

*Status: Point in time view as at 20/12/2023.*

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

PROSPECTIVE

## SCHEDULE 1

*(introduced by section 9(1)(b)(i))*

### LIST A OFFENCES

#### PART 1

##### COMMON LAW OFFENCES

- |    |  |
|----|--|
| 1  | Abduction.   |
| 2  | Abortion.  |
| 3  | Assault to the danger of life.   |
| 4  | Assault to severe injury.  |
| 5  | Assault with intent to rape or ravish.   |
| 6  | Assault with intent to commit the statutory offence of rape.   |
| 7  | Bestiality.  |
| 8  | Cruel and unnatural treatment of persons.  |
| 9  | Culpable homicide.   |
| 10 | Defeating the ends of justice.   |
| 11 | Drugging.  |
| 12 | Embezzlement.  |
| 13 | Extortion.   |
| 14 | Hamesucken.  |
| 15 | Perverting the course of justice (by whatever means and however the offence is described), including in particular—<br>(a) false accusation of a crime,<br>(b) perjury,<br>(c) prevarication on oath,<br>(d) prison breaking,<br>(e) subornation of perjury. |
| 16 | Plagium.   |
| 17 | Reset of plagium.  |
| 18 | Wilful fire-raising.   |

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## PART 2

### STATUTORY OFFENCES

#### *Armed forces*

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

#### *Bribery*

- 20 An offence under the Bribery Act 2010.

#### *Children*

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

#### *Computer misuse*

- 22 An offence under section 3ZA of the Computer Misuse Act 1990 (unauthorised acts causing, or creating risk of, serious damage).

#### *Domestic abuse*

- 23 An offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).
- 24 An offence under section 2 of the Domestic Abuse (Scotland) Act 2011 (breach of domestic abuse interdict with power of arrest).
- 25 An offence under section 1 of the Domestic Abuse (Scotland) Act 2018 (abusive behaviour towards partner or ex-partner).

#### *Explosives*

- 26 An offence under the Explosive Substances Act 1883.

#### *False statements and declarations*

- 27 An offence under section 44 of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements and declarations).

#### *Firearms and other weapons*

- 28 An offence under section 1A of the Prevention of Crime Act 1953 (threatening with offensive weapon in public).
- 29 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 4 (conversion of weapons),
  - (b) section 5 (weapons subject to general prohibition),
  - (c) section 16 (possession of firearm with intent to injure),
  - (d) section 16A (possession of firearm with intent to cause fear of violence),

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- (e) section 17 (use of firearm to resist arrest),
- (f) section 18 (carrying firearm with criminal intent),
- (g) section 19 (carrying firearm in a public place),
- (h) section 20 (trespassing with firearm),
- (i) section 21 (possession of firearm by persons previously convicted of crime),
- (j) section 24 (supplying firearms to minors),
- (k) section 25 (supplying firearm to person drunk or insane),
- (l) section 46(5) (power of search with warrant),
- (m) section 47 (powers of constables to stop and search),
- (n) section 48 (production of certificates).

30 An offence under the Chemical Weapons Act 1996.

31 An offence under section 139AA of the Criminal Justice Act 1988 (threatening with article with blade or point or offensive weapon).

#### *Forced marriage*

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

33 An offence under section 122 of the Anti-social Behaviour, Crime and Policing Act 2014 (offence of forced marriage: Scotland).

#### *Fraud and forgery*

34 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981—

- (a) Part 1 (forgery and kindred offences),
- (b) section 14 (offences of counterfeiting notes and coins),
- (c) section 15 (offences of passing etc. counterfeit notes and coins),
- (d) section 16 (offences involving custody or control of counterfeit notes and coins),
- (e) section 17 (offences involving the making or custody or control of counterfeiting materials and implements).

#### *Harassment*

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

36 An offence under any of the following provisions of the Protection from Harassment Act 1997—

- (a) section 2 (offence of harassment),
- (b) section 2A (offence of stalking),
- (c) section 4 (putting people in fear of violence),
- (d) section 4A (stalking involving fear of violence or serious alarm or distress),
- (e) section 9 (breach of non-harassment order).

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### *Human trafficking and exploitation*

- 37 An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.).
- 38 An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).
- 39 An offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour).
- 40 An offence under section 3A of the Female Genital Mutilation Act 2003 (failure to protect girl from risk of genital mutilation).
- 41 An offence under the Prohibition of Female Genital Mutilation (Scotland) Act 2005.
- 42 An offence under any of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015—
- (a) section 1 (offence of human trafficking),
  - (b) section 4 (slavery, servitude and forced or compulsory labour),
  - (c) section 32(1) (breach of certain orders).

### *Insolvency*

- 43 An offence under any of the following provisions of the Insolvency Act 1986—
- (a) section 206 (fraud, etc. in anticipation of winding up),
  - (b) section 207 (transactions in fraud of creditors),
  - (c) section 208 (misconduct in course of winding up),
  - (d) section 209 (falsification of company's books),
  - (e) section 210 (material omissions from statement relating to company's affairs),
  - (f) section 211 (false representations to creditors).

### *Medical professions etc.*

- 44 An offence under section 10Z9 of the National Health Service (Scotland) Act 1978 (offences in relation to registration).
- 45 An offence under any of the following provisions of the Medical Act 1983—
- (a) section 49 (penalty for pretending to be registered),
  - (b) section 49A (penalty for pretending to hold a licence to practise).
- 46 An offence under article 38 of the Pharmacy Order 2010 (offences relating to the Register).

### *Medicines*

- 47 An offence under any of the following provisions of the Medicines Act 1968—
- (a) section 67(1A) and (1B) (offences under Part 3),
  - (b) section 78 (restrictions on use of titles, descriptions and emblems).

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*Proceeds of crime and money laundering*

- 48 An offence under any of the following provisions of the Proceeds of Crime Act 2002—
- (a) Part 7 (money laundering), other than section 339(1A),
  - (b) Part 8 (investigations).

*Prostitution*

- 49 An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (a) section 7 (procuring),
  - (b) section 9 (permitting girl to use premises for intercourse),
  - (c) section 11 (trading in prostitution and brothel-keeping),
  - (d) section 12 (allowing child to be in brothel),
  - (e) section 13(9) (living on the earnings of another from male prostitution).

*Road traffic*

- 50 An offence under any of the following provisions of the Road Traffic Act 1988—
- (a) section 1 (causing death by dangerous driving),
  - (b) section 3ZC (causing death by driving: disqualified drivers),
  - (c) section 3A (causing death by careless driving when under influence of drink or drugs).

*Serious organised crime*

- 51 An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 28 (involvement in serious organised crime),
  - (b) section 30 (directing serious organised crime),
  - (c) section 31 (failure to report serious organised crime).

*Sexual offences*

- 52 An offence under section 50(3) of the Customs and Excise Management Act 1979 (penalty for improper importation of goods) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876, but only where the prohibited goods include indecent photographs of persons.
- 53 An offence under section 51A of the Civic Government (Scotland) Act 1982 (extreme pornography).
- 54 A sexual offence within the meaning given in section 210A(10) of the Criminal Procedure (Scotland) Act 1995 other than an offence mentioned in paragraph (xxvii)(ZF) or (ZG) of the definition of “sexual offence” in that subsection (engaging while an older child in sexual conduct with or towards another older child).
- 55 An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 67A (voyeurism: additional offences),

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	(b) section 103I (breach of sexual harm prevention order or interim sexual harm prevention order),
	(c) section 113 (breach of sexual offences prevention order or interim sexual offences prevention order, etc.),
	(d) section 122H (breach of sexual risk order or interim sexual risk order).
56	An offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (offence: breach of risk of sexual harm order or interim risk of sexual harm order etc.).
57	An offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—
	(a) section 54 (incitement to commit certain sexual acts outside Scotland),
	(b) section 54A (offences committed outside Scotland),
	(c) section 55 (offences committed outside the United Kingdom).
58	An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile material).
59	An offence under any of the following provisions of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016—
	(a) section 2 (disclosing, or threatening to disclose, an intimate photograph or film),
	(b) section 24 (breach of sexual harm prevention order or interim sexual harm prevention order),
	(c) section 34 (breach of sexual risk order or interim sexual risk order),
	(d) section 37 (breach of orders equivalent to orders in Chapters 3 and 4).
	<i>Solicitors</i>
60	An offence under the Solicitors (Scotland) Act 1980.
	<i>Stalking and harassment</i>
61	An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (racially-aggravated harassment).
62	An offence under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010 (offence of stalking).
	<i>Taxation</i>
63	An offence under any of the following provisions of the Criminal Finances Act 2017—
	(a) section 45(1) (failure to prevent facilitation of UK tax evasion offences),
	(b) section 46(1) (failure to prevent facilitation of foreign tax evasion offences).
	<i>Terrorism</i>
64	An offence under any of the following provisions of the Terrorism Act 2000—
	(a) section 11 (membership),
	(b) section 12 (support),

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- (c) section 15 (fund-raising),
  - (d) section 16 (use and possession),
  - (e) section 17 (funding arrangements),
  - (f) section 17A(2) or (4) (insurance payments made in response to terrorist demands),
  - (g) section 18 (money laundering),
  - (h) section 19 (disclosure of information: duty),
  - (i) section 21A (failure to disclose: regulated sector),
  - (j) section 21D (tipping off: regulated sector),
  - (k) section 38B (information about acts of terrorism),
  - (l) section 39 (disclosure of information, &c.),
  - (m) section 54 (weapons training),
  - (n) section 56 (directing terrorist organisation),
  - (o) section 57 (possession for terrorist purposes),
  - (p) section 58 (collection of information),
  - (q) section 58A (eliciting, publishing or communicating),
  - (r) section 58B (entering or remaining in a designated area),
  - (s) section 61 (inciting terrorism overseas).
- 65 An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—
- (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),
  - (g) section 80 (prohibition of disclosures of uranium enrichment technology),
  - (h) section 113 (use of noxious substances or things to cause harm and intimidate),
  - (i) section 114 (hoaxes involving noxious substances or things),
  - (j) paragraph 7 of schedule 3 (offences).
- 66 An offence under the Terrorism Act 2006.
- 67 An offence under any of the following provisions of the Counter-Terrorism Act 2008—
- (a) section 2 (offence of obstruction),
  - (b) section 54 (offences relating to notification),
  - (c) paragraph 15 of schedule 5 (breach of foreign travel restriction order and offence),
  - (d) paragraph 30 of schedule 7 (offences: failure to comply with requirement imposed by direction),
  - (e) paragraph 30A of schedule 7 (offences: relevant person circumventing requirements),
  - (f) paragraph 31 of schedule 7 (offences in connection with licences).

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*Violent offender orders*

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

*Vulnerable persons*

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

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

- 71 An offence under any of the following provisions of the Protection of Vulnerable Groups (Scotland) Act 2007—

- (a) section 13C (breach of conditions: offences),
- (b) section 34 (barred individuals not to carry out regulated roles),
- (c) section 35 (organisations not to use barred individuals for regulated roles),
- (d) section 36 (personnel suppliers not to supply barred individuals for regulated roles),
- (e) section 45C (individuals must be scheme members to carry out regulated roles),
- (f) section 45D (organisations not to use individuals for regulated roles without confirming scheme membership),
- (g) section 45E (power to require organisations to stop using individuals for regulated roles without scheme membership),
- (h) section 45F (personnel suppliers not to supply individuals for regulated roles without confirming scheme membership).

- 72 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 (banning orders).

- 73 An offence under section 26 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (care worker offence).

*Witness protection*

- 74 An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—

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

*Statutory aggravations*

- 75 An offence (other than another List A offence) in relation to which any of the following provisions apply—

- (a) section 31 of the Counter-Terrorism Act 2008 (offences aggravated by terrorism),



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- (b) section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime),
- (c) section 5 of the Human Trafficking and Exploitation (Scotland) Act 2015 (aggravation by connection with human trafficking activity),
- (d) section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (offences aggravated by involving abuse of partner or ex-partner).

### **PART 3**

#### **OTHER**

##### *Common law aggravations*

- 76 An offence the conviction for which indicates that it was committed against a child.
- 77 An offence the conviction for which indicates that it included a sexual element.

##### *Inchoate offences*

- 78 An offence committed by aiding, abetting, counselling, procuring or inciting the commission of the offence of murder or any offence listed in paragraphs 1 to 77 of this schedule.
- 79 An offence committed by attempting or conspiring to commit the offence of murder or any offence listed in paragraphs 1 to 77 of this schedule.

##### *Superseded offences*

- 80 An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 79 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*

- 81 An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 80 of this schedule.

##### *Corresponding offences elsewhere in the UK or abroad*

- 82 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 81 of this schedule.

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PROSPECTIVE

## SCHEDULE 2

*(introduced by section 9(1)(b)(i))*

### LIST B OFFENCES

#### PART 1

##### COMMON LAW OFFENCES

- |    |   |
|----|---|
| 1  | Assault excluding any assault that is a List A offence. |
| 2  | Breach of the peace.                                    |
| 3  | Clandestinely taking possession.                        |
| 4  | Culpable and reckless conduct.                          |
| 5  | Culpable and reckless endangering of the public.        |
| 6  | Culpable and reckless fire-raising.                     |
| 7  | Fraud.  |
| 8  | Hijacking.  |
| 9  | Housebreaking with intent to steal.                     |
| 10 | Opening a lockfast place with intent to steal.          |
| 11 | Piracy.   |
| 12 | Public indecency.                                       |
| 13 | Reset (excluding reset of plagium).                     |
| 14 | Robbery.  |
| 15 | Theft (excluding plagium).                              |
| 16 | Treason.  |
| 17 | Uttering.   |
| 18 | Uttering threats.                                       |

#### PART 2

##### STATUTORY OFFENCES

##### *Adult support and protection*

- |    |  |
|----|--|
| 19 | An offence under section 49 of the Adult Support and Protection (Scotland) Act 2007 (obstruction). |
|----|--|

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### *Armed forces*

- 20 An offence under section 42 of the Armed Forces Act 2006 (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*

- 21 An offence under section 89 of the Police Act 1996 (assaults on constables).
- 22 An offence under section 32 of the Commissioners for Revenue and Customs Act 2005 (assault).
- 23 An offence under the Emergency Workers (Scotland) Act 2005.
- 24 An offence under section 85 of the Fire (Scotland) Act 2005 (false alarms).
- 25 An offence under section 90 of the Police and Fire Reform (Scotland) Act 2012 (assaulting or impeding police).

### *Aviation, maritime and spaceflight*

- 26 An offence under the Piracy Act 1837.
- 27 An offence under any of the following provisions of the Aviation Security Act 1982—
- (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),
  - (d) section 4 (offences in relation to certain dangerous articles).
- 28 An offence under section 9 of the Aviation and Maritime Security Act 1990 (hijacking of ships).
- 29 An offence under article 265 of the Air Navigation Order 2016 in respect of a contravention of article 240 of that Order (endangering safety of aircraft).
- 30 An offence under any of the following paragraphs of schedule 4 of the Space Industry Act 2018—
- (a) paragraph 1 (hijacking of spacecraft),
  - (b) paragraph 2 (destroying, damaging or endangering safety of spacecraft),
  - (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft),
  - (d) paragraph 5 (offences in relation to certain dangerous articles).

### *Care services*

- 31 An offence under any of the following provisions of the Regulation of Care (Scotland) Act 2001—
- (a) section 45 (application for registration under Part 3),
  - (b) section 52 (use of title “social worker” etc.).
- 32 An offence under any of the following provisions of the Public Services Reform (Scotland) Act 2010—
- (a) section 80(1) (offences in relation to registration under Chapter 3),
  - (b) section 81 (false statements in application under Chapter 3),

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(c) section 90 (offences under Chapter 4).

33 An offence under article 27 of the Public Services Reform (General Teaching Council for Scotland) Order 2011 (offences).

34 An offence under regulation 19 of the Social Care and Social Work Improvement (Scotland) (Requirements for Care Services) Regulations 2011 (offences).

#### *Charities*

35 An offence under the Charities and Trustee Investment (Scotland) Act 2005.

#### *Child Support*

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

#### *Children*

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

#### *Computer misuse*

38 An offence under any of the following provisions of the Computer Misuse Act 1990—

- (a) section 1 (unauthorised access to computer material),
- (b) section 2 (unauthorised access with intent to commit or facilitate commission of further offences),
- (c) section 3 (unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc.),
- (d) section 3A (making, supplying or obtaining articles for use in an offence under section 1, 3 or 3ZA).

#### *Crossbows*

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

#### *Drugs*

40 An offence under any of the following provisions of the Misuse of Drugs Act 1971—

- (a) section 3 (restriction of importation and exportation of controlled drugs),
- (b) section 4 (restriction of production and supply of controlled drugs),
- (c) section 4A (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 punishable for certain activities taking place there),
- (g) section 12 (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences),

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- (h) section 13 (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 (attempts etc. to commit offences), but only in relation to an offence listed in sub-paragraphs (a) to (i) of this paragraph,
  - (k) section 20 (assisting in or inducing commission outside United Kingdom of offence punishable under corresponding law).
- 41 An offence under any of the following provisions of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported or exported under section 3(1) of the Misuse of Drugs Act 1971 (restriction of importation and exportation of controlled drugs)—
- (a) section 50(2) or (3) (penalty for improper importation of goods),
  - (b) section 68(2) (offences in relation to exportation of prohibited or restricted goods),
  - (c) section 170 (fraudulent evasion of duty).
- 42 An offence under the Criminal Justice (International Co-operation) Act 1990.
- 43 An offence under any of the following provisions of the Psychoactive Substances Act 2016—
- (a) section 5 (supplying, or offering to supply, a psychoactive substance),
  - (b) section 7 (possession of psychoactive substance with intent to supply),
  - (c) section 8 (importing or exporting a psychoactive substance),
  - (d) section 9 (possession of a psychoactive substance in a custodial institution),
  - (e) section 48 (offence in relation to enforcement officers).
- Escape from custody etc.*
- 44 An offence under section 316 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (inducing and assisting absconding etc.).
- 45 An offence under section 91 of the Police and Fire Reform (Scotland) Act 2012 (escape from custody).
- Financial services*
- 46 An offence under the Financial Services and Markets Act 2000.
- 47 An offence under the Financial Services Act 2012.
- Fire safety*
- 48 An offence under section 72(1) or (3) of the Fire (Scotland) Act 2005 (offences).
- Firearms*
- 49 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 1 (requirement of firearm certificate),
  - (b) section 2 (requirement of certificate for possession of shot guns),
  - (c) section 3 (business and other transactions with firearms and ammunition),
  - (d) section 22 (acquisition and possession of firearms by minors),

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	(e) section 23 (exceptions from section 22(4)),
	(f) section 28A(7) (certificates: supplementary),
	(g) section 29 (variation of firearm certificates),
	(h) section 30D(3) (revocation of certificates: supplementary),
	(i) section 39 (offences in connection with registration),
	(j) section 40 (compulsory register of transactions in firearms).
50	An offence under section 50(5) of the Civic Government (Scotland) Act 1982 (drunk in possession of firearm).
51	An offence under the Firearms (Amendment) Act 1997.
52	An offence under any of the following provisions of the Violent Crime Reduction Act 2006—
	(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),
	(d) section 36 (manufacture, import and sale of realistic imitation firearms).
53	An offence under section 31 of the Air Weapons and Licensing (Scotland) Act 2015 (false statements, certificates and permits).
	<i>Food safety and standards</i>
54	An offence under any of the following provisions of the Food Safety Act 1990—
	(a) section 7 (rendering food injurious to health),
	(b) section 9 (inspection and seizure of suspected food).
55	An offence under regulation 4(b) of the General Food Regulations 2004 (food safety requirements).
	<i>Fraud and forgery</i>
56	An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981—
	(a) section 18 (offence of reproducing British currency notes),
	(b) section 19 (offences of making etc. imitation British coins).
57	An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments).
58	An offence under the Fraud Act 2006.
59	An offence under section 993 of the Companies Act 2006 (offence of fraudulent trading).
60	An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (articles for use in fraud).
61	An offence under section 92 of the Police and Fire Reform (Scotland) Act 2012 (impersonation etc.).

*Status: Point in time view as at 20/12/2023.*

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

*Immigration etc.*

- 62 An offence under any of the following provisions of the Immigration and Asylum Act 1999—
- (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 (assaulting a detainee custody officer),
    - (iii) paragraph 5 (obstructing detainee custody officers).
- 63 An offence under section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (deportation or removal: cooperation).
- 64 An offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (offence).

*Insolvency*

- 65 An offence under any of the following provisions of the Insolvency Act 1986—
- (a) section 131 (company's statement of affairs),
  - (b) section 216 (restriction on re-use of company names),
  - (c) section 235 (duty to co-operate with office-holder).

*Landmines*

- 66 An offence under section 2 of the Landmines Act 1998 (prohibited conduct).

*Lasers*

- 67 An offence under the Laser Misuse (Vehicles) Act 2018.

*Medicines*

- 68 An offence under section 67(2) or (3) of the Medicines Act 1968 (offences under Part 3).
- 69 An offence under any of the following provisions of the Human Medicines Regulations 2012—
- (a) regulation 34(1) (offences: breach of regulations and false information and defence concerning starting materials),
  - (b) regulation 255(1)(a), (b), (c) or (d) (offences relating to dealings with medicinal products).

*Mental health*

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

*Status: Point in time view as at 20/12/2023.*

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

### *[<sup>F1</sup>National security*

#### **Textual Amendments**

- F1** Sch. 2 para. 70A and cross-heading inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), [Sch. para. 33](#)

70A An offence under sections 1 to 4, 12, 13, 17 or 18 of the National Security Act 2023.]

#### *Neglect of duty*

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

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

#### *Obscene material etc.*

73 An offence under section 1(1) of the Indecent Displays (Control) Act 1981 (indecent displays).

74 An offence under section 51 of the Civic Government (Scotland) Act 1982 (obscene material).

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

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

#### *Offences in relation to children*

77 An offence under any of the following provisions of the Children and Young Persons (Scotland) Act 1937—

- (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),
- (d) section 33 (prohibition of persons under sixteen taking part in performances endangering life or limb),
- (e) section 34 (restrictions on training for performances of a dangerous nature).

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

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

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

81 An offence under any of the following provisions of the Children's Hearings (Scotland) Act 2011—



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

- (a) section 59 (offences),
- (b) section 171 (offences related to absconding).

*Offensive weapons*

- 82 An offence under the Restriction of Offensive Weapons Act 1959.
- 83 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 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).
- 84 An offence under any of the following provisions of the Criminal Justice Act 1988—
- (a) section 141 (offensive weapons),
  - (b) section 141A (sale of knives and certain articles with blade or point to persons under eighteen).
- 85 An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (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),
  - (f) section 50 (extension of constable's power to stop, search and arrest without warrant).
- 86 An offence under any of the following provisions of the Offensive Weapons Act 2019—
- (a) section 1 (sale of corrosive products to persons under 18),
  - (b) section 6 (offence of having a corrosive substance in a public place),
  - (c) section 11(5) (offences of obstruction and concealment relating to a search for corrosive substances: Scotland).

*Official Secrets Acts*

- 87 An offence under the Official Secrets Act 1911.
- 88 An offence under the Official Secrets Act 1920.
- 89 An offence under the Official Secrets Act 1989.

*Proceeds of crime and money laundering*

- 90 An offence under any of the following provisions of the Proceeds of Crime Act 2002—
- (a) section 339(1A) (making disclosure otherwise than in the prescribed form and manner),

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*Status: Point in time view as at 20/12/2023.*

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

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(b) section 453A (certain offences in relation to financial investigators).

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

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

*Prostitution*

93 An offence under the Prostitution (Public Places) (Scotland) Act 2007.

*Public order*

94 An offence under any of the following provisions of the Public Order Act 1986—

- (a) section 1 (riot),
- (b) section 2 (violent disorder),
- (c) section 3 (affray),
- (d) section 4 (fear or provocation of violence),
- (e) section 4A (intentional harassment, alarm or distress),
- (f) section 5 (harassment alarm or distress),
- (g) section 18 (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),
- (m) section 29B (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 a recording),
- (q) section 29F (broadcasting or including programme in programme service),
- (r) section 29G (possession of inflammatory material).

95 An offence under section 68(1) of the Criminal Justice and Public Order Act 1994 (aggravated trespass).

*Road traffic*

96 An offence under any of the following provisions of the Road Traffic Act 1988—

- (a) section 1A (causing serious injury by dangerous driving),
- (b) section 2 (dangerous driving),
- (c) section 2B (causing death by careless, or inconsiderate, driving),
- (d) section 3ZB (causing death by driving: unlicensed or uninsured drivers),
- (e) section 3ZD (causing serious injury by driving: disqualified drivers),
- (f) section 4(1) (driving, or being in charge, when under the influence of drink or drugs),
- (g) section 5(1) (driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit),

*Status: Point in time view as at 20/12/2023.*

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

- (h) section 5A (driving or being in charge of a motor vehicle with concentration of specified controlled drug above specified limit),
- (i) section 178 (taking motor vehicle without authority, etc.).

*Sexual offences*

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

*Terrorism*

- 98 An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 13 (uniform and publication of images),
  - (b) section 36 (police powers),
  - (c) section 51 (offences),
  - (d) section 116 (powers to stop and search),
  - (e) paragraph 32 of schedule 5 (urgent cases),
  - (f) paragraph 18 of schedule 7 (offences).

*Threatening or abusive behaviour*

- 99 An offence under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour).

*Miscellaneous statutory offences*

- 100 An offence under any of the following provisions of the Civic Government (Scotland) Act 1982—
- (a) section 57 (being in or on building etc. with intent to commit theft),
  - (b) section 58 (convicted thief in possession),
  - (c) section 60 (powers of search and seizure).
- 101 An offence under section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier).
- 102 An offence under section 85(1) of the Postal Services Act 2000 (prohibition on sending certain articles by post).
- 103 An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—
- (a) section 67 (offences in connection with disclosure notices or search warrants),
  - (b) section 129 (corresponding Scottish offence),
  - (c) section 145 (interference with contractual relationships so as to harm animal research organisation),
  - (d) section 146 (intimidation of persons connected with animal research organisation).

*Statutory aggravations*

- 104 An offence (other than a List A offence) in relation to which either of the following provisions applies—

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*Status: Point in time view as at 20/12/2023.*

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

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- (a) section 96 of the Crime and Disorder Act 1998 (offences racially aggravated), or
- (b) section 74 of the Criminal Justice (Scotland) Act 2003 (offences aggravated by religious prejudice).
- 105 An offence (other than a List A offence) to which either of the following provisions of the Offences (Aggravation by Prejudice) (Scotland) Act 2009 applies—
- (a) section 1(1) (prejudice relating to disability), or
- (b) section 2(1) (prejudice relating to sexual orientation or transgender identity).

### PART 3

#### OTHER

##### *Common law aggravations*

- 106 An offence (other than a List A offence or an offence listed in paragraph 104 of this schedule), the conviction for which indicates that it included an element of racial prejudice or was racially motivated.
- 107 An offence (other than a List A offence or an offence listed in paragraph 104 of this schedule), the conviction for which indicates that it included an element of religious prejudice or was motivated by religious prejudice.

##### *Inchoate offences*

- 108 An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 107 of this schedule.
- 109 An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 107 of this schedule.

##### *Superseded offences*

- 110 An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 109 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*

- 111 An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 110 of this schedule.

##### *Corresponding offences elsewhere in the UK or abroad*

- 112 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 111 of this schedule.

*Status: Point in time view as at 20/12/2023.*

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

PROSPECTIVE

### SCHEDULE 3

*(introduced by section 74)*

#### SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 2 OF THE PVG ACT

### “SCHEDULE 2

*(introduced by section 91(2))*

#### REGULATED ROLES WITH CHILDREN

### PART 1

#### PRELIMINARY

#### *Regulated roles with children*

- 1 (1) A regulated role with children is a role of any description which—
  - (a) involves the carrying out of one or more activities mentioned in Part 2 of this schedule, and
  - (b) satisfies the conditions mentioned in sub-paragraph (2).
- (2) The conditions are—
  - (a) the activities are carried out—
    - (i) as a necessary part of the role, and
    - (ii) in Scotland, and
  - (b) in the case of—
    - (i) activities mentioned in paragraph 21 of Part 2 of this schedule, the carrying out of the activities gives the individual carrying them out, when doing anything permitted or required in connection with the carrying out of the activities, the opportunity to have unsupervised contact with children,
    - (ii) other activities mentioned in Part 2 of this schedule, the carrying out of the activities gives the individual carrying them out, when doing anything permitted or required in connection with the carrying out of the activities, the opportunity to have contact with children.
- (3) A role—
  - (a) the normal duties of which include the day-to-day supervision or management of an individual carrying out a regulated role by virtue of sub-paragraph (1), or
  - (b) which involves training or studying in Scotland to carry out one or more activities mentioned in Part 2 of this schedule and which gives the individual undertaking the training or study, when doing anything permitted or required in connection with undertaking the training or study, the opportunity to have contact with children,is to be treated as a regulated role with children for the purposes of sub-paragraph (1).

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

- (4) For the purposes of sub-paragraph (2)(a)(ii), where—
- (a) an activity is carried out outside the United Kingdom, the Channel Islands and the Isle of Man by an individual who is ordinarily resident in the United Kingdom,
  - (b) the activity is carried out for—
    - (i) an organisation with a place of business in Scotland, or
    - (ii) a personnel supplier with a place of business in Scotland, and
  - (c) the organisation's or personnel supplier's functions in relation to the carrying out of the activity by the individual are principally exercised at that place of business,
- the activity is to be treated as if it were carried out in Scotland.
- (5) For the purposes of sub-paragraph (3)(b), where—
- (a) training or study is undertaken outside the United Kingdom, the Channel Islands and the Isle of Man by an individual who is ordinarily resident in the United Kingdom,
  - (b) the person with principal responsibility for the provision of the training or course of study is—
    - (i) an organisation with a place of business in Scotland, or
    - (ii) a personnel supplier with a place of business in Scotland, and
  - (c) the organisation's or personnel supplier's functions in relation to the undertaking of the training or study by the individual are principally exercised at that place of business,
- the training or study is to be treated as if it were undertaken in Scotland.

*Exceptions to regulated roles with children*

- 2 (1) A role which would be a regulated role with children by virtue of the carrying out of an activity mentioned in any of the paragraphs of Part 2 of this schedule is not, despite any of those provisions, a regulated role with children if—
- (a) the activity is carried out in relation to children in the course of the children's work (whether paid or unpaid work),
  - (b) the activity is carried out in the course of a family relationship, or
  - (c) the activity is carried out for an individual (“A”)—
    - (i) in the course of a personal relationship,
    - (ii) for no commercial consideration, and
    - (iii) for the benefit of A, a member of A's family or A's friend.
- (2) In sub-paragraph (1)(b)—
- (a) a family relationship does not include a relationship between a child and a foster carer in relation to the child,
  - (b) a family relationship includes a relationship between two persons who—
    - (i) live in the same household, and
    - (ii) treat each other as though they were members of the same family.
- (3) In sub-paragraph (1)(c)—
- (a) a personal relationship is a relationship between or among friends, and
  - (b) “benefit” does not include commercial benefit.

*Status: Point in time view as at 20/12/2023.*

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

- (4) For the purposes of sub-paragraphs (1)(c) and (3)(a), a friend of a member of an individual's family is to be regarded as being the individual's friend.
- (5) Ministers may prescribe circumstances in which an activity is or is not to be treated for the purposes of this paragraph as being done in the course of a family or personal relationship.

*Definitions in relation to contact with children*

- 3 (1) In paragraph 1(2)(b)—
    - “contact with children”—
      - (a) means, in relation to an activity, contact that is more than incidental to the carrying out of the activity, and
      - (b) includes physical contact with children, written or verbal communication with children, and exercising power or influence over children,
    - “unsupervised contact with children” means contact with children in the absence of—
      - (a) a responsible person,
      - (b) a person carrying out an activity mentioned in paragraph 4, 8 or 12 of Part 2 of this schedule, or
      - (c) an individual who, in relation to a child, has agreed to supervise the contact under arrangements made by the child's parent or guardian or any person aged 18 or over with whom the child lives in the course of a family or personal relationship,
    - “responsible person” means, in relation to a child, any of the following persons—
      - (a) the child's parent or guardian,
      - (b) any person aged 18 or over with whom the child lives,
      - (c) the person in charge of any of the following establishments in which the child is accommodated, is a patient or receives education (and any person acting on behalf of such a person)—
        - (i) secure accommodation for children,
        - (ii) a hospital which is used exclusively or mainly for the reception and treatment of children,
        - (iii) an educational institution,
        - (iv) a hostel,
        - (v) a residential care setting,
      - (d) a person who provides day care of children (within the meaning of schedule 12 of the Public Services Reform (Scotland) Act 2010),
      - (e) any person holding a position mentioned in sub-paragraph (2),
  - “family relationship” and “personal relationship” are to be construed in accordance with paragraph 2(2) to (4).
- (2) The positions referred to in paragraph (e) of the definition of “responsible person” in sub-paragraph (1) are—
    - (a) a manager or member of a governing body, body of trustees or other body responsible for the management of an educational institution or a hostel (other than a member of a council),
    - (b) a member of—

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

- (i) a committee (including joint committee) of a council which is concerned with the provision of education, accommodation, social services or health care services to children,
  - (ii) a sub-committee which discharges any functions of any such committee,
  - (c) a member of—
    - (i) the Children's Panel,
    - (ii) the Safeguarders Panel,
    - (iii) Children's Hearings Scotland,
    - (iv) staff of Children's Hearings Scotland,
    - (v) an area support team,
    - (vi) the Scottish Children's Reporter Administration,
    - (vii) staff of the Scottish Children's Reporter Administration,
  - (d) the National Convener of Children's Hearings Scotland,
  - (e) the Principal Reporter,
  - (f) the chief social work officer of a council,
  - (g) the Chief Education Officer of an education authority,
  - (h) the Commissioner for Children and Young People in Scotland,
  - (i) a member of staff of the Commissioner for Children and Young People in Scotland,
  - (j) the Registrar of Independent Schools in Scotland,
  - (k) a foster carer,
  - (l) a charity trustee of a children's charity,
  - (m) a person holding another position in a children's charity.
- (3) In paragraph 1(3), “contact with children”—
- (a) means, in relation to training or study, contact that is more than incidental to the undertaking of the training or study, and
  - (b) includes physical contact with children, written or verbal communication with children, and exercising power or influence over children.
- (4) For the purpose of paragraph (b) of the definitions of “contact with children” in each of sub-paragraphs (1) and (3), “exercising power or influence over children” means—
- (a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child,
  - (b) making decisions of an operational or strategic nature that could have an impact on a number of children, or
  - (c) persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child.

## PART 2

### ACTIVITIES

#### *Child protection*

- 4     Acting as a foster carer in relation to the child.



*Status: Point in time view as at 20/12/2023.*

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

- 5 Making decisions in relation to a child's care arrangements where a council has facilitated the child's care arrangements.
- 6 Having responsibility for the safety and welfare of a child, other than acting as a foster carer in relation to the child.
- 7 Having the ability to directly influence decisions about the safety or welfare of a child, other than in the capacity of an elected representative or as the holder of a judicial office.

#### *Education and training*

- 8 Teaching, instructing or delivering training to children.
- 9 Having the ability to directly influence the operational delivery of education services for children, other than in the capacity of an elected representative or as the holder of a judicial office.
- 10 Holding power or influence over a child for the purpose of—
  - (a) an activity in which the child is taking part or seeking to take part in,
  - (b) arranging the future recruitment, training or employment of the child.
- 11 Providing advice or guidance to children in relation to career development or education.

#### *Childcare*

- 12 Being in charge of or caring for children, other than acting as a foster carer.

#### *Care, health and accommodation services*

- 13 Practising as a registered medical practitioner.
- 14 Practising as a registered nurse, midwife or health visitor.
- 15 Practising as a chiropractor pursuant to registration with the General Chiropractic Council.
- 16 Practising as a dentist pursuant to registration with the General Dental Council.
- 17 Practising as an optician pursuant to registration with the General Optical Council.
- 18 Practising as an osteopath pursuant to registration with the General Osteopathic Council.
- 19 Practising as a pharmacist pursuant to registration with the General Pharmaceutical Council.
- 20 Being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that is provided for children in an educational institution, hospital, day care premises, hospice, hostel, residential care setting or secure accommodation for children.
- 21 Carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, residential care setting or secure accommodation for children.
- 22 Providing a care home service or an independent healthcare service which is provided exclusively or mainly for children.

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

23 Being engaged by or on behalf of a child with an illness or disability to provide personal care services.

24 Providing counselling, therapy or advice or guidance in relation to health or wellbeing to children, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner.

25 Having the ability to directly influence the operational delivery of medical or care services for children, other than in the capacity of an elected representative or as the holder of a judicial office.

*Leisure activities*

26 Providing cultural, leisure, social or recreational activities for children.

*Sports activities*

27 Coaching children in relation to sports or physical activity.

*Religious activities*

28 Providing religious activities or services for children.

*Miscellaneous*

29 Driving or escorting children in connection with transport services provided exclusively or mainly for children.

30 Holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons).

*Interpretation*

31 In this schedule—

“care home service” has the same meaning as in paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

“children's charity” means a charity whose—

(a) main purpose is to provide benefits for children, and

(b) principal means of delivery of those benefits is by its staff carrying out regulated roles with children,

“day care premises” means premises at which day care of children (within the meaning of schedule 12 of the Public Services Reform (Scotland) Act 2010) is provided,

“educational institution” means a school or further education institution,

“elected representative” means—

(a) a member of the House of Commons,

(b) a member of the Scottish Parliament,

“further education institution” means a body listed under the heading “Institutions formerly eligible for funding by the Scottish Further Education Funding Council” in schedule 2 of the Further and Higher Education (Scotland) Act 2005 or a college

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of further education which is assigned to a regional strategic body by order made under section 7C(1) of that Act,

“hospital” has the meaning given in section 108(1) of the National Health Service (Scotland) Act 1978,

“hostel” means a hostel used mainly by pupils attending an educational institution,

“independent health care service” has the same meaning as in section 10F of the National Health Service (Scotland) Act 1978,

“judicial office” means—

- (a) the office of judge of any court,
- (b) the office of member of any tribunal,
- (c) any other office, or appointment, consisting of functions of a judicial nature,

“prison” means a prison, young offenders institution or remand centre that is under the general superintendence of the Scottish Ministers under the Prisons (Scotland) Act 1989 and includes any contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994,

“prisoner” means a person committed to prison for trial, safe custody, punishment or otherwise,

“residential care setting” means a home that—

- (a) is provided exclusively or mainly for children, and
- (b) is—
  - (i) provided by a council in exercise of its functions under section 59 (provision by councils of residential and other establishments) of the Social Work (Scotland) Act 1968 or section 25 (provision of care and support services by councils) of the Mental Health (Care and Treatment) (Scotland) Act 2003, or
  - (ii) provided or secured by a person to whom such a function is delegated by a council in pursuance of an integration scheme under section 1 or 2 (integration schemes) of the Public Bodies (Joint Working) (Scotland) Act 2014,

“secure accommodation for children” means accommodation provided in a residential establishment, approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010, for the purpose of restricting the liberty of children.

- 32 Ministers may by regulations amend the definition of “further education institution” in paragraph 31 so as to include or exclude bodies listed in schedule 2 of the Further and Higher Education (Scotland) Act 2005.

### PART 3

#### GENERAL

##### *Power to amend schedule*

- 33 Ministers may by regulations modify this schedule as they think appropriate.
- 34 Regulations under paragraph 33 may disapply or otherwise modify the application of sections 34 to 37 and sections 45C to 45G in relation to particular kinds of regulated roles with children.”.

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

PROSPECTIVE

## SCHEDULE 4

*(introduced by section 74)*

### SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 3 OF THE PVG ACT

## “SCHEDULE 3

*(introduced by section 91(3))*

### REGULATED ROLES WITH ADULTS

## PART 1

### PRELIMINARY

#### *Regulated roles with adults*

- 1 (1) A regulated role with adults is a role of any description which—
  - (a) involves the carrying out of one or more activities mentioned in Part 2 of this schedule, and
  - (b) satisfies the conditions mentioned in sub-paragraph (2).
- (2) The conditions are—
  - (a) the activities are carried out—
    - (i) as a necessary part of the role, and
    - (ii) in Scotland, and
  - (b) the carrying out of the activities gives the individual carrying them out, when doing anything permitted or required in connection with the carrying out of the activities, the opportunity to have contact with protected adults.
- (3) A role—
  - (a) the normal duties of which include the day-to-day supervision or management of an individual carrying out a regulated role by virtue of sub-paragraph (1), or
  - (b) which involves training or studying in Scotland to carry out one or more activities mentioned in Part 2 of this schedule and which gives the individual undertaking the training or study, when doing anything permitted or required in connection with undertaking the training or study, the opportunity to have contact with protected adults,
 is to be treated as a regulated role with adults for the purposes of sub-paragraph (1).
- (4) For the purposes of sub-paragraph (2)(a)(ii), where—
  - (a) an activity is carried out outside the United Kingdom, the Channel Islands and the Isle of Man by an individual who is ordinarily resident in the United Kingdom,
  - (b) the activity is carried out for—
    - (i) an organisation with a place of business in Scotland, or

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- (ii) a personnel supplier with a place of business in Scotland, and
  - (c) the organisation's or personnel supplier's functions in relation to the carrying out of the activity by the individual are principally exercised at that place of business,
- the activity is to be treated as if it were carried out in Scotland.
- (5) For the purposes of sub-paragraph (3)(b), where—
- (a) training or study is undertaken outside the United Kingdom, the Channel Islands and the Isle of Man by an individual who is ordinarily resident in the United Kingdom,
  - (b) the person with principal responsibility for the provision of the training or course of study is—
    - (i) an organisation with a place of business in Scotland, or
    - (ii) a personnel supplier with a place of business in Scotland, and
  - (c) the organisation's or personnel supplier's functions in relation to the undertaking of the training or study by the individual are principally exercised at that place of business,
- the training or study is to be treated as if it were undertaken in Scotland.

#### *Exceptions to regulated roles with adults*

- 2 (1) A role which would be a regulated role with adults by virtue of the carrying out of an activity mentioned in any of the paragraphs of Part 2 of this schedule is not, despite any of those provisions, a regulated role with adults if—
- (a) the activity is carried out in the course of a family relationship, or
  - (b) the activity is carried out for an individual (“A”)—
    - (i) in the course of a personal relationship,
    - (ii) for no commercial consideration, and
    - (iii) for the benefit of A, a member of A's family or A's friend.
- (2) In sub-paragraph (1)(a) a family relationship includes a relationship between two persons who—
- (a) live in the same household, and
  - (b) treat each other as though they were members of the same family.
- (3) In sub-paragraph (1)(b)—
- (a) a personal relationship is a relationship between or among friends, and
  - (b) “benefit” does not include commercial benefit.
- (4) For the purposes of sub-paragraphs (1)(b) and (3)(a), a friend of a member of an individual's family is to be regarded as being the individual's friend.
- (5) Ministers may prescribe circumstances in which an activity is or is not to be treated for the purposes of this paragraph as being done in the course of a family or personal relationship.

#### *Definition of contact with protected adults*

- 3 (1) In paragraph 1(2)(b) “contact with protected adults”—
- (a) means, in relation to an activity, contact that is more than incidental to the carrying out of the activity, and

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- (b) includes physical contact with protected adults, written or verbal communication with protected adults, and exercising power or influence over protected adults.
- (2) In paragraph 1(3)(b) “contact with protected adults”—
  - (a) means, in relation to training or study, contact that is more than incidental to the undertaking of the training or study, and
  - (b) includes physical contact with protected adults, written or verbal communication with protected adults, and exercising power or influence over protected adults.
- (3) For the purpose of paragraph (b) of the definitions of “contact with protected adults” in each of sub-paragraphs (1) and (2), “exercising power or influence over protected adults” means—
  - (a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular protected adult,
  - (b) making decisions of an operational or strategic nature that could have an impact on a number of protected adults, or
  - (c) persuading or putting pressure on a particular protected adult to behave or act in a certain manner for the financial gain or personal gratification of a person other than the protected adult.

## PART 2

### ACTIVITIES

#### *Education, training and guidance*

- 4 Teaching, instructing, training or supervising protected adults.
- 5 Providing advice or guidance to a protected adult in relation to education, training or employability.

#### *Care, health and accommodation services*

- 6 Practising as a registered medical practitioner.
- 7 Practising as a registered nurse, midwife or health visitor.
- 8 Practising as a chiropractor pursuant to registration with the General Chiropractic Council.
- 9 Practising as a dentist pursuant to registration with the General Dental Council.
- 10 Practising as an optician pursuant to registration with the General Optical Council.
- 11 Practising as an osteopath pursuant to registration with the General Osteopathic Council.
- 12 Practising as a pharmacist pursuant to registration with the General Pharmaceutical Council.
- 13 Being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that

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is provided for protected adults in a hospital, hospice, care home, day care centre or adult placement setting.

- 14 Being in charge of protected adults.
- 15 Being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services.
- 16 Providing support to a protected adult under a shared lives scheme.
- 17 Providing counselling, therapy or advice or guidance in relation to health or wellbeing to protected adults, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner.
- 18 Having the ability to directly influence the operational delivery of medical or care services for protected adults, other than in the capacity of an elected representative or as the holder of a judicial office.

*Leisure activities*

- 19 Providing cultural, leisure, social or recreational activities for protected adults.

*Sports activities*

- 20 Coaching protected adults in relation to sports or physical activity.

*Religious activities*

- 21 Providing religious activities or services for protected adults.

*Miscellaneous*

- 22 Driving or escorting protected adults in connection with transport services provided exclusively or mainly for use by protected adults.
- 23 Holding a position of responsibility in an organisation whose main purpose is to provide benefits for or to protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons).

*Interpretation*

- 24 In this schedule—
  - “adult placement setting” means a residential establishment or accommodation occupied exclusively or mainly by individuals aged 18 or over which is—
    - (a) provided by a council in exercise of its functions under section 59 (provision by councils of residential and other establishments) of the Social Work (Scotland) Act 1968 or section 25 (provision of care and support services by councils) of the Mental Health (Care and Treatment) (Scotland) Act 2003, or
    - (b) provided or secured by a person to whom such a function is delegated by a council in pursuance of an integration scheme under section 1 or 2 (integration schemes) of the Public Bodies (Joint Working) (Scotland) Act 2014,

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“care home” means accommodation occupied exclusively or mainly by individuals aged 18 or over which is provided by an organisation carrying on a care home service (within the meaning of schedule 12 of the Public Services Reform (Scotland) Act 2010),

“elected representative” means—

- (a) a member of the House of Commons,
- (b) a member of the Scottish Parliament,

“hospital” has the meaning given in section 108(1) of the National Health Service (Scotland) Act 1978,

“judicial office” means—

- (a) the office of judge of any court,
- (b) the office of member of any tribunal,
- (c) any other office, or appointment, consisting of functions of a judicial nature,

“prison” means a prison, young offenders institution or remand centre that is under the general superintendence of the Scottish Ministers under the Prisons (Scotland) Act 1989 and includes any contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994,

“prisoner” means a person committed to prison for trial, safe custody, punishment or otherwise,

“shared lives agreement” means an agreement entered into between a person carrying on a shared lives scheme and an individual for the provision, by that individual, of personal care to a protected adult together with, where necessary, accommodation in the individual's home,

“shared lives carer” means an individual who, under the terms of a shared lives agreement, provides, or intends to provide, personal care for protected adults together with, where necessary, accommodation in the individual's home,

“shared lives scheme” means a scheme carried on (whether or not for profit) by a local authority or other person for the purposes of—

- (a) recruiting and training shared lives carers,
- (b) making arrangements for the placing of protected adults with shared lives carers, and
- (c) supporting and monitoring placements.

### PART 3

#### GENERAL

##### *Power to amend schedule*

- 25 Ministers may by regulations modify this schedule as they think appropriate.
- 26 Regulations under paragraph 25 may disapply or otherwise modify the application of sections 34 to 37 and sections 45C to 45G in relation to particular kinds of regulated roles with adults.”.



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## SCHEDULE 5

(introduced by section 93)

### CONSEQUENTIAL AND MINOR MODIFICATIONS

PROSPECTIVE

#### PART 1

##### MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 1

###### *Caravan Sites and Control of Development Act 1960*

- 1 In section 32P of the Caravan Sites and Control of Development Act 1960 (fit and proper person: criminal conviction certificate)—
- (a) in subsection (1), for the words from “criminal” to the end substitute “ Level 1 disclosure (within the meaning of section 1 of the Disclosure (Scotland) Act 2020). ”,
  - (b) in subsection (2), for “criminal conviction certificate” substitute “ Level 1 disclosure ”,
  - (c) the title of the section becomes “ Fit and proper person: Level 1 disclosure ”.

###### *Rehabilitation of Offenders Act 1974*

- 2 (1) The Rehabilitation of Offenders Act 1974 is amended as follows.
- (2) In section 5 (disclosure periods for particular sentences), after subsection (2A) insert—
- “(2AA) Subsection (2A)(a) is subject to section 5J(1)(ba).”.
- (3) In section 5A(1) (disclosure periods: ordinary cases), in Table A, in each of the following entries, for the period specified in the third column (disclosure period – aged under 18) substitute “ Nil (see section 5J(1)(ba)) ”
- (a) the first entry (a custodial sentence not exceeding 12 months),
  - (b) the fourth entry (a fine),
  - (c) the fifth entry (a compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995),
  - (d) the sixth entry (an order for endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988),
  - (e) the seventh entry (any sentence not mentioned in the entries above or in Table B other than one to which section 5(2D) or any of sections 5C to 5J applies).
- (4) In section 5B (disclosure periods: service disciplinary offences), in Table B, in each of the entries, for the period specified in the third column (disclosure period – aged under 18) substitute “ Nil (see section 5J(1)(ba)) ”.
- (5) In section 5C (disclosure period: caution for good behaviour), in subsection (2), paragraph (b) is repealed.
- (6) In section 5D (disclosure period: particular court orders)—

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- (a) in subsection (1), paragraph (b) is repealed,
- (b) in subsection (3), the words “and (b)(ii)” are repealed.

(7) In section 5I (disclosure period: service disciplinary orders)—

- (a) in subsection (1), paragraph (b) is repealed,
- (b) in subsection (3)—
  - (i) in paragraph (a), for “15” substitute “ 18 ”,
  - (ii) paragraph (b) is repealed.

(8) In section 5J (sentences to which no disclosure period applies)—

- (a) in subsection (1), after paragraph (b) insert—
  - “(ba) any sentence other than an excepted sentence mentioned in subsection (1A) imposed on a person in respect of a conviction for an offence committed when the person was under 18 years of age,”,

(b) after subsection (1) insert—

“(1A) The excepted sentences referred to in subsection (1)(ba) are—

- (a) an excluded sentence,
- (b) in the case of a conviction for an offence listed in any of paragraphs 52 to 59 of schedule 1 of the Disclosure (Scotland) Act 2020 (sexual offences), a custodial sentence (within the meaning of section 5(12)) for a term exceeding 12 months.

(1B) For the purposes of subsection (1)(ba), it is to be presumed, in the absence of evidence to the contrary, that a person convicted of an offence was of the same age at the time the offence was committed as the person was at the date of conviction.”.

*Police Act 1997*

3 In the Police Act 1997, Part 5 (certificates of criminal records etc.) is repealed.

*Antisocial Behaviour etc. (Scotland) Act 2004*

4 In section 85A of the Antisocial Behaviour etc. (Scotland) Act 2004 (fit and proper person: criminal record certificate)—

- (a) in subsection (1), for the words from “criminal” to the end substitute “ Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020). ”,
- (b) in each of subsections (2) and (3), for “criminal record certificate” substitute “ Level 2 disclosure ”,
- (c) in subsection (3), in each of paragraphs (a) and (b), for “certificate” substitute “ Level 2 disclosure ”,
- (d) the title of the section becomes “ Fit and proper person: Level 2 disclosure ”.

*Protection of Vulnerable Groups (Scotland) Act 2007*

5 (1) The PVG Act is amended as follows.

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- (2) In section 18 (police information etc.)—
- (a) in subsection (4), for paragraph (b) substitute—
    - “(b) any person who holds central records to provide them with the prescribed details of every relevant matter relating to the individual that is recorded those records.”,
  - (b) after subsection (4) insert—
    - “(5) In subsection (4)(b)—
      - “central records” has the meaning given in section 69 of the Disclosure (Scotland) Act 2020,
      - “relevant matter” means—
        - (a) a conviction that is not a non-disclosable conviction within the meaning of section 9 of the Disclosure (Scotland) Act 2020,
        - (b) a caution within the meaning given in section 69 of that Act that is not spent by virtue of schedule 3 of the Rehabilitation of Offenders Act 1974, and
        - (c) a prescribed civil court order.”.
- (3) In section 49 (vetting information)—
- (a) in subsection (1), for paragraph (a) substitute—
    - “(a) the prescribed details of every relevant matter relating to the scheme member that is recorded in central records,”,
  - (b) after subsection (1) insert—
    - “(1A) Section 33 of the Disclosure (Scotland) Act 2020 (Level 2 disclosure: considering relevance and whether to include certain information) applies for the purposes of subsection (1)(c) of this section as it applies for the purposes of the sections mentioned in subsection (1) of that section, but as if—
      - (a) references to a person considering whether a conviction, children's hearing outcome or other information is relevant for the purpose of a Level 2 disclosure were references to the chief constable considering whether information is relevant to the type of regulated role in relation to which the scheme member participates in the Scheme,
      - (b) references to a person considering whether a conviction, children's hearing outcome or other information ought to be included in a Level 2 disclosure were references to the chief constable considering whether information ought to be included in the scheme member's scheme record,
      - (c) references to a conviction or children's hearing outcome were omitted, and
      - (d) references to other information were references to information mentioned in subsection (1)(c) of this section.”,
  - (c) after subsection (2) insert—
    - “(3) In subsection (1)(a), “central records” and “relevant matter” have the same meanings as in section 18(5).”.
- (4) In section 51 (correction of inaccurate scheme record)—

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- (a) in subsection (1), after “section 50” insert “ or a review under section 21 of the Disclosure (Scotland) Act 2020, ”,
  - (b) subsections (2) to (7) are repealed.
- (5) Section 52ZA (procedure following correction of inaccurate scheme record) is repealed.
- (6) Section 52 (disclosure of scheme records) is repealed.
- (7) Section 52A (review of vetting information in scheme record) is repealed.
- (8) Section 53 (disclosure of short scheme records) is repealed.
- (9) Section 55 (disclosure conditions) is repealed.
- (10) Section 56 (Crown work) is repealed.
- (11) Section 57 (disclosure restrictions) is repealed.
- (12) Section 57A (meaning of “conviction” and “protected conviction”) is repealed.
- (13) In section 97 (general interpretation)—
- (a) in subsection (1)—
    - (i) in the definition of “prescribed” the words “(except where used in sections 18(4)(b) and 49(1)(a))” are repealed,
    - (ii) the following definitions are repealed—
      - “disclosure declaration”,
      - “disclosure record”,
      - “disclosure request”,
  - (b) in subsection (2), for the words from “doing” in the first place it occurs to the end of that subsection substitute “carrying out a regulated role for an organisation if they—
    - (a) have made available, in respect of the individual—
      - (i) a confirmation of scheme membership under section 54,
      - (ii) a Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020) where section 17 of that Act applies,
 in relation to that regulated role,
    - (b) know that the confirmation of scheme membership or (as the case may be) the Level 2 disclosure was sought for the purpose of enabling or assisting the organisation to consider the scheme member's suitability to carry out that type of regulated role for the organisation (or to be offered such a role by the organisation), and
    - (c) have not been satisfied that the individual has not been engaged to carry out, or has stopped carrying out, that type of regulated role for the organisation.”,
  - (c) in subsection (4), for “Part 5 of the 1997 Act” substitute “ Part 1 of the Disclosure (Scotland) Act 2020 ”,
  - (d) in subsection (5), for “in relation to an application under section 113B of the 1997 Act” substitute “ for the purposes of section 49 of the Disclosure (Scotland) Act 2020 ”.

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- (14) In schedule 5 (index), the following entries are repealed—
- disclosure condition,
  - disclosure declaration,
  - disclosure information,
  - disclosure record,
  - disclosure request,
  - short scheme record.

*Housing (Scotland) Act 2014*

- 6 In section 35 of the Housing (Scotland) Act 2014 (fit and proper person: criminal record information), in subsection (2), for the words from “criminal” to “1997 (c. 50)” substitute “ Level 1 disclosure (within the meaning of section 1 of the Disclosure (Scotland) Act 2020) ”.

*Age of Criminal Responsibility (Scotland) Act 2019*

- 7 (1) The Age of Criminal Responsibility (Scotland) Act 2019 is amended as follows.
- (2) In section 8 (disapplication of sections 6 and 7)—
- (a) in subsection (1), for the words from “in—” to the end substitute “ in a Level 2 disclosure. ”,
  - (b) in subsection (3)(a), for “an enhanced criminal record certificate or, as the case may be, a scheme record” substitute “ a Level 2 disclosure ”,
  - (c) in subsection (4)—
    - (i) in paragraph (a), for “for which the certificate or, as the case may be, scheme record is provided” substitute “ of the disclosure ”,
    - (ii) in paragraph (b), for “certificate or record” substitute “ Level 2 disclosure ”,
  - (d) subsection (5) is repealed,
  - (e) in subsection (6), for “certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”,
  - (f) in subsection (7), for “certificate or record” substitute “ Level 2 disclosure ”.
- (3) In section 10 (disclosure of information relating to time when person under 12), subsections (1), (2) and (4) are repealed.
- (4) In section 11 (independent reviewer), in paragraph (a), for the words from “information—” to the end substitute “ information in a Level 2 disclosure, and ”.
- (5) In section 12 (period and terms of appointment), in subsection (7)(a), for “8A or 8B of the 1997 Act” substitute “ 1 or 2 of the 2020 Act ”.
- (6) In section 14 (referral of information to independent reviewer)—
- (a) in subsection (1), in paragraph (a)—
    - (i) for “113B(4) of the 1997 Act” substitute “ 14(1) of the 2020 Act ”,
    - (ii) for “an enhanced criminal record certificate issued under section 113B(1) of that Act” substitute “ a Level 2 disclosure ”,
  - (b) in subsection (1), paragraph (b) is repealed,
  - (c) in subsection (2)—

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- (i) in paragraph (a), for the words from “described” to the end substitute “ of the disclosure, ”,
  - (ii) paragraph (b) is repealed,
  - (iii) in paragraph (c), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (7) In section 16 (notification to applicant or scheme member), in subsection (2)(b), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (8) In section 18 (review of information referred under section 14)—
- (a) in subsection (1)—
    - (i) in paragraph (a), for the words from “in relation to” to the end substitute “ for the purpose of the disclosure, and ”,
    - (ii) in paragraph (b), for “that certificate” substitute “ the disclosure ”,
  - (b) after subsection (1) insert—
    - “(1A) Section 33 of the 2020 Act (Level 2 disclosure: considering relevance and whether to include certain information) applies for the purposes of subsection (1) of this section as it applies for the purposes of the sections mentioned in subsection (1) of that section, but as if—
      - (a) references to a conviction or a children's hearing outcome were omitted, and
      - (b) references to other information were references to information mentioned in section 14(1)(a) of this Act.”,
  - (c) subsection (2) is repealed,
  - (d) in subsection (4)(a), for “enhanced criminal record certificate or, as the case may be, scheme record” substitute “ Level 2 disclosure ”.
- (9) After section 20 insert—

**“20A Removal of information from scheme record following review or appeal**

- (1) This section applies where, in the case of a scheme member—
  - (a) information that is the subject of a review under section 18 is also contained in the scheme member's scheme record in relation to a type of regulated role to which the purpose of the disclosure referred to in section 18(1)(a) relates, and
  - (b) subsection (2) or (3) applies in relation to the review.
- (2) This subsection applies if the independent reviewer determines under section 18(4)(a) that the information ought not to be included in the disclosure and—
  - (a) no appeal under section 20 is taken, or
  - (b) such an appeal having been taken, the sheriff confirms the determination under section 20(3)(a).
- (3) This subsection applies if the sheriff, on an appeal under section 20, determines under subsection (3)(b) of that section that the information ought not to be included in the disclosure.

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- (4) The Scottish Ministers must remove the information from the scheme member's scheme record so far as relating to the type of regulated role mentioned in subsection (1)(a).
- (5) The information is to be treated for the purposes of the 2007 Act as not being vetting information.”.
- (10) In section 23 (regulation of procedure for review)—
- (a) in subsection (1), for “enhanced criminal record certificates and scheme records” substitute “ Level 2 disclosures ”,
- (b) in subsection (2)(a), for “an enhanced criminal record certificate or, as the case may be, a scheme record” substitute “ a Level 2 disclosure ”.
- (11) Section 25 (amendments consequential on Chapter 2) is repealed.
- (12) In section 26 (interpretation of Part 2)—
- (a) the definitions of “1997 Act” and “enhanced criminal record certificate” are repealed,
- (b) after the definition of “2007 Act” insert—
- ““2020 Act” means the Disclosure (Scotland) Act 2020,”,
- (c) in the definition of “applicant” for “113B of the 1997 Act for an enhanced criminal record certificate” substitute “ 11 of the 2020 Act for a Level 2 disclosure ”,
- (d) after the definition of “independent reviewer” insert—
- ““Level 2 disclosure” means a Level 2 disclosure under section 8 of the 2020 Act,
- “purpose of the disclosure”, in relation to a Level 2 disclosure, has the meaning given in section 69 of the 2020 Act,”.

PROSPECTIVE

## PART 2

### MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 2

#### *Education (Scotland) Act 1980*

- 8 (1) The Education (Scotland) Act 1980 is amended as follows.
- (2) In section 98A (application for registration of independent school)—
- (a) in subsection (5)(a)(ii), for “work” substitute “ roles ”,
- (b) in subsection (6), for the definition of “barred from regulated work with children” substitute—
- ““barred from regulated roles with children” is to be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007;”.

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(3) In section 99 (complaints), in each of paragraphs (g)(ii) and (h)(ii) of subsection (1A) for “work” substitute “ roles ”.

(4) In section 135(1) (interpretation), for the definition of “barred from regulated work with children” substitute—

““barred from regulated roles with children” has the meaning given in section 98A(6) of this Act;”.

*Foster Children (Scotland) Act 1984*

9 In section 7(4) (persons disqualified from keeping foster children) of the Foster Children (Scotland) Act 1984 for “work” substitute “ roles ”.

*Protection of Vulnerable Groups (Scotland) Act 2007*

10 (1) The PVG Act is amended as follows.

(2) In section 2 (referral ground)—

(a) in paragraph (a), for the opening words substitute—

“(a) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with children, is that the individual has, whether or not in the course of the individual carrying out that role—”.

(b) in paragraph (b), for the opening words substitute—

“(b) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with adults, is that the individual has, whether or not in the course of the individual carrying out that role—”.

(3) In section 3 (reference following disciplinary action etc.)—

(a) in subsection (1)—

(i) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,

(ii) in paragraph (a)(ii) for “work” substitute “ role ”,

(iii) in paragraph (b)(i) for “doing regulated work” substitute “ carrying out the regulated role ”,

(b) in subsection (2)—

(i) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,

(ii) in paragraph (a) for “doing the regulated work” substitute “ carrying out the regulated role ”,

(iii) in paragraph (b) for “doing regulated work” substitute “ carrying out the regulated role ”,

(iv) in paragraph (c)(ii) for “doing regulated work” substitute “ carrying out the regulated role ”,

(c) in subsection (3)—

(i) in paragraph (a) for the words from “regulated” to the end of that paragraph substitute “ a regulated role is not to be treated as having stopped carrying out that role, ”,

(ii) in paragraph (b) for “work” substitute “ role ”.



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- (4) In section 4 (reference by employment agency)—
  - (a) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,
  - (b) in paragraph (b)(i) for “further regulated work” substitute “ another regulated role ”,
  - (c) in paragraph (b)(ii) for “such work” substitute “ another regulated role ”.
- (5) In section 5 (reference by employment business)—
  - (a) in the opening words for “regulated work” substitute “ a regulated role ”,
  - (b) in paragraph (b) for “doing regulated work” substitute “ carrying out the regulated role ”,
  - (c) in paragraph (c) for “further regulated work” substitute “ another regulated role ”.
- (6) In section 6(1) (reference relating to matters occurring before provisions come into force) for “doing the regulated work” substitute “ carrying out the regulated role ”.
- (7) In section 8(1) (reference by certain other persons) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (8) In section 10(4) (consideration whether to list: organisational referrals etc.) for the words from “work” to the end of that subsection substitute “ role (if any) which the individual is or has been carrying out. ”.
- (9) In section 12 (consideration whether to list: vetting information etc.) in each of subsections (1)(b) and (2)(b) for “do regulated work” substitute “ carry out a regulated role ”.
- (10) In section 13 (consideration whether to list: inquiries)—
  - (a) in each of paragraphs (a) and (b) of subsection (1) for “doing regulated work” substitute “ carrying out a regulated role. ”,
  - (b) in subsection (4) for the words from “work” to the end of that subsection substitute “ role which the individual was carrying out ”.
- (11) In section 15 (inclusion in children's list after consideration) for “work” substitute “ carry out regulated roles ”.
- (12) In section 16 (inclusion in adults' list after consideration) for “work with protected” substitute “ carry out regulated roles with ”.
- (13) In section 18 (police information etc.) in each of subsections (1) and (4)(a) for “work” substitute “ role ”.
- (14) In section 19(2)(a) (information held by public bodies etc.) for “work” substitute “ role ”.
- (15) In section 20 (information held by regulated work providers)—
  - (a) in subsection (2)—
    - (i) in paragraph (a) for “doing, or has done, regulated work” substitute “ carrying out, or has carried out, a regulated role ”,
    - (ii) in paragraph (b) for the words from “regulated” to the end of that paragraph substitute “ a regulated role by the person (whether or not the individual subsequently carried out the role), ”,
    - (iii) in paragraph (c) for “regulated work” substitute “ a regulated role ”,

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- (iv) in paragraph (d) for “do regulated work” substitute “ carry out a regulated role ”,
  - (b) the title of the section becomes “ Information held by providers of regulated roles ”.
- (16) In section 21 (appeals against inclusion in children's list), in subsection (3)(a) for “work” substitute “ carry out regulated roles ”.
- (17) In section 22 (appeals against inclusion in adults' list), in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (18) In section 26 (determination of application for removal from list)—
- (a) in subsection (1)(a) for “work” substitute “ carry out regulated roles ”,
  - (b) in subsection (2)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (19) In section 27 (appeals against refusal to remove individual from list)—
- (a) in subsection (2)(a) for “work” substitute “ carry out regulated roles ”,
  - (b) in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (20) In section 30 (notice of listing etc.)—
- (a) in subsection (1)(c), after “13” insert “ or section 45B(7) ”,
  - (b) in each of subsections (1)(b) and (2)(a) for “doing regulated work” substitute “ regulated roles ”,
  - (c) in subsection (3)(b)—
    - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
    - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
  - (d) in subsection (3)(c)—
    - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
    - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
  - (e) in each of paragraphs (b) and (c) of subsection (4) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (21) The italic heading before section 34 becomes “ Offences relating to regulated roles ”.
- (22) In section 34 (barred individuals not to do regulated work)—
- (a) in subsection (1), for “do, or to seek or agreed to do, any regulated work” substitute “ carry out, or to seek or agree to carry out, any regulated role ”,
  - (b) in subsection (2)—
    - (i) in paragraph (a), for “work” substitute “ role ”,
    - (ii) in paragraph (b), for “work concerned was regulated work” substitute “ role concerned was a regulated role ”,
  - (c) the title of the section becomes “ Barred individuals not to carry out regulated roles ”.
- (23) In section 35 (organisations not to use barred individuals for regulated work)—
- (a) in subsection (1), for “regulated work to an individual barred from that work” substitute “ a regulated role to an individual barred from that role ”,
  - (b) in subsection (2)—

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- (i) for “do” substitute “ carry out ”,
  - (ii) for “regulated work” substitute “ a regulated role ”,
  - (c) in subsection (3)(a)(ii), for “work” substitute “ roles ”,
  - (d) in subsection (5), for “regulated work” substitute “ a regulated role ”,
  - (e) in subsection (6), for “doing that regulated work” substitute “ that regulated role ”,
  - (f) in subsection (7)—
    - (i) for “regulated work” substitute “ a regulated role ”,
    - (ii) for “do that work” substitute “ carry out that role ”,
  - (g) the title of the section becomes “ Organisations not to use barred individuals for regulated roles ”.
- (24) In section 36 (personnel suppliers not to supply barred individuals for regulated work)—
- (a) in subsection (1)—
    - (i) in paragraph (a) for “doing regulated work” substitute “ regulated roles ”,
    - (ii) in paragraph (b) for “do regulated work” substitute “ carry out a regulated role ”,
  - (b) in subsection (2) for “doing the regulated work” substitute “ the regulated role ”,
  - (c) The title of the section becomes “ Personnel suppliers not to supply barred individuals for regulated roles ”.
- (25) The title of section 37 becomes “ Penalties for offences relating to regulated roles ”.
- (26) In section 39(1) (restrictions on listing in children's list) for “work” substitute “ roles ”.
- (27) In section 40(1) (restrictions on listing in adults' list) for “work” substitute “ roles ”.
- (28) In section 44 (the Scheme) for “do, or wish to do, regulated work” substitute “ carry out, or wish to carry out, regulated roles ”.
- (29) In section 48 (scheme record), for paragraph (a) substitute—  
“(a) the information to be contained in a confirmation of scheme membership under section 46(2), and”.
- (30) In section 49(1)(c)(i) (vetting information) for “work” substitute “ role ”.
- (31) In section 58(1) (removal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
  - (b) in paragraph (a) for “doing that work” substitute “ carrying out that type of role ”,
  - (c) in paragraph (b) for “doing that work” substitute “ that type of regulated role ”.
- (32) In section 59 (withdrawal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
  - (b) in paragraph (b) for “doing that type of regulated work” substitute “ carrying out that type of regulated role ”.
- (33) In section 60 (notice of removal)—

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- (a) in subsection (1), after “section” insert “ 45B(3)(a) or (6), ”,
  - (b) in subsection (2)(a), for “work” substitute “ role ”.
- (34) In section 62 (evidence of identity), in subsection (1), for paragraph (c) substitute—  
“(c) a request for confirmation of scheme membership under section 54.”.
- (35) The italic heading before section 65 becomes “ Offences relating to confirmation of scheme membership ”.
- (36) In section 65 (falsification of scheme records etc.)—
- (a) in subsection (1)—
    - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership made available under section 54 ”,
    - (ii) in each of paragraphs (b) and (c), for “a disclosure record” substitute “ such a confirmation ”,
    - (iii) in paragraph (c), for “disclosed” substitute “ made available ”,
  - (b) in subsection (2)—
    - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
    - (ii) in paragraph (b), for “doing regulated work” substitute “ carrying out a regulated role ”,
  - (c) the title of the section becomes “ Falsification of confirmation of scheme membership ”.
- (37) In section 66 (unlawful disclosure of scheme records etc.)—
- (a) in subsection (1), for “disclosure information is disclosed under section 51, 52, 53 or 54” substitute “ a confirmation of scheme membership is made available under section 54 ”,
  - (b) in subsection (2)—
    - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
    - (ii) in paragraph (c), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
  - (c) in each of subsections (2)(c) and (4)(b) for “do, or to be offered or supplied for, regulated work” substitute “ carry out, or to be offered or supplied for, a regulated role ”,
  - (d) in subsection (3), for “disclosure information” substitute “ a confirmation of scheme membership ”,
  - (e) in subsection (4)—
    - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
    - (ii) in paragraph (a), for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
    - (iii) in paragraph (b), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
  - (f) in subsection (5), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,

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- (g) in subsection (6), for “disclosure information” substitute “ confirmation of scheme membership ”,
  - (h) in subsection (7), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
  - (i) in subsection (8)—
    - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
    - (ii) for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
  - (j) in subsection (9), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
  - (k) the title of the section becomes “ Unlawful disclosure of confirmation of scheme membership ”.
- (38) In section 67 (unlawful requests for scheme records etc.)—
- (a) in subsection (1), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
  - (b) in subsection (2), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
  - (c) in subsection (3)—
    - (i) for “record or information” substitute “ confirmation of scheme membership ”,
    - (ii) for paragraph (a), substitute—
      - “(a) to carry out, or to be offered or supplied for, the type of regulated role to which the confirmation of scheme membership relates,”,
    - (iii) in paragraph (b), for “do that type of regulated work” substitute “ carry out that type of regulated role ”,
  - (d) subsection (4) is repealed,
  - (e) the title of the section becomes “ Unlawful requests for and use of confirmation of scheme membership ”.
- (39) In section 68 (unlawful disclosure etc.: supplementary)—
- (a) in subsection (2), for “do, or to be offered or supplied for, the type of regulated work” substitute “ carry out, or to be offered or supplied for, the type of regulated role ”,
  - (b) in subsection (1)—
    - (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
    - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
  - (c) in subsection (2)—
    - (i) for “disclosure information made” substitute “ a confirmation of scheme membership made available under section 54 ”,
    - (ii) for “corresponding disclosure request was made” substitute “ confirmation of scheme membership was made available under section 54 ”,
  - (d) in subsection (3)—

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- (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
  - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
  - (e) for subsection (4) substitute—
    - “(4) In sections 66 and 67(2) and in this section, references to a confirmation of scheme membership include references to any information contained in a confirmation of scheme membership.”.
- (40) The title of section 69 becomes “ Penalties for offences relating to confirmation of scheme membership ”.
- (41) In section 70 (fees)—
- (a) in subsection (1)—
    - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
    - (ii) in paragraph (b), for “disclosure requests” substitute “ requests for confirmations of scheme membership under section 54 ”,
  - (b) in subsection (2), after paragraph (c) insert—
    - “(d) the manner in which fees are to be paid.”,
  - (c) in subsection (4)—
    - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme, ”,
    - (ii) in paragraph (b), for “disclosure request” substitute “ request for confirmation of scheme membership under section 54 ”,
    - (iii) in the closing words, after “paid” insert “ in the manner provided for in the regulations. ”
- (42) In section 71 (forms)—
- (a) in subsection (1)—
    - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
    - (ii) for paragraph (c) substitute—
      - “(c) requests for confirmation of scheme membership under section 54 (including a statement under subsection (3) of that section),”,
  - (b) in each of subsections (2) and (3), for “declaration” substitute “ statement ”.
- (43) In section 72 (procedure), in subsection (2)—
- (a) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
  - (b) paragraph (c) is repealed,
  - (c) for paragraph (d) substitute—
    - “(d) prescribe further procedure for making requests for confirmations of scheme membership under section 54 and making such confirmations available in pursuance of such requests.”.
- (44) In section 73 (consideration of suitability)—

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- (a) in the opening words, for “to do, or to be offered or supplied for, any type of regulated work” substitute “to carry out, or to be offered or supplied for, any type of regulated role”,
  - (b) in each of paragraphs (a) and (b), for “do that type of regulated work” substitute “carry out that type of regulated role”,
  - (c) paragraphs (c) to (f) are repealed.
- (45) In section 76(1)(b) (police access to scheme information) for “regulated work” substitute “regulated roles”.
- (46) In section 77 (statements of scheme membership: disclosure of whether individual under consideration for listing)—
- (a) in subsection (1)—
    - (i) for “Despite section 46(2)(c), a statement of scheme membership” substitute “A confirmation of scheme membership made available under section 54 or a Level 2 disclosure made available under section 18 of the Disclosure (Scotland) Act 2020”,
    - (ii) after “individual” insert “(or details of any conditions that Ministers have imposed under section 13A(1))”,
  - (b) after subsection (1), insert—
    - “(1A) Subsection (1) applies despite—
      - (a) section 46(2)(c) or (d) of this Act,
      - (b) section 16(4)(a)(iii) or (iv) or (b)(iii) or (iv) of the Disclosure (Scotland) Act 2020, or
      - (c) section 17(3)(b) or (c) of that Act,(as the case may be).”
  - (c) in subsection (2)(b), for “or 13” substitute “, 13 or 45B(7)”.
- (47) The title of section 77 becomes “Disclosure of whether an individual is under consideration for listing”.
- (48) In section 92 (individuals barred from regulated work)—
- (a) in the opening words of each of subsections (1) and (2), for “work” substitute “roles”,
  - (b) in each of subsections (3) and (4) for “work” substitute “roles”.
- (49) The title of section 92 becomes “Individuals barred from regulated roles”.
- (50) Section 95 (work) is repealed.
- (51) In section 96 (fostering)—
- (a) in subsection (2), for “doing work” substitute “carrying out a regulated role with children”,
  - (b) in subsection (3)—
    - (i) after “37” insert “and sections 45C to 45F”,
    - (ii) for “work” in the first place it occurs substitute “the carrying out of a regulated role”,
    - (iii) for “work is done” substitute “role is carried out”,
  - (c) subsection (4) is repealed,
  - (d) in subsection (5), for “doing regulated work” substitute “carrying out a regulated role”.





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- (3) In section 17(5)(c)(i) (information relevant to listing decisions), for “the Council of the Pharmaceutical Society of Great Britain” substitute “ the General Pharmaceutical Council ”.
- (4) In section 19(3) (information held by public bodies etc.), after the entry in the list for Health Boards and Special Health Boards insert— “ An integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 ”.
- (5) In section 38(2) (police access to lists), for the words from “purpose of” to the end of that subsection substitute “ law enforcement purposes within the meaning of section 31 of the Data Protection Act 2018. ”.
- (6) In section 39 (restrictions on listing in children's list)—
  - (a) in subsection (2)(a), for “Independent Safeguarding Authority (“ISA”)” substitute “ Disclosure and Barring Service (“DBS”) ”,
  - (b) in each of subsections (4)(b), (5) and (6)(b), for “ISA” substitute “ DBS ”.
- (7) In section 40 (restrictions on listing in adults' list)—
  - (a) in subsection (2)(a), for “Independent Safeguarding Authority (“ISA”)” substitute “ Disclosure and Barring Service (“DBS”) ”,
  - (b) in each of subsections (4)(b), (5) and (6)(b), for “ISA” substitute “ DBS ”.
- (8) In section 76(2) (police access to scheme information), for the words from “the purpose” to the end of that subsection insert “—
  - (a) the performance of the chief constable's functions under this Part, or
  - (b) the law enforcement purposes within the meaning of section 31 of the Data Protection Act 2018”.
- (9) In section 96 (fostering)—
  - (a) in subsection (1)(a) the words “(“the 1995 Act”)” are repealed,
  - (b) in each of subsections (1)(b) and (2)(a) for “1995 Act” substitute “ Children (Scotland) Act 1995 ”,
  - (c) in subsection (8), in the definition of “parental responsibilities” and “parental rights”, for “1995 Act” substitute “ Children (Scotland) Act 1995 ”.
- (10) In section 97(1) (general interpretation)—
  - (a) after the definition of “disciplinary proceedings”, insert—

““Disclosure and Barring Service” and “DBS” mean the body established by section 87(1) of the Protection of Freedoms Act 2012,”,
  - (b) the definition of “Independent Safeguarding Authority” (and “ISA”) is repealed,
  - (c) for the definition of “police force” substitute—

““police force” has the same meaning as in section 69 of the Disclosure (Scotland) Act 2020,”
- (11) In schedule 5 (index)—
  - (a) at the appropriate place insert—

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“Disclosure and Barring Service, DBS section 97(1)”,

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- (b) the entry relating to “Independent Safeguarding Authority, ISA” is repealed.

**Commencement Information**

- II** [Sch. 5 para. 12](#) in force at 10.12.2021 by [S.S.I. 2021/380](#), [reg. 2](#), [sch.](#)

PROSPECTIVE

*Children's Hearings (Scotland) Act 2011*

- 13 In the Children's Hearings (Scotland) Act 2011, the following provisions are repealed—
- (a) section 187 (Rehabilitation of Offenders Act 1974: treatment of certain disposals by children's hearings),
  - (b) section 188 (criminal record certificates).

**Status:**

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**Changes to legislation:**

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