

*Status: Point in time view as at 18/04/2010.*

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VALID FROM 28/02/2011

**SCHEDULE 1**  
*(introduced by section 32)*  
**RELEVANT OFFENCES**  
.....

**SCHEDULE 2**  
*(introduced by section 91)*  
**REGULATED WORK WITH CHILDREN**

VALID FROM 28/02/2011

**PART 1**

**PRELIMINARY**

*Regulated work with children*

- 1 Regulated work with children is [<sup>F1</sup> work done in Scotland ] in—
- (a) a position whose normal duties include carrying out an activity mentioned in Part 2,
  - (b) a position (other than a position mentioned in sub-paragraph (a)) whose normal duties include work in an establishment mentioned in Part 3,
  - (c) a position mentioned in Part 4, or
  - (d) a position whose normal duties include the day to day supervision or management of an individual doing regulated work with children by virtue of sub-paragraph (a) or (b).

**Textual Amendments**

- F1** Words in Sch. 2 para. 1 substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **12**

*Exceptions relating to children's employment and work*

- 2 Work which would be regulated work with children by virtue of any of paragraphs 3 to 7 is not, despite those provisions, regulated work with children if—
- (a) the activity concerned is carried out in relation to children aged 16 or 17 in the course of the children's work, or

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- (b) in the case of the activities referred to in paragraphs 5 and 6, the activity is carried out in relation to children under the age of 16 in the course of the children's employment.

VALID FROM 28/02/2011

## PART 2

### ACTIVITIES

#### *Caring for children*

- 3 Caring for children (except caring for children which is merely incidental to caring for individuals who are not children).

#### *Teaching, instructing, training or supervising children*

- 4 Teaching, instructing, training or supervising children (except teaching, instructing, or training children which is merely incidental to teaching, instructing, or training individuals who are not children).

#### *Being in sole charge of children*

- 5 Being in sole charge of children.

#### *Unsupervised contact with children*

- 6 Contact with children—
- (a) under arrangements made by a responsible person, but
  - (b) in the absence of—
    - (i) a responsible person,
    - (ii) a person carrying out an activity mentioned in paragraph 3, 4 or 5, or
    - (iii) 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 establishment mentioned in Part 3 in which the child is accommodated, is a patient or receives education (and any person acting on behalf of such a person),
- (d) a person who provides day care of children, within the meaning of [F2 schedule 12 to the 2010 Act ],
- (e) any person holding a position mentioned in Part 4, and

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(f) any person holding a position in a children's charity, within the meaning of paragraph 27.

“Family relationship” and “personal relationship” have the meanings given in section 95.

#### Textual Amendments

**F2** Words in [Sch. 2 para. 6](#) substituted (1.10.2010 for specified purposes) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 35\(a\)](#); S.S.I. 2010/321, art. 3, Sch.

#### *Providing advice or guidance to children*

7 Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training (except providing advice or guidance to a child or to particular children which is merely incidental to providing advice or guidance to individuals who are not children).

#### *Moderating certain interactive communication services*

8 Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children. A person moderates such a service if, for the purpose of protecting children, the person has any function relating to—

- (a) monitoring the content of matter which forms any part of the service,
- (b) removing matter from, or preventing the addition of matter to, the service, or
- (c) controlling access to, or use of, the service.

But a person only moderates such a service as mentioned in sub-paragraph (b) or (c) if the person has—

- (i) access to the content of the matter, or
- (ii) contact with users of the service.

#### *Provision of care home services*

9 Providing, or working for an organisation which provides, a care home service which is provided exclusively or mainly for children (but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children). “Care home service” has the same meaning as in [F3 schedule 12 to the 2010 Act ].

#### Textual Amendments

**F3** Words in [Sch. 2 para. 9](#) substituted (1.10.2010 for specified purposes) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 35\(b\)](#); S.S.I. 2010/321, art. 3, Sch.

#### *Provision of independent health care services*

10 Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children

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(but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children).“Independent health care service” has the same meaning as in [F4 section 10F of the National Health Service (Scotland) Act 1978 (c. 29)].

#### Textual Amendments

- F4** Words in Sch. 2 para. 10 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(e\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.

#### *Work on day care premises*

- 11 Work on any part of day care premises at times when children are being looked after in that part.“Day care premises” means premises at which day care of children, within the meaning of [F5 schedule 12 to the 2010 Act ], is provided.

#### Textual Amendments

- F5** Words in Sch. 2 para. 11 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 35\(c\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.

VALID FROM 28/02/2011

### PART 3

#### ESTABLISHMENTS

##### *Children's detention institution*

- 12 An institution which is exclusively or mainly for the detention of children.“Detention” means detention by virtue of an order of a court or under an enactment.

##### *Children's hospital*

- 13 A hospital which is exclusively or mainly for the reception and treatment of children.“Hospital” has the meaning given by section 108(1) (interpretation) of the National Health Service (Scotland) Act 1978 (c. 29).

##### *Educational institutions etc.*

- 14 A school.
- 15 A further education institution.“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 to the Further and Higher Education (Scotland) Act 2005 (asp 6).

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16	Ministers may by order amend the definition of “further education institution” so as to include or exclude bodies listed in that schedule. A hostel used mainly by pupils attending a school or institution mentioned in paragraph 14 or 15 respectively.
<i>Children's home</i>	
17	A home which is exclusively or mainly for children and is provided by a council under— (a) section 59 (provision by councils of residential and other establishments) of the Social Work (Scotland) Act 1968 (c. 49), or (b) section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

VALID FROM 28/02/2011

#### PART 4

#### POSITIONS

##### *Manager of educational institutions etc.*

- 18 Manager, or member of a governing body, body of trustees or other body responsible for the management, of a school, further education institution or hostel mentioned in paragraphs 14 to 16 (but not a member of a council).

##### **Commencement Information**

- I1** Sch. 2 para. 18 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

##### *Member of council committee*

- 19 Member of—  
(a) 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,  
(b) a sub-committee which discharges any functions of any such committee.

##### **Commencement Information**

- I2** Sch. 2 para. 19 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

##### *Member of children's panel etc.*

- 20 Member of—

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- (a) a children's panel established by section 39(1) of the Children (Scotland) Act 1995 (c. 36),
- (b) a Children's Panel Advisory Committee,
- (c) a joint advisory committee established under paragraph 8(1) of Schedule 1 to that Act,
- (d) a sub-committee which discharges any functions of any committee mentioned in sub-paragraph (b) or (c).

**Commencement Information**

**I3** Sch. 2 para. 20 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Chief social work officer*

21 Chief social work officer of a council.

**Commencement Information**

**I4** Sch. 2 para. 21 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Chief education officer*

22 Chief education officer (however called) of a council.

**Commencement Information**

**I5** Sch. 2 para. 22 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Commissioner for Children and Young People in Scotland*

23 Commissioner for Children and Young People in Scotland.

**Commencement Information**

**I6** Sch. 2 para. 23 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

24 Member of that Commissioner's staff.

**Commencement Information**

**I7** Sch. 2 para. 24 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Registrar of Independent Schools in Scotland*

25 Registrar of Independent Schools in Scotland.

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**Commencement Information**

**I8** Sch. 2 para. 25 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Fostering*

26 Foster carer.

**Commencement Information**

**I9** Sch. 2 para. 26 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*[<sup>F6</sup>Charity trustee of a children's charity.]*

**Textual Amendments**

**F6** Sch. 2 para. 27 substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, **8**

27 “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 workers doing regulated work with children.  
An individual works for a charity if the individual works under any arrangements made by the charity.

**Commencement Information**

**I10** Sch. 2 para. 27 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

**PART 5**

GENERAL

*Power to amend schedule*

28 Ministers may by order modify this schedule as they think appropriate.

**Commencement Information**

**I11** [Sch. 2 para. 28](#) in force at 18.4.2010 for specified purposes by [S.S.I. 2010/133](#), **art. 2, Sch.**

29 An order under paragraph 28 may disapply or otherwise modify the application of sections 34 to 37 in relation to particular kinds of regulated work with children.

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### Commencement Information

**I12** Sch. 2 para. 29 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.

## SCHEDULE 3

(introduced by section 91)

### REGULATED WORK WITH ADULTS

PROSPECTIVE

#### PART 1

##### PRELIMINARY

##### *Regulated work with adults*

- 1 Regulated work with adults is [<sup>F7</sup> work done in Scotland ] in—
- (a) a position whose normal duties include carrying out an activity mentioned in Part 2,
  - [<sup>F8</sup>(b) a position—
    - (i) which is not a position mentioned in sub-paragraph (a),
    - (ii) whose normal duties include work in an establishment mentioned in Part 3,
    - (iii) which gives the holder of the position, when doing anything permitted or required in connection with the position, the opportunity to have unsupervised contact with protected adults, and
    - (iv) where contact with protected adults, when the holder of the position is doing anything permitted or required in connection with the position, is more than incidental,]
  - (c) a position mentioned in Part 4, or
  - (d) a position whose normal duties include the day to day supervision or management of an individual doing regulated work with adults by virtue of sub-paragraph (a) or (b).

[<sup>F9</sup> " Unsupervised contact with protected adults " means contact with protected adults in the absence of an individual doing regulated work within the establishment where the contact takes place. ]

### Textual Amendments

**F7** Words in Sch. 3 para. 1 substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), 13



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- F8** Sch. 3 para. 1(b) substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, **3(a)**
- F9** Words in Sch. 3 para. 1 inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, **3(b)**

VALID FROM 28/02/2011

## PART 2

### ACTIVITIES

#### *Caring for adults*

- 2 Caring for protected adults (except caring for protected adults under the age of 18 which is merely incidental to caring for children generally).

PROSPECTIVE

#### *Teaching, instructing, training and supervising adults*

- 3 Teaching, instructing, training or supervising protected adults (except teaching, instructing, training or supervising protected adults which is merely incidental to teaching, instructing, training or supervising individuals who are not protected adults).

PROSPECTIVE

#### *Being in sole charge of adults*

- 4 Being in sole charge of protected adults (except being in sole charge of protected adults which is merely incidental to being in sole charge of individuals who are not protected adults).

#### *Providing assistance, advice or guidance to adults*

- 5 Providing assistance, advice or guidance to a protected adult or particular protected adults which relates to physical or emotional well-being, education or training (except providing assistance, advice or guidance to a protected adult or protected adults which is merely incidental to providing assistance, advice or guidance to individuals who are not protected adults).

#### *Provision of care home services*

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### Textual Amendments

- F10** Sch. 3 para. 6 omitted (28.2.2011 coming into force in accordance with art. 1) by virtue of [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Adults\) Order 2010 \(S.S.I. 2010/245\)](#), arts. 1, 4

*Inspecting care services on behalf of the [F11 Social Care and Social Work Improvement Scotland ] [F12 and Healthcare Improvement Scotland ]*

### Textual Amendments

- F11** Words in Sch. 3 para. 7 crossheading substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(c\)](#); S.S.I. 2010/321, art. 3, Sch.
- F12** Words in Sch. 3 para. 7 crossheading added (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(g\)](#); S.S.I. 2010/321, art. 3, Sch.

7

Inspecting adult care services (including inspecting any premises used for the purposes of providing such services) in pursuance of [F13 section 10J or 10M of the National Health Service (Scotland) Act 1978 (c. 29) or ] [F14Part 5 of the 2010 Act]

An “adult care service” is—

- (a) a support service,
- (b) an adult placement service,
- (c) a care home service,
- (d) a housing support service, or
- (e) an independent health care service which provides services of the type prescribed under section 94(1)(b),

not provided mainly or exclusively to children.

“Support service”, “adult placement service”, “care home service”, [F15 and ] “housing support service” [F16... have the same meanings as in [F17 schedule 12 to the 2010 Act ] [F18]; and “independent health care service” has the same meaning as in section 10F of the National Health Service (Scotland) Act 1978. ”].

### Textual Amendments

- F13** Words in Sch. 3 para. 7 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(f\)\(i\)](#); S.S.I. 2010/321, art. 3, Sch.
- F14** Words in Sch. 3 para. 7 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(b\)\(i\)](#); S.S.I. 2010/321, art. 3, Sch.
- F15** Word in Sch. 3 para. 7 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 36\(b\)\(ii\)](#); S.S.I. 2010/321, art. 3, Sch.

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- F16** Words in Sch. 3 para. 7 repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 36(f)(ii)**; S.S.I. 2010/321, art. 3, Sch.
- F17** Words in Sch. 3 para. 7 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 36(b)(iii)**; S.S.I. 2010/321, art. 3, Sch.
- F18** Words in Sch. 3 para. 7 added (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 36(f)(iii)**; S.S.I. 2010/321, art. 3, Sch.

VALID FROM 28/02/2011

### PART 3

#### ESTABLISHMENTS

##### *Care home*

- 8 A care home. “Care home” means accommodation occupied mainly or exclusively by individuals aged 16 or over which is provided by an organisation carrying on a care home service (within the meaning of the 2001 Act).

##### *Residential establishment or accommodation*

- 9 A residential establishment or accommodation occupied exclusively or mainly by individuals aged 16 or over which is provided by, or the provision of which is secured by, a council under—
- (a) the Social Work (Scotland) Act 1968 (c. 49), or
  - (b) section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

VALID FROM 28/02/2011

### PART 4

#### POSITIONS

##### *Member of council committee*

- 10 Member of a committee (including joint committee) of a council which is concerned with the provision of education, accommodation, social services or health care services to protected adults. Any reference to a committee includes a reference to any sub-committee which discharges any functions of that committee.

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*Chief social work officer*

11 Chief social work officer of a council.

*Charity trustee*

12 Charity trustee of a charity whose—

- (a) workers normally include individuals doing regulated work with adults (other than work that is regulated work with adults by virtue only of this paragraph), or
- (b) main purpose is the relief of those in need by reason of vulnerability.

An individual works for a charity if the individual works under any arrangements made by the charity (other than arrangements made for purposes which are incidental to the purposes for which the charity is established).

**PART 5**

GENERAL

*Power to amend schedule*

13 Ministers may by order modify this schedule as they think appropriate.

**Commencement Information**

**I13** Sch. 3 para. 13 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.

VALID FROM 28/02/2011

14 An order under paragraph 13 may disapply or otherwise modify the application of sections 34 to 37 in relation to particular kinds of regulated work with adults.

**SCHEDULE 4**

*(introduced by section 88)*

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

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

1 The Teaching Council (Scotland) Act 1965 is amended as follows.

**Commencement Information**

**I14** Sch. 4 para. 1 in force at 1.9.2007 by S.S.I. 2007/385, art. 2, Sch.

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VALID FROM 28/02/2011

F192

#### Textual Amendments

**F19** Sch. 4 para. 2 repealed (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **21**

- 3 In section 10B(1)(b)—
- (a) paragraphs (i) to (iii), and
  - (b) the word “and” which follows those paragraphs,
- are repealed.

#### Commencement Information

**I15** Sch. 4 para. 3 in force at 1.9.2007 by [S.S.I. 2007/385](#), art. 2, **Sch.**

- 4 In section 11(8), for the words from “such” to “but” substitute “ who has applied to be registered ”.

#### Commencement Information

**I16** Sch. 4 para. 4 in force at 1.9.2007 by [S.S.I. 2007/385](#), art. 2, **Sch.**

VALID FROM 28/02/2011

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

- 5 The Education (Scotland) Act 1980 is amended as follows.

- 6 In section 98A—

- (a) in subsection (5)(a)(ii), for “disqualified from working with children” substitute “ barred from regulated work with children ”,
- (b) in subsection (6), for the definition of “disqualified from working with children” substitute—

““barred from regulated work with children” shall be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);”.

- 7 In section 99(1A)—

- (a) in paragraph (g)(ii), for “disqualified from working with children” substitute “ barred from regulated work with children ”,
- (b) in paragraph (h)(ii), for “disqualified from working with children” substitute “ barred from regulated work with children ”.

- 8 In section 135(1)—

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

VALID FROM 28/02/2011

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

- 9 The Foster Children (Scotland) Act 1984 is amended as follows.
- 10 In section 7, after subsection (2) insert—
- “(3) A person who lives in the same premises as a barred person shall not maintain a foster child.
- (4) In subsection (3) (and in section 15(2A)), “barred person” means a person who is barred from regulated work with children (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)).”.
- 11 In section 15, after subsection (2) insert—
- “(2A) A person shall not be guilty of an offence under subsection (1)(c) above in relation to a contravention of section 7(3) if the person proves that he did not know, and had no reasonable ground for believing, that any other person living in the premises in which the person lives was a barred person.”.
- 12 In section 21, before the definition of “care home service” insert—
- ““barred person” has the meaning given by section 7(4);”.

VALID FROM 28/02/2011

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

- 13 The 1995 Act is amended as follows.
- 14 In section 106(1)—
- (a) paragraphs (db) and (dc) are repealed,
- (b) in paragraph (f), sub-paragraphs (ii) and (iii) are repealed.
- 15 In section 110(1)(a), the words “, the proposal to make a reference was made” are repealed.
- 16 Section 111(3) is repealed.
- 17 In section 116, for subsection (2) substitute—
- “(2) A person who has appealed against both conviction and sentence (or, as the case may be, against both conviction and a decision mentioned in section 106(1)(bb) or both conviction and disposal and order) may abandon the appeal in so far as it is against conviction and may proceed

*Status: Point in time view as at 18/04/2010.*

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	with it against sentence (or, as the case may be, decision, disposal or order) alone.”.
18	<p>In section 118—</p> <p>(a) in subsection (4), for the words “106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f)” substitute “ 106(1)(ba), (bb), (c), (d), (da), (e) or (f) ”,</p> <p>(b) subsection (4AA) is repealed,</p> <p>(c) in subsection (7)—</p> <p>(i) the words “or, as the case may be,” at the end of paragraph (a), and</p> <p>(ii) paragraph (b),</p> <p>are repealed.</p>
19	<p>In section 121A(1), the words “(other than an appeal under section 106(1)(db) or (dc))” are repealed.</p>
20	<p>In section 173(2), the words “or (cb)” are repealed.</p>
21	<p>In section 175—</p> <p>(a) in subsection (2)—</p> <p>(i) paragraph (cb)(but not the word “or” which appears immediately after that paragraph) is repealed,</p> <p>(ii) in paragraph (d), sub-paragraphs (ii) and (iii) are repealed,</p> <p>(b) in subsection (8), for the words from “under” to the end of paragraph (c) substitute “ against both conviction and sentence may abandon the appeal in so far as it is against conviction and may proceed with it against sentence alone, ”,</p> <p>(c) in subsection (9), the words “or (cb)” are repealed.</p>
22	<p>Section 181(4) is repealed.</p>
23	<p>In section 186—</p> <p>(a) the words “or (cb)”, where they appear in subsections (1), (2), (9) and (10), are repealed,</p> <p>(b) in subsection (2)(a)—</p> <p>(i) at the end of sub-paragraph (i) insert “ or ”,</p> <p>(ii) sub-paragraph (iii)(and the word “or” which immediately precedes it) are repealed.</p>
24	<p>In section 187(1), the words “or (cb)” are repealed.</p>
25	<p>In section 189—</p> <p>(a) subsection (2A) is repealed,</p> <p>(b) in subsection (7)(b)—</p> <p>(i) the words “or, as the case may be,” at the end of paragraph (a), and</p> <p>(ii) paragraph (b),</p> <p>are repealed.</p>
26	<p>In section 193A(1), the words “(other than by way of an appeal under section 175(2)(cb) of this Act against a reference only)” are repealed.</p>

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*Police Act 1997 (c. 50)*

27 Part 5 of the 1997 Act is amended as follows.

**Commencement Information**

**I17** Sch. 4 para. 27 in force at 11.1.2008 for specified purposes by S.S.I. 2007/564, art. 2, Sch.

VALID FROM 28/02/2011

28 In section 113A, after subsection (5) insert—

“(5A) The Scottish Ministers need not issue a criminal record certificate under subsection (1) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14).”.

29 After section 113B insert—

**“113CA Suitability information relating to children**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
  - (a) whether the applicant is barred from regulated work with children;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
  - (d) whether the Independent Barring Board is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

**113CB Suitability information relating to protected adults**

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
  - (a) whether the applicant is barred from regulated work with adults;
  - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
  - (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
  - (d) whether the Independent Barring Board is considering whether to include the applicant in the adults' barred list in pursuance of



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paragraph 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

### 113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
  - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
  - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”.

#### Commencement Information

**I18** Sch. 4 para. 29 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.

VALID FROM 28/02/2011

30 Sections 113C to 113F are repealed.

VALID FROM 28/02/2011

31 In section 114—

- (a) in subsection (2), for “a Minister of the Crown” substitute “ a person mentioned in subsection (2A) ”,
- (b) after subsection (2) insert—

“(2A) Any of the following persons may make a statement for the purposes of subsection (2)—

  - (a) a Minister of the Crown;
  - (b) a member of the Scottish Executive;
  - (c) any other office-holder in the Scottish Administration; or
  - (d) a nominee of any person mentioned in paragraphs (a) to (c).”
- (c) in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “ Section 113A(3) to (6) ”.

VALID FROM 28/02/2011

32 In section 116—

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- (a) in subsection (2), for “a Minister of the Crown, or a person nominated by a Minister of the Crown,” substitute “ a person mentioned in subsection (2A) ”,
- (b) after subsection (2) insert—
  - “(2A) Any of the following persons may make a statement for the purposes of subsection (2)—
    - (a) a Minister of the Crown;
    - (b) a member of the Scottish Executive;
    - (c) any other office-holder in the Scottish Administration; or
    - (d) a nominee of any person mentioned in paragraphs (a) to (c).”
- (c) in subsection (3), for “113C to 113F” substitute “ 113CA to 113CC ”.

33 In section 117, after subsection (2) insert—

- “(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).
- (4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still thinks that the information concerned might be relevant for the purpose in respect of which it was requested.”.

#### **Commencement Information**

**I19** Sch. 4 para. 33 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

34 In section 118—

- (a) in subsection (2A)(a), for “United Kingdom Passport Agency” substitute “ Identity and Passport Service ”,
- (b) after subsection (2A) insert—
  - “(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant's identity.”,
- (c) for subsection (3) substitute—
  - “(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).”.

#### **Commencement Information**

**I20** Sch. 4 para. 34 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

*Status: Point in time view as at 18/04/2010.*

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VALID FROM 28/02/2011

35 In section 119A(2), the words from “; and” to the end of the subsection are repealed.

VALID FROM 28/02/2011

36 In section 120(5)(b) for the words from “countersign” to “113B” substitute “—  
 (“ countersign applications under section 113A or 113B; or  
 (ii) make declarations in relation to disclosure requests made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),”.

VALID FROM 28/02/2011

37 In section 120A—  
 (a) in subsection (3)(b), for “included in any list mentioned in section 113C(3) or 113D(3)” substitute “barred from regulated work with children or adults (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)) ”,  
 (b) in subsection (4)(b)(iii), after “applications” insert “ , or the making of declarations,”.

38 Section 121 is repealed.

#### Commencement Information

**I21** Sch. 4 para. 38 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

VALID FROM 28/02/2011

39 In section 122—  
 (a) in subsection (3)—  
 (i) after “113B” insert “ , or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), ”,  
 (ii) after “application” insert “ or, as the case may be, made the declaration in relation to the disclosure request ”,  
 (iii) after “countersigned”, where it appears in paragraph (b), insert “ or, as the case may be, made the declaration ”,  
 (b) in subsection (4)(b)—  
 (i) the words after “person” become sub-paragraph (i), and  
 (ii) after that new sub-paragraph insert “; or  
 (ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53

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of the Protection of Vulnerable Groups  
(Scotland) Act 2007 (asp 14)”.

40 Before section 123 insert—

### **Delegation of functions of Scottish Ministers**

- “122B) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
- (a) relating to the making of regulations or orders;
  - (b) relating to the publishing or revising of a code of practice;
  - (c) relating to the laying of a code of practice before the Scottish Parliament;
  - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
  - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.”.

#### **Commencement Information**

**I22** Sch. 4 para. 40 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

VALID FROM 28/02/2011

41 In section 126(1), after the definition of “Minister of the Crown” insert—  
 ““office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);”.

VALID FROM 28/02/2011

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

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

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

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

VALID FROM 28/02/2011

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

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

VALID FROM 28/02/2011

*Inquiries Act 2005 (c. 12)*

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

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

46 The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 are repealed—  
(a) section 3(2)(d),  
(b) section 3(8), and  
(c) paragraph 14(2) of schedule 1.

**Commencement Information**

**I23** Sch. 4 para. 46 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

VALID FROM 28/02/2011

SCHEDULE 5  
(introduced by section 97(6))

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