



# Management of Offenders (Scotland) Act 2019

2019 asp 14

## PART 2

### DISCLOSURE OF CONVICTIONS

#### *Rules relating to disclosure*

#### **30 Disclosure periods applicable to convictions**

- (1) The 1974 Act is amended as follows.
- (2) In section 6, for the words “section 5” where occurring in each of subsections (1) and (2) there is substituted “sections 5 to 5I”.
- (3) Subsection (3) of section 6 is repealed.
- (4) After subsection (3) of section 6 there is inserted—
  - “(3ZA) Subsection (3ZB) applies where—
    - (a) an order listed in subsection (3ZC) is imposed on a person in respect of a conviction for an offence,
    - (b) after the expiry of the disclosure period applicable to the conviction in accordance with subsection (1) or (2) (“the original disclosure period”), a further sentence for the offence is imposed on the person in consequence of breaching the order, and
    - (c) by virtue of the further sentence, the disclosure period applicable to the conviction in accordance with subsection (2) (“the new disclosure period”) ends later than the original disclosure period.
  - (3ZB) Despite the expiry of the original disclosure period, the person is not to be treated for the purposes of this Act as a protected person in respect of the conviction until the expiry of the new disclosure period (and accordingly the conviction is not to be treated as spent until that period has expired).
  - (3ZC) The list is—

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- (a) an order for conditional discharge,
- (b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995,
- (c) a drug treatment and testing order under section 234B of that Act,
- (d) a restriction of liberty order under section 245A of that Act.

(3ZD) The Scottish Ministers may by regulations modify the list in subsection (3ZC) by—

- (a) amending an entry,
- (b) removing an entry,
- (c) adding an entry.

(3ZE) Regulations under subsection (3ZD) are subject to the affirmative procedure.”.

(5) For subsection (4) of section 6 there is substituted—

“(4) Where—

- (a) during the disclosure period applicable to a conviction, the person convicted is convicted of a further offence, and
- (b) the disclosure periods applicable to the two convictions under this section would end on different dates,

the disclosure period which would end earlier is extended so as to end at the same time as the other disclosure period (but this rule is subject to subsections (4A) to (5B)).”.

(6) After subsection (4) of section 6 there is inserted—

“(4A) Subsection (4B) applies where—

- (a) in relation to the conviction of a person (“the first conviction”) the court adjourns the case, or defers sentence,
- (b) during the disclosure period applicable to the adjournment or deferral, the person is convicted of a further offence,
- (c) a relevant sentence is imposed on the person in respect of the first conviction, and
- (d) there is, by virtue of section 5J, no disclosure period applicable to that sentence.

(4B) Section 4 does not operate so as to extend the disclosure period applicable to the first conviction.

(4C) In subsection (4A)—

- (a) references to adjournments and deferrals are to those matters as mentioned in section 5E(1),
- (b) a “relevant sentence” is any sentence other than an adjournment or deferral (as mentioned in section 5E(1)) or, where applicable, a further such adjournment or deferral.”.

(7) For subsection (5) of section 6 there is substituted—

“(5) A disclosure period is not extended in accordance with subsection (4) so as to end at the same time as another disclosure period if—

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- (a) the other disclosure period is applicable in accordance with section 5(2E) to an order—
    - (i) imposing on a person any disqualification, disability, prohibition, requirement or restriction, or
    - (ii) which is otherwise intended to regulate behaviour, and
  - (b) that order is the only sentence imposed in respect of the conviction to which the other disclosure period is applicable.
- (5A) Subsection (5B) applies where—
- (a) more than one sentence is imposed in respect of a conviction (whether or not in the same proceedings),
  - (b) none of the sentences is an excluded sentence, and
  - (c) one of the sentences is an order mentioned in subsection (5) in respect of which the disclosure period is applicable in accordance with section 5(2E).
- (5B) In determining whether the disclosure period applicable to another conviction is, in accordance with subsection (4), extended by virtue of the disclosure period applicable to the conviction mentioned in subsection (5A)(a), the disclosure period applicable to the order is to be disregarded.”.
- (8) In subsection (6) of section 6—
- (a) for the words “For the purposes of subsection (4)(a) above there shall be disregarded—” there is substituted “In subsection (4)(a), the reference to a conviction for a further offence does not include—”,
  - (b) for paragraph (b) there is substituted—
    - “(b) any conviction by or before a criminal court in summary proceedings;”,
  - (c) in paragraph (c)—
    - (i) for the words “Great Britain” there is substituted “Scotland”,
    - (ii) for the words “any part of Great Britain” there is substituted “Scotland”,
    - (iii) for the words “that part of Great Britain” there is substituted “Scotland”.