 22 of the Criminal Justice (Scotland) Act 2003(**26**) (traffic in prostitution etc.).

30. An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**27**) (trafficking people for exploitation).

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- (18) 1937 c.37. Section 12 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289B; the Children Act 1975 (c.72), Schedule 4; the Criminal Justice Act 1988 (c.33), section 45; the Children (Scotland) Act 1995 (c.36) (“the 1995 Act”), Schedule 4, paragraph 7; the Criminal Justice (Scotland) Act 2003 (asp 7), section 51(5) and S.I. 1951/1974.
- (19) 1984 c.37. Section 6 was amended by the Law Reform (Parent and Child) (Scotland) Act 1986 (c.9), sections 9 and 10 and Schedule 1, paragraph 20; the Age of Legal Capacity (Scotland) Act 1991 (c.50), Schedule 2, paragraph 1; and the 1995 Act, Schedule 4, paragraph 34.
- (20) 1883 c.3. The Act was relevantly amended as follows. Section 2 was substituted by the Criminal Jurisdiction Act 1975 (c.59) (“the 1975 Act”), section 7 and extended by the Internationally Protected Persons Act 1978 (c.17), section 1; the Aviation Security Act 1982 (c.36), section 6(1); the United Nations Personnel Act 1997 (c.13), section 1; and the Terrorism Act 2000 (c.11) (“the 2000 Act”), section 62. Section 3 was substituted by the 1975 Act, section 7, extended by the 2000 Act, section 62 and amended by the Criminal Law Act 1977 (c.45), Schedule 12 and the Terrorism Act 2006 (c.11), section 17. Section 4 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 221 and by the Criminal Justice and Courts Act 2015 (c.2), section 1. Section 5 was extended by the 2000 Act (c.11), section 62.
- (21) 1968 c.27. The Act was extended by the Firearms Act 1982 (c.31), section 1 and S.I. 1972/971, and modified by the Firearms (Amendment) Act 1988 (c.45), sections 8 and 25.
- (22) Section 16A was inserted by the Firearms (Amendment) Act 1994 (c.31), section 1.
- (23) Section 17 was amended by the Theft Act 1968 (c.60), Schedule 3.
- (24) 1996 c.6. The Act was relevantly amended as follows. Section 2 was extended by the 2000 Act, section 62 and section 32 was extended by the Anti-terrorism, Crime and Security Act 2001 (c.24), section 17.
- (25) 2014 c.12.
- (26) 2003 asp 7. Section 22 was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 46.
- (27) 2004 c.19. Section 4 was amended by the 2010 Act, section 46.

31. An offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010**(28)** (slavery, servitude and forced or compulsory labour).

32. An offence under the Prohibition of Female Genital Mutilation (Scotland) Act 2005**(29)**.

Medical professions etc.

33. An offence under section 10Z9 of the National Health Service (Scotland) Act 1978**(30)** (offences in relation to registration).

34. An offence under section 49 of the Medical Act 1983**(31)** (penalty for pretending to be registered).

Serious organised crime

35. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010**(32)**—

- (a) section 28 (involvement in serious organised crime);
- (b) section 30 (directing serious organised crime); and
- (c) section 31 (failure to report serious organised crime).

Sexual offences

36. An offence under section 50(3) of the Customs and Excise Management Act 1979**(33)** (penalty for improper importation of goods) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876**(34)**, but only where the prohibited goods include indecent photographs of persons.

37. A sexual offence within the meaning given by section 210A(10) of the Criminal Procedure (Scotland) Act 1995**(35)** other than an offence mentioned in paragraph (xxvii)(ZF) or (ZG) of that section (engaging while an older child in sexual conduct with or towards another older child).

38. An offence under section 113 of the Sexual Offences Act 2003**(36)** (breach of sexual offences prevention order or interim sexual offences prevention order, etc.).

39. An offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (offence: breach of RSHO or interim RSHO etc.)**(37)**.

(28) 2010 asp 13.

(29) 2005 asp 8.

(30) 1978 c.29. Section 10Z9 was inserted by the Public Services Reform (Scotland) Act 2010 (asp 8), section 108.

(31) 1983 c.54. Section 49 was amended by the Statute Law (Repeals) Act 1993 (c.50), Schedule 1 and by S.I. 2007/3101.

(32) 2010 asp 13.

(33) 1979 c.2. Section 50 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289F and 289G; the Police and Criminal Evidence Act 1984 (c.60), section 114(1); the Finance Act 1988 (c.33), section 12; the Criminal Justice Act 2003 (c.44), section 293; the Criminal Justice and Immigration Act 2008 (c.4), Schedule 17; the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), section 111; and S.I. 1996/2686.

(34) 1876 c.36. Section 42 was amended by the Customs and Excise Act 1952 (c.44), Schedule 12; the Statute Law (Repeals) Act 1993 (c.50), Schedule 1; and the Statute Law (Repeals) Act 2008 (c.12), Schedule 2.

(35) 1995 c.46. Section 210A was inserted by the Crime and Disorder Act 1998 (c.37), section 86 and was amended by the Sexual Offences (Amendment) Act 2000 (c.44), section 6(2); the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), section 312; the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), section 21; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), schedule 1; the Sexual Offences (Scotland) Act 2009 (asp 9), schedules 5 and 6; the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 23; and by S.S.I. 2003/48 and S.S.I. 2010/421.

(36) 2003 c.42. Section 113 was amended by the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), Schedule 11 and by S.S.I. 2011/25.

(37) 2005 asp 9. Section 7 was amended by the 2010 Act, section 103 and the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), Schedule 11, paragraph 78.

Stalking and harassment

40. An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995⁽³⁸⁾ (racially aggravated harassment).

41. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010⁽³⁹⁾—

- (a) section 38 (threatening or abusive behaviour); and
- (b) section 39 (offence of stalking).

Terrorism

42. An offence under any of the following provisions of the Terrorism Act 2000⁽⁴⁰⁾—

- (a) section 11 (membership);
- (b) section 15 (fund-raising);
- (c) section 16 (use and possession);
- (d) section 17 (funding arrangements);
- (e) section 17A(2) or (4) (insurance payments made in response to terrorist demands)⁽⁴¹⁾;
- (f) section 18 (money laundering);
- (g) section 54 (weapons training)⁽⁴²⁾;
- (h) section 56 (directing terrorist organisation);
- (i) section 57 (possession for terrorist purposes)⁽⁴³⁾;
- (j) section 58 (collection of information)⁽⁴⁴⁾;
- (k) section 58A (eliciting, publishing or communicating)⁽⁴⁵⁾; and
- (l) section 61 (inciting terrorism overseas).

43. An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001⁽⁴⁶⁾—

- (a) section 47 (use etc. of nuclear weapons);
- (b) section 50 (assisting or inducing certain weapons-related acts overseas);
- (c) section 52 (powers of entry);
- (d) section 54 (offences);
- (e) section 67 (offences);
- (f) section 79 (prohibition of disclosures relating to nuclear security)⁽⁴⁷⁾;
- (g) section 80 (prohibition of disclosures of uranium enrichment technology)⁽⁴⁸⁾;
- (h) section 113 (use of noxious substances or things to cause harm and intimidate)⁽⁴⁹⁾;

⁽³⁸⁾ 1995 c.39. Section 50A was inserted by the Crime and Disorder Act 1998 (c.37), section 33.

⁽³⁹⁾ 2010 asp 13.

⁽⁴⁰⁾ 2000 c.11.

⁽⁴¹⁾ Section 17A was inserted by the Counter-Terrorism and Security Act 2015 (c.6), section 42.

⁽⁴²⁾ Section 54 was amended by the Anti-terrorism, Crime and Security Act 2001 (c.24), section 120; the Counter-Terrorism Act 2008 (c.28), Schedule 9; and the Criminal Justice and Courts Act 2015 (c.2), section 1.

⁽⁴³⁾ Section 57 was amended by the Terrorism Act 2006 (c.11) (“the 2006 Act”), section 13.

⁽⁴⁴⁾ Section 58 was amended by the Counter-Terrorism Act 2008 (c.28) (“the 2008 Act”), Schedule 9.

⁽⁴⁵⁾ Section 58A was inserted by the 2008 Act, section 76.

⁽⁴⁶⁾ 2001 c.24.

⁽⁴⁷⁾ Section 79 was amended by the Energy Act 2004 (c.20), Schedule 14.

⁽⁴⁸⁾ Section 80 was amended by the Energy Act 2013 (c.32), Schedule 12.

⁽⁴⁹⁾ Section 113 was amended by the 2006 Act, section 34.

- (i) section 114 (hoaxes involving noxious substances or things); and
- (j) paragraph 7 of Schedule 3 (offences).

44. An offence under the Terrorism Act 2006**(50)**.

45. An offence under any of the following provisions of the Counter-Terrorism Act 2008**(51)**—

- (a) section 54 (offences relating to notification);
- (b) paragraph 15 of Schedule 5 (breach of foreign travel restriction order and offence); and
- (c) paragraph 30 of Schedule 7 (offences: failure to comply with requirement imposed by direction).

Violent offender orders

46. An offence under section 113(1) of the Criminal Justice and Immigration Act 2008**(52)** (breach of violent offender order or interim violent offender order).

Vulnerable persons

47. An offence under section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003**(53)** (ill-treatment and wilful neglect of mentally disordered person).

48. An offence under any of the following provisions of the Protection of Vulnerable Groups (Scotland) Act 2007**(54)**—

- (a) section 34 (barred individuals not to do regulated work);
- (b) section 35 (organisations not to use barred individuals for regulated work); and
- (c) section 36 (personnel suppliers not to supply barred individuals for regulated work).

49. Any offence where the conduct in respect of which the person was convicted also constituted a breach of a banning order granted under section 19 of the Adult Support and Protection (Scotland) Act 2007**(55)** (banning orders).

Witness protection

50. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005**(56)**—

- (a) section 86 (offence of disclosing information about protection arrangements); and
- (b) section 88 (offences of disclosing information relating to persons assuming new identity).

Statutory aggravations

51. An offence to which section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010**(57)** applies (offences aggravated by connection with serious organised crime).

(50) 2006 c.11. The Act was relevantly amended as follows. Section 6 was amended by the Criminal Justice and Courts Act 2015 (c.2), section 1 and section 17 was amended by the Serious Crime Act 2015 (c.9), section 81 and paragraph 74 of Schedule 4.

(51) 2008 c.28.

(52) 2008 c.4.

(53) 2003 asp 13.

(54) 2007 asp 14.

(55) 2007 asp 10.

(56) 2005 c.15.

(57) 2010 asp 13.

Other

Inchoate offences

52. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 51 of this Schedule.

53. An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 51 of this Schedule.

Superseded offences

54. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 53 of this Schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

Combined offences

55. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 54 of this Schedule.

Corresponding offences elsewhere in the UK or abroad

56. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 55 of this Schedule.

SCHEDULE B1

Articles 2A, 4 and 5

OFFENCES WHICH ARE TO BE DISCLOSED SUBJECT TO RULES

Common law offences

1. Assault excluding any assault of a kind listed in Schedule A1.
2. Attempting to defeat the ends of justice.
3. Attempting to pervert the course of justice.
4. Breach of the peace.
5. Clandestinely taking possession.
6. Culpable and reckless conduct.
7. Culpable and reckless endangering of the public.
8. Culpable and reckless fireraising.
9. Embezzlement.
10. False accusation of a crime.
11. Fraud.
12. Housebreaking with intent to steal.
13. Mobbing and rioting.

14. Opening a lockfast place with intent to steal.
15. Perjury.
16. Prevarication on oath.
17. Prison breaking.
18. Public indecency.
19. Reset (excluding reset of plagium).
20. Subornation of perjury.
21. Theft (excluding plagium).
22. Uttering.
23. Wilful fireraising.

Statutory offences

Adult support and protection

24. An offence under section 49 of the Adult Support and Protection (Scotland) Act 2007(58) (obstruction).

Adults with incapacity

25. An offence under section 83 of the Adults with Incapacity (Scotland) Act 2000(59) (offence of ill-treatment and wilful neglect).

Animals

26. An offence under the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974(60).
27. An offence under any of the following provisions of the Wildlife and Countryside Act 1981(61)—
 - (a) section 1(62) (protection of wild birds, their nests and eggs and prevention of poaching);
 - (b) section 5(63) (prohibition of certain methods of killing or taking wild birds);
 - (c) section 9(64) (protection of other wild animals and prevention of poaching);
 - (d) section 11(65) (prohibition of certain methods of killing or taking wild animals);
 - (e) section 11A, 11B and 11C(66) (offences in relation to snares);
 - (f) section 14ZC(67) (prohibition on keeping etc. of invasive animals or plants);

(58) 2007 asp 10.

(59) 2000 asp 4.

(60) S.I. 1974/2211, as amended by S.I. 1977/361, S.I. 1984/1182, S.I. 1990/2371, S.I. 2011/2883 and S.I. 2014/3158.

(61) 1981 c.69.

(62) Section 1 was amended by schedule 5 to the Criminal Justice (Scotland) Act 2003 (asp 7), paragraph 2 of schedule 6 to the Nature Conservation (Scotland) Act 2004 (asp 6) (“the 2004 Act”), section 3(2) and (3) of the Wildlife and Natural Environment (Scotland) Act 2011 (asp 6) (“the 2011 Act”) and S.I. 2011/1043.

(63) Section 5 was amended by paragraph 6 of schedule 6 to the 2004 Act.

(64) Section 9 was amended by paragraph 8 of schedule 6 to the 2004 Act and section 7(2) of the 2011 Act.

(65) Section 11 was amended by paragraph 10 of schedule 6 to the 2004 Act and section 13(2) of the 2011 Act.

(66) Sections 11A, 11B and 11C were inserted by section 13(3) of the 2011 Act. Section 11A was amended by S.S.I. 2013/119.

(67) Section 14ZC was inserted by section 14(3) of the 2011 Act.

- (g) section 15A(68) (possession of pesticides); and
 - (h) section 18 (attempts to commit offences etc.), but only in relation to an offence listed in sub-paragraphs (a) to (g) of this paragraph.
28. An offence under the Dangerous Dogs Act 1991(69).
 29. An offence under the Protection of Badgers Act 1992(70).
 30. An offence under any of the following provisions of the Conservation (Natural Habitats, &c.) Regulations 1994(71)—
 - (a) regulation 39(72) (protection of certain wild animals); and
 - (b) regulation 41(73) (prohibition of certain methods of taking or killing wild animals).
 31. An offence under the Welfare of Animals (Slaughter or Killing) Regulations 1995(74).
 32. An offence under the Wild Mammals Protection Act 1996(75).
 33. An offence under the Protection of Wild Mammals (Scotland) Act 2002(76).
 34. An offence under the Animal Health and Welfare (Scotland) Act 2006(77).

Armed forces

35. An offence under section 42 of the Armed Forces Act 2006(78) (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this Schedule.

Assaulting or hindering public officials

36. An offence under section 89 of the Police Act 1996(79) (assaults on constables).
37. An offence under section 32 of the Commissioners for Revenue and Customs Act 2005(80) (assault).
38. An offence under the Emergency Workers (Scotland) Act 2005(81).

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- (68) Section 15A was inserted by paragraph 14 of schedule 6 to the 2004 Act and was amended by section 21(4) of the 2011 Act and by S.I. 2013/1506.
 - (69) 1991 c.65. The Act was amended by paragraph 81 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), sections 1 to 3 of the Dangerous Dogs (Amendment) Act 1997 (c.53), section 10 of and paragraph 2 of schedule 1 to the Control of Dogs (Scotland) Act 2010 (asp 9) and sections 106(2)(a)(ii) and 107 of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).
 - (70) 1992 c.51. The Act was amended by paragraph 53 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), paragraph 5 of schedule 1 to the Wild Mammals (Scotland) Act 2002 (asp 6), paragraph 26 of schedule 6 to 2004 Act and sections 33 and 41(4) of the 2011 Act.
 - (71) S.I. 1994/2716.
 - (72) Regulation 39 was amended by S.S.I. 2008/17 and S.S.I. 2008/425.
 - (73) Regulation 41 was amended by S.S.I. 2004/475 and S.S.I. 2007/80.
 - (74) S.I. 1995/731 was amended by S.I. 1999/400 and S.I. 1999/1820 and S.S.I. 2000/62, S.S.I. 2001/145, S.S.I. 2002/238, S.S.I. 2004/13, S.S.I. 2006/536, S.S.I. 2007/150, S.S.I. 2012/321 and S.S.I. 2015/13.
 - (75) 1996 c.3. The Act was amended by paragraph 1 of schedule 6 to the Protection of Wild Mammals (Scotland) Act 2002 (asp 6) and S.S.I. 2016/536.
 - (76) 2002 asp 6. The Act was amended by Part 2 of schedule 1 to the 2011 Act and by S.S.I. 2006/536.
 - (77) 2006 asp 11. The Act was amended by paragraph 34 of Part 1 of schedule 7 to the Police and Fire Reform (Scotland) Act 2012 (asp 8) (“the 2012 Act”).
 - (78) 2006 c.52.
 - (79) 1996 c.16. Section 89 was amended by section 104(1) of the Police Reform Act 2002 (c.30); Part 2 of Schedule 17 to the Serious Organised Crime and Police Act 2005 (c.15); S.I. 2012/1809; and S.S.I. 2013/602.
 - (80) 2005 c.11.
 - (81) 2005 asp 2. The Act was amended by section 38 of, and paragraph 23 of schedule 3 to the Fire (Scotland) Act 2005 (asp 5), section 44(4) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), paragraph 25 of Part 1 and paragraph 67 of Part 2 of schedule 7 to the 2012 Act, and by S.S.I. 2008/37 and S.S.I. 2013/211.

- 39. An offence under section 85 of the Fire (Scotland) Act 2005⁽⁸²⁾ (false alarms).
- 40. An offence under section 90 of the Police and Fire Reform (Scotland) Act 2012⁽⁸³⁾ (assaulting or impeding police).

Aviation

- 41. An offence under any of the following provisions of the Aviation Security Act 1982⁽⁸⁴⁾—
 - (a) section 20B⁽⁸⁵⁾ (detention direction); and
 - (b) section 21FA⁽⁸⁶⁾ (air cargo agents: documents).

Bomb hoaxes

- 42. An offence under section 51 of the Criminal Law Act 1977⁽⁸⁷⁾ (bomb hoaxes).

Bribery

- 43. An offence under the Bribery Act 2010⁽⁸⁸⁾.

Care services

- 44. An offence under any of the following provisions of the Regulation of Care (Scotland) Act 2001⁽⁸⁹⁾—
 - (a) section 45⁽⁹⁰⁾ (application for registration under Part 3); and
 - (b) section 52 (use of title “social worker” etc.).
- 45. An offence under any of the following provisions of the Public Services Reform (Scotland) Act 2010⁽⁹¹⁾—
 - (a) section 80(1) (offences in relation to registration under Chapter 3);
 - (b) section 81 (false statements in application under Chapter 3); and
 - (c) section 90 (offences under Chapter 4).
- 46. An offence under article 27 of the Public Services Reform (General Teaching Council for Scotland) Order 2011⁽⁹²⁾ (offences).
- 47. An offence under regulation 19 of the Social Care and Social Work Improvement (Scotland) (Requirements for Care Services) Regulations 2011⁽⁹³⁾ (offences).

Charities

- 48. An offence under the Charities and Trustee Investment (Scotland) Act 2005⁽⁹⁴⁾.

⁽⁸²⁾ 2005 asp 5.

⁽⁸³⁾ 2012 asp 8.

⁽⁸⁴⁾ 1982 c.36.

⁽⁸⁵⁾ Section 20B was inserted by section 86(1) of the Anti-terrorism, Crime and Security Act 2001 (c.24) (“the 2001 Act”) and amended by paragraph 15 of Schedule 11 to the Civil Aviation Act 2012 (c.19).

⁽⁸⁶⁾ Section 21FA was inserted by section 87 of the 2001 Act.

⁽⁸⁷⁾ 1977 c.45. Section 51 was amended by section 26(4) of the Criminal Justice Act 1991(c.53).

⁽⁸⁸⁾ 2010 c.23.

⁽⁸⁹⁾ 2001 asp 8.

⁽⁹⁰⁾ Section 45 was amended by S.I. 2007/3101.

⁽⁹¹⁾ 2010 asp 8.

⁽⁹²⁾ S.S.I. 2011/215.

⁽⁹³⁾ S.S.I. 2011/210.

⁽⁹⁴⁾ 2005 asp 10, to which there are no relevant amendments.

Child Support

49. An offence under section 50 of the Child Support Act 1991(**95**) (unauthorised disclosure of information).

Crossbows

50. An offence under section 1 of the Crossbows Act 1987(**96**) (sale and letting on hire).

Domestic abuse

51. An offence under section 2 of the Domestic Abuse (Scotland) Act 2011(**97**) (breach of domestic abuse interdict with power of arrest).

Drugs

52. An offence under any of the following provisions of the Misuse of Drugs Act 1971(**98**)—

- (a) section 3(**99**) (restriction of importation and exportation of controlled drugs);
- (b) section 4(**100**) (restriction of production and supply of controlled drugs);
- (c) section 4A(**101**) (aggravation of offence of supply of controlled drug);
- (d) section 5(3) (restriction of possession of controlled drugs);
- (e) section 6 (restriction of cultivation of cannabis plant);
- (f) section 8(a) and (b) (occupiers etc. of premises to be to be punishable for certain activities taking place there);
- (g) section 12(**102**) (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences);
- (h) section 13(**103**) (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases);
- (i) section 17 (power to obtain information from doctors, pharmacists etc. in certain circumstances);
- (j) section 19(**104**) (attempts etc. to commit offences), but only in relation to an offence listed in sub-paragraphs (a) to (i) of this paragraph; and
- (k) section 20 (assisting in or inducing commission outside United Kingdom of offence punishable under corresponding law).

53. An offence under section 50(3) (penalty for improper importation of goods) or section 170 (fraudulent evasion of duty) of the Customs and Excise Management Act 1979(**105**) in relation

(95) 1991 c.48. The Act was amended by paragraph 1 of schedule 7 and schedule 8 to the Child Maintenance and Other Payments Act 2008 (c.6) and by S.I. 2005/1790, S.I. 2008/2833 and S.I. 2012/2007.

(96) 1987 c.32. Section 1 was amended by section 35(2) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

(97) 2011 asp 13.

(98) 1971 c.38.

(99) Section 3 was amended by paragraph 4 of schedule 17 to the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”).

(100) Section 4 was amended by paragraph 5 of schedule 17 to the 2010 Act.

(101) Section 4A was inserted by section 1(1) of the Drugs Act 2005 (c.17).

(102) Section 12 was amended by paragraph 8 of Schedule 4 to the Customs and Excise Management Act 1979 (c.2).

(103) Section 13 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 17, paragraph 12 and by the Scotland Act 2012 (c.11), section 19.

(104) Section 19 was amended by the Serious Crime Act 2007 (c.27), Schedule 6, paragraph 53.

(105) 1979 c.2. Sections 50 and 170 were amended by the Forgery and Counterfeiting Act 1981 (c.45), section 23; the Police and Criminal Evidence Act 1984 (c.60), section 114(1); the Finance Act 1988 (c.33), section 12; the Criminal Justice Act 2003 (c.44), section 293; the Criminal Justice and Immigration Act 2008 (c.4), Schedule 17; the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), section 111 and by S.I. 1996/2686 and S.I. 2015/664. Section 50 was also amended by the Criminal

to goods prohibited to be imported under section 3(1) of the Misuse of Drugs Act 1971(106) (restriction of importation and exportation of controlled drugs).

54. An offence under the Criminal Justice (International Co-operation) Act 1990(107).

Escape from custody etc.

55. An offence under section 316 of the Mental Health (Care and Treatment) (Scotland) Act 2003(108) (inducing and assisting absconding etc.).

56. An offence under section 91 of the Police and Fire Reform (Scotland) Act 2012(109) (escape from custody).

Financial Services

57. An offence under the Financial Services and Markets Act 2000(110).

58. An offence under the Financial Services Act 2012(111).

Fire safety

59. An offence under section 72(1) or (3) of the Fire (Scotland) Act 2005 (offences)(112).

Firearms

60. An offence under the Firearms Act 1968(113), except an offence under any of the following provisions—

- (a) section 16 (possession of firearm with intent to injure);
- (b) section 16A (possession of firearm with intent to cause fear or violence);
- (c) section 17 (use of firearm to resist arrest); and
- (d) section 18 (carrying firearm with criminal intent).

Procedure (Scotland) Act 1975 (c.21), section 289F and 289G and section 170 was also amended by the Finance (No. 2) Act 1992 (c.48), Schedule 2.

(106) 1971 c.38. Section 3 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 17, paragraph 4.

(107) 1990 c.5. The Act was relevantly amended by section 23 of the Criminal Justice Act 1993 (c.36), section 1 of the Criminal Justice (International Co-operation) (Amendment) Act 1998 (c.27), Part 2 of Schedule 7 to the Criminal Justice (Scotland) Act 1995 (c.20), Schedule 5 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), paragraph 21 of Schedule 11 to the Proceeds of Crime Act 2002 (c.29), paragraph 3 of Schedule 28 to the Criminal Justice Act 2003 (c.44) and paragraph 22 of Schedule 17 to the Police Reform and Social Responsibility Act 2011 (c.13).

(108) 2003 asp 13. Section 316 was amended by section 71(3) of the Adult Support and Protection (Scotland) Act 2007 (asp 10) and by S.S.I. 2005/465.

(109) 2012 asp 8.

(110) 2000 c.8. The Act was relevantly amended by the Pension Schemes Act 2015 (c.8), Schedule 3, paragraph 2 and the Financial Services Act 2012 (c.21), sections 11(2), 13, 25(1), 26 and 95 and Schedules 8, 9 and 12 and Part 1 of Schedule 18 and S.I. 2000/534, S.I. 2001/1090, S.I. 2005/1433, S.I. 2010/22, S.I. 2012/2554 and S.I. 2013/1773.

(111) 2012 c.21. The Act was amended by the Financial Services (Banking Reform) Act 2013 (c.33), sections 105 and 106, Schedule 9, paragraph 4(3)(e) and Schedule 10, paragraph 9 and S.I. 2014/3329.

(112) 2005 asp 5. Section 72 was amended by S.S.I. 2005/2060.

(113) 1968 c.27 (“the 1968 Act”). Section 16A was inserted by the Firearms (Amendment) Act 1994 (c.31) section 1(1). The 1968 Act was relevantly amended by the Criminal Justice Act 1982 (c.48), Schedule 14, paragraph 24(a); the Criminal Justice Act 1988 (c.33), Schedule 8, paragraphs 6 and 16 and Schedule 16; the Firearms (Amendment) Act 1988 (c.45), sections 1 to 3, 9, 10, 13, 15, 20 and 23; the Firearms (Amendment) Act 1994, section 2; the Criminal Justice and Public Order Act 1994 (c.33), Schedule 10, paragraph 24(2)(a); the Firearms (Amendment) Act 1997 (c.5), sections 1, 9, 10, 40, 42 and Schedule 2, paragraphs 1 to 14 and Schedule 3; the Firearms (Amendment) (No. 2) Act 1997 (c.64), Schedule 1; the Crime and Disorder Act 1998 (c.37), Schedule 8, paragraph 14; the Anti-social Behaviour Act 2003 (c.38), sections 37 to 39 and Schedule 3; the Criminal Justice Act 2003 (c.44), Schedule 32, Part 1, paragraph 12; the Violent Crime Reduction Act 2006 (c.38), sections 31, 33, 34, 40 and 41 and Schedule 5; the Criminal Justice and Immigration Act 2008 (c.4), Schedule 4, Part 1, paragraph 6; the Crime and Security Act 2010 (c.17), section 46(2); the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), schedule 2, Part 2, paragraph 30(2); and the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), sections 108 to 110 and S.I. 1968/1200, S.I. 1992/2823, S.I. 2010/1759 and S.I. 2011/713.

61. An offence under section 50(5) of the Civic Government (Scotland) Act 1982(**114**) (drunk in possession of firearm).

62. An offence under the Firearms (Amendment) Act 1997(**115**).

63. An offence under any of the following provisions of the Violent Crime Reduction Act 2006(**116**)—

- (a) section 28 (using someone to mind a weapon);
- (b) section 32 (sales of air weapons by way of trade or business to be face to face);
- (c) section 35 (restriction on sale and purchase of primers); and
- (d) section 36 (manufacture, import and sale of realistic imitation firearms).

Food safety and standards

64. An offence under any of the following provisions of the Food Safety Act 1990(**117**)—

- (a) section 7(**118**) (rendering food injurious to health); and
- (b) section 9(**119**) (inspection and seizure of suspected food).

65. An offence under regulation 4(b) of the General Food Regulations 2004(**120**).

Forced marriage

66. An offence under section 9 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (offence of breaching order)(**121**).

Fraud and forgery

67. An offence under the Forgery and Counterfeiting Act 1981(**122**).

68. An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments)(**123**).

69. An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (articles for use in fraud)(**124**).

70. An offence under section 92 of the Police and Fire Reform (Scotland) Act 2012 (impersonation etc.)(**125**).

Harassment

71. An offence under section 234A of the Criminal Procedure (Scotland) Act 1995 (non-harassment orders)(**126**).

(114) 1982 c.45.

(115) 1997 c.5. The Act was relevantly amended by S.I. 2011/713.

(116) 2006 c.38.

(117) 1990 c.16.

(118) Section 7 was amended by S.I. 2004/3279.

(119) Section 9 was amended by S.I. 2004/3279 and S.S.I. 2013/336.

(120) S.I. 2004/3279. Regulation 4 was substituted by S.S.I. 2005/616.

(121) 2011 asp 15.

(122) 1981 c.45. The Act was relevantly amended by S.S.I. 2014/3168.

(123) 1995 c.39. Section 46A was inserted by the Crime (International Co-operation) Act 2003 (c.32), section 89.

(124) 2010 asp 13.

(125) 2012 asp 8.

(126) 1995 c.46. Section 234A was inserted by the Protection from Harassment Act 1997 (c.40), section 11, and amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 3; the Criminal Justice (Scotland) Act 2003 (asp 7), section 49(1); and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 15.

72. An offence under section 9 of the Protection from Harassment Act 1997 (breach of non-harassment order)(**127**).

Immigration, etc.

73. An offence under any of the following provisions of the Immigration Act 1971(**128**)—

- (a) section 24(**129**) (illegal entry and similar offences);
- (b) section 24A(**130**) (deception);
- (c) section 25(**131**) (assisting unlawful immigration to member State);
- (d) section 25A(**132**) (helping asylum-seeker to enter United Kingdom);
- (e) section 25B(**133**) (assisting entry to United Kingdom in breach of deportation or exclusion order);
- (f) section 26(**134**) (general offences in connection with administration of Act);
- (g) section 26A(**135**) (registration card);
- (h) section 26B(**136**) (possession of immigration stamp); and
- (i) section 27(**137**) (offences by captains, owners or agents of ships or aircraft).

74. An offence under any of the following provisions of the Immigration and Asylum Act 1999(**138**)—

- (a) section 105 (false representations);
- (b) section 106 (dishonest representations);
- (c) any of the following paragraphs of Schedule 11—
 - (i) paragraph 1 (obtaining certificates of authorisation by false pretences);
 - (ii) paragraph 4(**139**) (assaulting a detainee custody officer); and
 - (iii) paragraph 5 (obstructing detainee custody officer); and
- (d) any of the following paragraphs of Schedule 12—
 - (i) paragraph 3(**140**) (failure to submit to a medical examination);

(**127**) [1997 c.40](#). The Act was relevantly amended by the 2010 Act, section 49(2) and the Domestic Abuse (Scotland) Act 2011 ([asp 13](#)), section 1(3).

(**128**) [1971 c.77](#).

(**129**) Section 24 was amended by the National Health Service (Scotland) Act 1972 ([c.58](#)), section 64(1) and Schedule 6, paragraph 155; the Criminal Procedure (Scotland) Act 1975 ([c.21](#)), sections 289F and 289G; the British Nationality Act 1981 ([c.61](#)), section 39 and Schedule 4, paragraph 2; the Immigration Act 1988 ([c.14](#)), sections 6 and 10 and Schedule 1, paragraph 10; the Asylum and Immigration Act 1996 ([c.49](#)), section 6; the Immigration and Asylum Act 1999 ([c.33](#)), Schedule 16, paragraph 1; and the Nationality, Asylum and Immigration Act 2002 ([c.41](#)), section 62.

(**130**) Section 24A was inserted by the Immigration and Asylum Act 1999 ([c.33](#)), section 28 and amended by the Nationality, Immigration and Asylum Act 2002 ([c.41](#)) (“the 2002 Act”), Schedule 9, paragraph 1.

(**131**) Sections 25 to 25C were substituted for section 25 by the 2002 Act, section 143. Section 25 was amended by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ([c.9](#)), section 1 and the UK Borders Act 2007 ([c.30](#)) (“the 2007 Act”), section 30.

(**132**) Section 25A was amended by the 2007 Act, sections 29 and 30.

(**133**) Section 25B was amended by the 2007 Act, section 30.

(**134**) Section 26 was amended by the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G; the British Nationality Act 1981, section 39 and Schedule 4, paragraph 3; the Asylum and Immigration Act 1996 ([c.49](#)), section 6; the Immigration and Asylum Act 1999 ([c.33](#)), section 30; the 2002 Act, section 151 and Schedule 9, paragraph 1.

(**135**) Section 26A was inserted by the 2002 Act, section 148 and amended by [S.I. 2008/1693](#).

(**136**) Section 26B was inserted by the 2002 Act, section 149.

(**137**) Section 27 was amended by the Counter-Terrorism and Security Act 2015 ([c.6](#)), Schedule 5, paragraph 2 and by [S.I. 1993/1813](#).

(**138**) [1999 c.33](#).

(**139**) Paragraphs 4 and 5 of Schedule 11 were amended by the Immigration Act 2014 ([c.22](#)) (“the 2014 Act”), Schedule 9, paragraph 12.

(**140**) Paragraphs 3, 4, 5 and 6 of Schedule 12 were amended by the 2002 Act ([c.41](#)), section 66.

- (ii) paragraph 4(**141**) (assisting detained persons to escape);
- (iii) paragraph 5 (bringing alcohol into a detention centre); and
- (iv) paragraph 6 (conveying articles into or out of a detention centre).

75. An offence under section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**142**) (deportation or removal: cooperation).

76. An offence under section 21 of the Immigration, Asylum and Nationality Act 2006(**143**) (offence).

Insolvency

- 77.** An offence under any of the following provisions of the Insolvency Act 1986(**144**)—
- (a) section 131(**145**) (company’s statement of affairs);
 - (b) section 206(**146**) (fraud, etc. in anticipation of winding up);
 - (c) section 208(**147**) (misconduct in course of winding up);
 - (d) section 216(**148**) (restriction on re-use of company names); and
 - (e) section 235(**149**) (duty to co-operate with office-holder).

Landmines

78. An offence under section 2 of the Landmines Act 1998(**150**) (prohibited conduct).

Medicines

- 79.** An offence under any of the following provisions of the Medicines Act 1968(**151**)—
- (a) section 45 (offences under Part II), but only in relation to a contravention of section 7(2) (general provisions as to dealing with medicinal products); and
 - (b) section 67 (offences under Part III).

80. An offence under any of the following provisions of the Human Medicines Regulations 2012(**152**)—

- (a) regulation 34(1) (offences: breach of regulations and false information and defence concerning starting materials); and
- (b) regulation 255(1)(a), (b), (c) or (d) (offences relating to dealings with medicinal products).

(141) Paragraph 4 of Schedule 12 was also amended by the 2014 Act, Schedule 9, paragraph 12.

(142) 2004 c.19. Section 35 was amended by the 2014 Act, Schedule 2, paragraph 5.

(143) 2006 c.13.

(144) 1986 c.45.

(145) Section 131 was amended by S.I. 2010/18.

(146) Section 206 was amended by the Company Directors Disqualification Act 1986 (c.46) (“the 1986 Act”), sections 21 and 25; the Criminal Justice (Scotland) Act 1987 (c.41) (“the 1987 Act”), sections 30, 35 and 47; and the Criminal Justice Act 1988 (c.33) (“the 1988 Act”), sections 86 and 123 and Schedule 8, paragraph 13 and by S.I. 1986/1996.

(147) Section 208 was amended by the Small Business, Enterprise and Employment Act 2015 (c.26), Schedule 9, paragraph 52.

(148) Section 216 was amended by the 1986 Act, sections 21 and 25; the 1987 Act, sections 30, 35 and 47; and the 1988 Act, sections 86 and 123 and Schedule 8, paragraph 13.

(149) Section 235 was amended by the Enterprise Act 2002 (c.40), Schedule 17, paragraph 24.

(150) 1998 c.33.

(151) 1968 c.67. The Act was relevantly amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289B; the Health and Social Care Act 2001 (c.15), section 63; and by S.I. 2004/1031, S.I. 2006/2407 and S.I. 2012/1916.

(152) S.I. 2012/1916. The Regulations were relevantly amended by S.I. 2013/1855.

Mental health

81. An offence under section 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (false statements)(**153**).

Neglect of duty

82. An offence under Part 4 (shipping: alcohol and drugs) or Part 5 (aviation: alcohol and drugs) of the Railways and Transport Safety Act 2003(**154**).

83. An offence under section 22 of the Police and Fire Reform (Scotland) Act 2012 (failure to perform duty)(**155**).

Obscene material etc.

84. An offence under section 1(1) of the Indecent Displays Act 1981(**156**) (indecent displays).

85. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982(**157**) —

- (a) section 51(**158**) (obscene material);
- (b) section 51A(**159**) (extreme pornography); and
- (c) paragraph 19(3)(**160**) of Schedule 2 (enforcement).

86. An offence under section 85(3) of the Postal Services Act 2000(**161**) (prohibition on sending certain articles by post).

87. An offence under section 127(1) of the Communications Act 2003(**162**) (improper use of public electronic communications network).

Offences in relation to children

88. An offence under any of the following provisions of the Children and Young Persons (Scotland) Act 1937(**163**)—

- (a) section 15 (causing or allowing persons under 16 to be used for begging);
- (b) section 22 (exposing children under seven to risk of burning);
- (c) section 31(1) (penalties and legal proceedings in respect of general provisions as to employment);

(153)2003 asp 3.

(154)2003 c.20. Parts 4 and 5 were amended by the Armed Forces Act 2006 (c.52), Schedule 16, paragraphs 198 and 199 and the Deregulation Act 2015 (c.20), Schedule 11.

(155)2012 asp 8.

(156)1981 c.42. Section 1 was amended by the Cinemas Act 1985 (c.13), section 24; the Broadcasting Act 1990 (c.42), Schedule 20, paragraph 20; and the Licensing Act 2003 (c.17), Schedule 6, paragraph 80.

(157)1982 c.45.

(158)Section 51 was amended by the Indecent Displays (Control) Act 1981 (c.42); the Broadcasting Act 1990 (c.42), sections 4, 87, 163 and 203 and Schedule 21; the Criminal Justice and Public Order Act 1994 (c.33), Schedule 9, paragraph 30; and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 42.

(159)Section 51A was inserted by the 2010 Act, section 42.

(160)Paragraph 19 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21) (“the 1975 Act”), section 289G; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 129 and by S.I. 1984/526.

(161)2000 c.26.

(162)2003 c.21. Section 127 was amended by the Criminal Justice and Courts Act 2015 (c.2), section 51.

(163)1937 c.37. The Act was relevantly amended by the Education (Scotland) Act 1962 (c.47), section 139; the Children and Young Persons Act 1963 (c.37), section 64 and Schedules 3 and 5; the 1975 Act, section 289G; the Children (Scotland) Act 1995 (c.36), Schedule 4, paragraph 7; the Employment Act 1989 (c.38), section 10 and Schedule 3; and S.I. 1998/276 and S.S.I. 2000/149.

(d) section 33 (prohibition of persons under sixteen taking part in performances endangering life or limb); and

(e) section 34 (restrictions on training for performances of a dangerous nature).

89. An offence under section 40(1) of the Children and Young Persons Act 1963(**164**) (offences).

90. An offence under section 50(2) of the Civic Government (Scotland) Act 1982(**165**) (drunk in charge of a child).

91. An offence under section 81 of the Children (Scotland) Act 1995(**166**) (offences in connection with orders etc. for the protection of children).

92. An offence under any of the following provisions of the Children’s Hearings (Scotland) Act 2011(**167**)—

(a) section 59 (offences); and

(b) section 171 (offences related to absconding).

Offensive behaviour etc.

93. An offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012(**168**).

Offensive weapons

94. An offence under the Restriction of Offensive Weapons Act 1959(**169**).

95. An offence under section 50(3) (penalty for improper importation of goods) or section 170 (fraudulent evasion of duty) of the Customs and Excise Management Act 1979(**170**) in relation to goods prohibited to be imported under—

(a) section 1(2) of the Restriction of Offensive Weapons Act 1959 (penalties for offences in connection with dangerous weapons); or

(b) section 141(4) of the Criminal Justice Act 1988 (offensive weapons).

96. An offence under any of the following provisions of the Criminal Justice Act 1988(**171**)—

(a) section 141 (offensive weapons); and

(b) section 141A (sale of knives and certain articles with blade or point to persons under eighteen).

(164) 1963 c.37. Section 40 was amended by the 1975 Act, sections 289F and 289G and by S.I. 1998/276.

(165) 1982 c.45. Section 50 was amended by the 1975 Act, section 289G.

(166) 1995 c.36. Section 81 was repealed by the Children’s Hearings (Scotland) Act 2011 (asp 1), Schedule 6, paragraph 1.

(167) 2011 asp 1.

(168) 2012 asp 1.

(169) 1959 c.37. The Act was relevantly amended by the Restrictions of Offensive Weapons Act 1961 (c.2), section 1; the Criminal Procedure (Scotland) Act 1975 (c.21), sections 289E and 289G; the Criminal Justice Act 1982 (c.48), sections 35 and 46; and the Criminal Justice Act 1988 (c.33), section 46 and Schedule 8, paragraph 16.

(170) 1979 c.2. Section 50 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289F and 289G; the Police and Criminal Evidence Act 1984 (c.60), section 114(1); the Finance Act 1988 (c.33), section 12; the Criminal Justice Act 2003 (c.44), section 293; the Criminal Justice and Immigration Act 2008 (c.4), Schedule 17; the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), section 111; and S.I. 1996/2686.

(171) 1988 c.33. The Act was relevantly amended by the Offensive Weapons Act 1996 (c.26) (“the 1996 Act”), section 6; the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (“the 2006 Act”), section 75; the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) (“the 2007 Act”), section 60 and schedule 5; and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 36.

97. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995(**172**)—

- (a) section 47 (prohibition of the carrying of offensive weapons);
- (b) section 48 (search for offensive weapons);
- (c) section 49 (offence of having in a public place an article with a blade or point);
- (d) section 49A (offence of having article with blade or point (or offensive weapon) on school premises);
- (e) section 49C (offence of having offensive weapon etc. in prison); and
- (f) section 50 (extension of constable's power to stop, search and arrest without warrant).

Official Secrets Acts

98. An offence under the Official Secrets Act 1911(**173**).

99. An offence under the Official Secrets Act 1920(**174**).

100. An offence under the Official Secrets Act 1989(**175**).

Prisons

101. An offence under section 41 of the Prisons (Scotland) Act 1989 (unlawful introduction of tobacco, etc., into prison)(**176**).

Proceeds of crime and money laundering

102. An offence under any of the following provisions of the Proceeds of Crime Act 2002(**177**)—

- (a) Part 7(**178**) (money laundering);
- (b) Part 8(**179**) (investigations); and

(172) 1995 c.39. The Act was relevantly amended by the 1996 Act (c.26), section 2; the 2006 Act, section 7; the 2007 Act, section 63; and the 2010 Act, section 37.

(173) 1911 c.28. The Act was relevantly amended by the Official Secrets Act 1920 (c.75), Schedules 1 and 2; the Atomic Energy Authority 1954 (c.32), section 6; the Nuclear Installations Act 1965 (c.7), Schedule 1, paragraph 3; the Criminal Law Act 1967 (c.58), Schedule 3; the Criminal Law Act (Northern Ireland) 1967 (c.18), Schedule 2; the European Communities Act 1972 (c.68), section 11(2); the Civil Aviation Act 1982 (c.16), section 18; the Telecommunications Act 1984 (c.12), section 109 and Schedules 4 and 5; the Official Secrets Act 1989 (c.6), section 16(4), Schedule 2; the Serious Organised Crime and Police Act 2005 (c.15), Schedule 17, paragraph 1; and S.I. 1972/971).

(174) 1920 c.75. The Act was amended by the Official Secrets Act 1939 (c.121), section 1; the Criminal Procedure (Scotland) Act 1975 (c.21), sections 221 and 289B; the Schedule to the Forgery and Counterfeiting Act 1981 (c.45); the Interception of Communications Act 1985 (c.56), section 114; the Official Secrets Act 1989 (c.6), section 11; and the Postal Services Act 2000 (c.26), Schedule 9, paragraph 1.

(175) 1989 c.6. The Act was relevantly amended as follows. Section 4 was amended by the Intelligence Services Act 1994 (c.13), Schedule 4, paragraph 4 and the Regulation of Investigatory Powers Act 2000 (c.23), Schedule 4, paragraph 5. Section 12 was amended by the Reserve Forces Act 1996 (c.14), Schedule 10, paragraph 22; the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 30 the Scotland Act 1998 (c.46), Schedule 8, paragraph 26; the Northern Ireland Act 1998 (c.47), Schedule 13; the Police (Northern Ireland) Act 2000 (c.32), Schedule 6, paragraph 9; the Energy Act 2004 (c.20), Schedule 14, paragraph 6; the Serious Organised Crime and Police Act 2005 (c.15) ("the 2005 Act"), Schedule 4, paragraph 58; the Government of Wales Act 2006 (c.32), Schedules 10 and 12; and the Crime and Courts Act 2013 (c.22), Schedule 8, paragraph 36.

(176) 1989 c.45. Section 41 was amended by the Criminal Justice and Public Order Act 1994 (c.33), section 153 and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) ("the 2010 Act"), section 34.

(177) 2002 c.29.

(178) Part 7 was amended by the 2005 Act, sections 102 to 106 and Schedule 17; the Crime and Courts Act 2013 (c.22), Schedule 8; the Serious Crime Act 2015 (c.9), section 37; S.I. 2006/308; and S.I. 2007/3398.

(179) Part 8 was relevantly amended as follows. Section 342 was amended by the Serious Crime Act 2007 (c.27) ("the 2007 Act"), Schedule 10; the Coroners and Justice Act 2009 (c.25), Schedule 19, paragraph 9; and S.I. 2007/3398.

(c) section 453A**(180)** (certain offences in relation to financial investigators).

103. An offence under the Proceeds of Crime Act 2002 (External Investigations) Order 2013**(181)**.

104. An offence under the Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015**(182)**.

Prostitution

105. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995**(183)**—

- (a) section 7**(184)** (procuring);
- (b) section 9**(185)** (permitting girl to use premises for intercourse);
- (c) section 11**(186)** (trading in prostitution and brothel-keeping);
- (d) section 12 (allowing child to be in brothel); and
- (e) section 13(9)**(187)** (living on earnings of another from male prostitution).

106. An offence under the Prostitution (Public Places) (Scotland) Act 2007**(188)**.

Public order

107. An offence under any of the following provisions of the Public Order Act 1986**(189)**—

- (a) section 1 (riot);
- (b) section 2 (violent disorder);
- (c) section 3**(190)** (affray);
- (d) section 4 (fear or provocation of violence);
- (e) section 4A**(191)** (intentional harassment, alarm or distress);
- (f) section 5**(192)** (harassment alarm or distress);
- (g) section 18**(193)** (use of words or behaviour or display of written material);
- (h) section 19 (publishing or distributing written material);
- (i) section 20 (public performance of play);
- (j) section 21 (distributing, showing or playing a recording);
- (k) section 22 (broadcasting or including programme in cable programme service);
- (l) section 23 (possession of racially inflammatory material);

(180) Section 453A was inserted by the 2007 Act, section 81 and amended by the Policing and Crime Act 2009 (c.26), Schedule 7, paragraph 94.

(181) S.I. 2013/2605.

(182) S.I. 2015/206.

(183) 1995 c.39.

(184) Section 7 was amended by the Sexual Offences (Scotland) Act 2009 (asp 9) (“the 2009 Act”), schedule 6, paragraph 1.

(185) Section 9 was amended by the 2009 Act, schedule 5, paragraph 1 and by the 2010 Act, schedule 4, paragraph 11.

(186) Section 11 was amended by the 2010 Act, section 45.

(187) Section 13 was amended by the 2009 Act, schedules 5 and 6 and by the 2010 Act, section 45.

(188) 2007 asp 11.

(189) 1986 c.64.

(190) Sections 3, 4, 4A and 5 were amended by the Serious Organised Crime and Police Act 2005 (c.15), Schedule 17.

(191) Section 4A was inserted by the Criminal Justice and Public Order Act 1994 (c.33), section 154.

(192) Section 5 was amended by the Crime and Courts Act 2013 (c.22), section 57.

(193) Sections 18, 20, 21, 22 and 23 were amended by the Broadcasting Act 1990 (c.42), sections 164 and 203 and Schedule 21.

- (m) section 29B(194) (use of words or behaviour or display of written material);
- (n) section 29C (publishing or distributing written material);
- (o) section 29D (public performance of play);
- (p) section 29E (distributing, showing or playing recording);
- (q) section 29F (broadcasting or including programme in programme service); and
- (r) section 29G (possession of inflammatory material).

Road traffic

108. An offence under any of the following provisions of the Road Traffic Act 1988(195)—

- (a) section 1(196) (causing death by dangerous driving);
- (b) section 1A(197) (causing serious injury by dangerous driving);
- (c) section 2 (dangerous driving);
- (d) section 2B(198) (causing death by careless, or inconsiderate, driving);
- (e) section 3ZB(199) (causing death by driving: unlicensed or uninsured drivers);
- (f) section 3ZC(200) (causing death by driving: disqualified drivers);
- (g) section 3ZD (causing serious injury by driving: disqualified drivers);
- (h) section 3A(201) (causing death by careless driving when under influence of drink or drugs);
- (i) section 4(1)(202) (driving, or being in charge, when under the influence of drink or drugs);
- (j) section 5(1)(a) (driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit); and
- (k) section 178 (taking motor vehicle without authority, etc.).

Sexual offences

109. An offence under section 37(1) or (4) of the Sexual Offences (Scotland) Act 2009(203) (older children engaging in sexual conduct with each other).

Solicitors

110. An offence under the Solicitors (Scotland) Act 1980(204).

(194) Sections 29B, 29C, 29D, 29E, 29F and 29G were inserted by the Racial and Religious Hatred Act 2006 (c.1), Schedule 1, paragraph 1 and amended by the Criminal Justice and Immigration Act 2008 (c.4) Schedules 16 and 28.

(195) 1988 c.52.

(196) Sections 1 and 2 were substituted by the Road Traffic Act 1991 (c.40), section 1.

(197) Section 1A was inserted by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10), section 143(2).

(198) Section 2B was inserted by the Road Safety Act 2006 (c.49), section 20.

(199) Section 3ZB was inserted by the 2006 Act, section 21 and was amended by the Criminal Justice and Courts Act 2015 (c.2), Schedule 6.

(200) Section 3ZC and 3ZD were inserted by the 2015 Act, section 29.

(201) Section 3A was inserted by the Road Traffic Act 1991 (c.40) (“the 1991 Act”), section 3 and amended by the Road Safety Act 2006 (c.49), section 31 and by the Criminal Justice and Courts Act 2015 (c.2), Schedule 22, paragraph 2.

(202) Section 4(1) was amended by the 1991 Act, section 4 and (in relation to Scotland) by the Serious Organised Crime and Police Act 2005 (c.15) (“the 2005 Act”), Schedule 7, paragraph 27(4).

(203) 2009 asp 9.

(204) 1980 c.46. The Act was relevantly amended as follows. Section 26 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73) (“the 1985 Act”), section 56 and Schedule 1, paragraph 4; the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40) (“the 1990 Act”), Schedule 8, paragraph 29; the Legal Services (Scotland) Act 2010 (asp 16) (“the 2010 Act”), sections 123 and 125; and by S.S.I. 2000/121 and S.S.I. 2004/382. Section 27

Terrorism

111. An offence under any of the following provisions of the Terrorism Act 2000**(205)**—

- (a) section 12 (support);
- (b) section 13 (uniform);
- (c) section 19**(206)** (disclosure of information: duty);
- (d) section 21A**(207)** (failure to disclose: regulated sector);
- (e) section 21D**(208)** (tipping off: regulated sector);
- (f) section 36 (police powers);
- (g) section 38B**(209)** (information about acts of terrorism);
- (h) section 39**(210)** (disclosure of information, &c.);
- (i) section 51 (offences);
- (j) section 116 (powers to stop and search);
- (k) paragraph 32 of Schedule 5 (urgent cases); and
- (l) paragraph 18 of Schedule 7**(211)** (offences).

112. An offence under any of the following provisions of the Counter-Terrorism Act 2008**(212)**—

- (a) section 2 (offence of obstruction);
- (b) paragraph 30A of Schedule 7**(213)** (offences: relevant person circumventing requirements); and
- (c) paragraph 31 of that Schedule (offences in connection with licences).

Vets

113. An offence under any of the following provisions of the Veterinary Surgeons Act 1966**(214)**—

- (a) section 19**(215)** (restriction of practice of veterinary surgery by unqualified persons); and

was repealed by the 1990 Act, Schedule 9. Section 28 was amended by the 1985 Act, section 56 and Schedule 1, paragraph 6; and by [S.S.I. 2000/121](#) and [S.S.I. 2004/383](#). Section 31 was amended by the 1985 Act, section 56 and Schedule 1, paragraph 8; the 1990 Act, Schedule 9; the 2010 Act, section 123; and by [S.S.I. 2000/121](#) and [S.S.I. 2004/382](#). Section 32 was amended by the 1985 Act, section 56 and Schedule 1, paragraph 9; the Solicitors (Scotland) Act 1988 ([c.42](#)), section 6 and Schedule 1, paragraph 7; the 1990 Act, section 74 and Schedule 8, paragraph 29; the Public Appointments and Public Bodies etc. (Scotland) Act 2003 ([asp 4](#)), Schedule 4, paragraph 7; the Legal Profession and Legal Aid (Scotland) Act 2007 ([asp 5](#)), section 61; the Home Owner and Debtor Protection (Scotland) Act 2010 ([asp 6](#)), section 7; the 2010 Act, section 123; and by [S.S.I. 2000/121](#) and [S.S.I. 2004/382](#). Section 64CB was inserted by [S.I. 2003/1398](#).

(205) 2000 c.11.

(206) Section 19 was amended by the Anti-terrorism, Crime and Security Act 2001 ([c.24](#)) (“the 2001 Act”), Schedule 2, paragraph 5; the 2005 Act, Schedule 4, paragraph 126; the Counter-Terrorism Act 2008 ([c.28](#)), section 77; and the Crime and Courts Act 2013 ([c.22](#)) (“the 2013 Act”), Schedule 8, paragraph 68.

(207) Section 21A was inserted by the 2001 Act, Schedule 2, paragraph 5 and was amended by the 2005 Act, Schedule 4, paragraph 128; the 2013 Act, Schedule 8, paragraph 72 and [S.I. 2007/3398](#).

(208) Section 21D was inserted by [S.I. 2007/3398](#) and has been amended by the 2013 Act, Schedule 8, paragraph 75.

(209) Section 38B was inserted by the 2001 Act, section 117.

(210) Section 39 was amended by [S.I. 2007/3398](#).

(211) Paragraph 18 was amended by [S.I. 2011/1938](#).

(212) 2008 c.28.

(213) Paragraph 30A was inserted by the Terrorist Asset-Freezing etc. Act 2010 ([c.38](#)), section 50(3).

(214) 1966 c.36.

(215) Section 19 was amended by the Criminal Procedure (Scotland) Act 1975 ([c.21](#)) (“the 1975 Act”), section 289B; the Criminal Law Act 1977 ([c.45](#)) (“the 1977 Act”), Schedule 13; and the Animals (Scientific Procedures) Act 1986 ([c.14](#)), section 27 and Schedule 3, paragraph 5.

- (b) section 20(**216**) (prohibition of use of practitioners' titles by unqualified persons).

Miscellaneous statutory offences

114. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982(**217**)—

- (a) section 57(**218**) (being in or on building etc. with intent to commit theft);
- (b) section 58 (convicted thief in possession)(**219**); and
- (c) section 60(**220**) (powers of search and seizure).

115. An offence under section 22 of the Rent (Scotland) Act 1984(**221**) (unlawful eviction and harassment of occupier).

116. An offence under section 85(1) of the Postal Services Act 2000(**222**) (prohibition on sending certain articles by post).

117. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005(**223**)—

- (a) section 67 (offences in connection with disclosure notices or search warrants);
- (b) section 129(**224**) (corresponding Scottish offence);
- (c) section 145 (interference with contractual relationships so as to harm animal research organisation); and
- (d) section 146(**225**) (intimidation of persons connected with animal research organisation).

Statutory aggravations

118. An offence (other than an offence listed in Schedule A1) to which either of the following provisions of the Offences (Aggravation by Prejudice) (Scotland) Act 2009(**226**) applies—

- (a) section 1(1) (prejudice relating to disability); or
- (b) section 2(1) (prejudice relating to sexual orientation or transgender identity).

Other

Inchoate offences

119. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 118 of this Schedule.

120. An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 118 of this Schedule.

(216) Section 20 was amended by the 1975 Act, section 289B; and the 1977 Act, Schedule 13.

(217) 1982 c.45.

(218) Section 57 was amended by the 1975 Act, section 289G.

(219) Section 56 was amended by the 1975 Act, section 289G and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 24 and schedules 2 and 5.

(220) Section 60 was amended by the 1975 Act, section 289G and the Crime and Disorder Act 1998 (c.37), section 24.

(221) 1984 c.58. Section 22 was amended by the Housing (Scotland) Act 1988 (c.43), section 38.

(222) 2000 c.26.

(223) 2005 c.15.

(224) Section 129 was amended by the Terrorism Act 2000 (c.11), section 12.

(225) Section 146 was amended by the Charities Act 2011 (c.25), Schedule 7, paragraph 103.

(226) 2009 asp 8.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Superseded offences

121. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 120 of this Schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

Combined offences

122. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 121 of this Schedule.

Corresponding offences elsewhere in the UK or abroad

123. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 122 of this Schedule.”.

St Andrew’s House,Edinburgh
9th September 2015

ANGELA CONSTANCE
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (“the 2013 Order”). The 2013 Order disapplies specified provisions of the Rehabilitation of Offenders Act 1974 (“the Act”) which would otherwise prevent a person from having to disclose a spent conviction and protect that person from being prejudiced by that conviction or any failure to disclose it. Section 4(1) of the Act contains a general protection and also provides that evidence about spent convictions is not admissible in proceedings before a judicial authority and that a person must not be asked in such proceedings about a spent conviction (and if asked may refuse to answer). Section 4(2) relates to questions about spent convictions asked outwith judicial proceedings and provides that a person is entitled to treat such a question as if it does not relate to a spent conviction and must not be prejudiced by a failure to disclose a spent conviction in response to such a question. Section 4(3)(b) provides that a spent conviction or a failure to disclose it is not a proper ground for dismissing or excluding a person from any office, profession, occupation or employment or for otherwise prejudicing a person in respect of any of those things.

The general effect of the disapplication of these protections is that, in specified circumstances, those protections are removed so as to permit questions to be asked about spent convictions in order to assess a person’s suitability for admission to certain professions or occupations or to hold certain offices, types of employment, licences or permits. The disapplication also permits spent convictions to be a ground for excluding a person from, or otherwise prejudicing them in respect of, those professions, occupations or employments.

Article 2 inserts a number of new definitions into article 2 of the 2013 Order, including a definition of a “higher level disclosure” for the purposes of that Order, meaning a criminal record certificate issued under the Police Act 1997, an enhanced criminal record certificate issued under section 113B of that Act and a scheme record issued under section 52 of the Protection of Vulnerable Groups (Scotland) Act 2007.

Article 2 also inserts a new article 2A. New article 2A introduces the concept of a “protected conviction” into the 2013 Order. These are, in effect, convictions in relation to which the disapplications contained in the 2013 Order will not apply (and in relation to which the protections in the 1974 Act will continue to apply). Protected convictions include convictions which are spent and which are not listed in either Schedule A1 or B1 of the 2013 Order (as inserted by this Order). They also include convictions which are listed in Schedule B1, but in respect of which a sentence of admonition or absolute discharge was given (which includes for these purposes the discharge of the referral of a child’s case to a children’s hearing) or in relation to which 7 ½ years have passed since the date of conviction if the person was under 18 on the date of conviction, or 15 years have passed if the person was 18 or over on that date.

Article 3 amends article 3 of the 2013 Order which excludes from the protection given by section 4(1) of the Act a range of specified proceedings. The amendment provides that the exclusion does not apply in relation to a number of listed proceedings in relation to protected convictions, with the effect that evidence of such convictions will not be admissible in those proceedings and a person must not be asked (and if asked need not answer) any question about such convictions in those proceedings.

Article 4 amends article 4 of the 2013 Order which excludes from the protection given by section 4(2) of the Act questions put in a range of specified circumstances. New paragraph (2) of article 4 of the 2013 Order provides that the exclusion does not apply in respect of protected convictions. This paragraph also disapplies the exclusion in respect of convictions for offences listed in Schedule B1

which are not protected convictions, but which are not included in a higher level disclosure which has been sent in connection with the purpose for which the question has been asked. This ensures that an individual is not required to disclose a conviction for an offence listed in Schedule B1 which is not protected, but in respect of which the individual may be entitled to apply for its removal from a higher level disclosure before it is sent or in respect of which the individual has already successfully applied for such removal. New paragraph (4) ensures that the exclusion of the protection in section 4(2) of the Act remains disappplied in respect of a failure to disclose a conviction which has taken place before a higher level disclosure was sent if that conviction subsequently appears in that disclosure. New paragraph (3) provides that the disapplication of the exclusion by new paragraph (2) does not have effect in relation to a range of specified questions, with the effect that all spent convictions must continue to be disclosed in response to those questions.

Article 5 amends article 5 of the 2013 Order which excepts from the protection given by section 4(3)(b) of the Act a number of professions, offices, types of employment and occupations and decisions. There is also excepted from that protection any action taken for the purpose of safeguarding national security, but nothing in this Order affects that.

New paragraph (2) of Article 5 of the 2013 Order provides that the exception does not apply in respect of protected convictions. This paragraph also disappplies the exception in respect of convictions for offences listed in Schedule B1 which are not protected convictions, but which are not included in a higher level disclosure which has been sent in connection with the profession, office, employment, occupation, decision or proposed decision to which the exception would otherwise apply. This ensures that an individual may not be dismissed or excluded from any office, profession occupation or employment on the basis of a conviction listed in Schedule B1 which is not protected but in respect of which the individual may be entitled to apply for its removal from a higher level disclosure before it is sent, or in respect of which the individual has already successfully applied for such removal. This applies equally to any failure to disclose such a conviction. New paragraph (4) ensures that the exceptions from the protection in section 4(3)(b) of the Act remain disappplied in respect of a failure to disclose a conviction which has taken place before a higher level disclosure was sent if that conviction subsequently appears in that disclosure. New paragraph (3) provides that the disapplication of the exceptions does not have effect in relation to the occupations listed in paragraph 1 or 4 of Part 3 of Schedule 4 to the 2013 Order (firearms dealer and occupations requiring an explosives certificate).

Article 6 inserts new Schedules A1 (containing a list of offences conviction of which must always be disclosed in the circumstances described in the 2013 Order even when spent) and B1 (containing a list of offences conviction of which may not be disclosed in those circumstances as set out above).