
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No. 2) Order 2022

Amendment of Schedule A1 of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013

2.—(1) Schedule A1 (offences which must be disclosed subject to exceptions) of the Rehabilitation of Offenders Act 1974 (Exclusion and Exceptions) (Scotland) Order 2013⁽¹⁾ is amended as follows.

(2) After paragraph 9 insert—

“**9A.** Defeating the ends of justice.”.

(3) After paragraph 10 insert—

“**10A.** Embezzlement.”.

(4) After paragraph 12 insert—

“**12A.** Housebreaking with intent to steal.”.

(5) After paragraph 13 insert—

“**13A.** Perverting the course of justice (by whatever means and however the offence is described), including in particular—

- (a) false accusation of a crime,
- (b) perjury,
- (c) prevarication on oath,
- (d) prison breaking,
- (e) subornation of perjury.”.

(6) Omit paragraphs 13 and 14.

(7) After paragraph 16 insert—

“**16A.** Robbery.

16B. Wilful fire-raising.”.

(8) Omit paragraphs 17 and 18.

(9) After paragraph 23 insert—

“**Bribery**

23A. An offence under the Bribery Act 2010⁽²⁾.”.

(10) Omit paragraphs 20 to 23.

(1) S.S.I. 2013/50, relevantly amended by S.S.I. 2015/329, S.S.I. 2016/91, S.S.I. 2018/51 and S.S.I. 2019/396. Schedule A1 was inserted by S.S.I. 2015/329.

(2) 2010 c. 23.

(11) After paragraph 24 insert—

“Computer misuse

24A. An offence under section 3ZA of the Computer Misuse Act 1990 (unauthorised acts causing, or creating risk of, serious damage)(**3**).

Domestic abuse

24B. An offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship)(**4**).

24C. An offence under section 2 of the Domestic Abuse (Scotland) Act 2011 (breach of domestic abuse interdict with power of arrest)(**5**).

24D. An offence under section 1 of the Domestic Abuse (Scotland) Act 2018 (abusive behaviour towards partner or ex-partner)(**6**).”.

(12) After paragraph 25 insert—

“False statements and declarations

25A. An offence under section 44 of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements and declarations)(**7**).”.

(13) Before paragraph 26 insert—

“25B. An offence under section 1A of the Prevention of Crime Act 1953 (offence of threatening with offensive weapon in public)(**8**).”.

(14) Omit paragraph 26(l), (m), (n), (o) and (p).

(15) After paragraph 27 insert—

“27A. An offence under section 139AA of the Criminal Justice Act 1988 (offence of threatening with article with blade or point or offensive weapon)(**9**).”.

(16) Before paragraph 28 insert—

“27B. An offence under section 9 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (offence of breaching order)(**10**).”.

(17) After paragraph 28 insert—

“Fraud and forgery

28A. An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981(**11**)—

(a) Part 1 (forgery and kindred offences),

(3) 1990 c. 18. Section 3ZA was inserted by section 41(2) of the Serious Crime Act 2015 (c. 9) (“the 2015 Act”).

(4) 2015 c. 9. Section 76 was amended by section 68(2) of the Domestic Abuse Act 2021 (c. 17).

(5) 2011 asp 13.

(6) 2018 asp 5.

(7) 1995 c. 39.

(8) 1953 c. 14. Section 1A was inserted by section 142(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and amended by section 50(2) and (3) of the Offensive Weapons Act 2019 (c. 17) (“the 2019 Act”), paragraph 7 of schedule 24 and paragraph 1 of schedule 28 of the Sentencing Act 2020 (c. 17) (“the 2020 Act”) and S.I. 2022/500.

(9) 1988 c. 33. Section 139AA was inserted by section 142(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and amended by sections 50(5) and (6) and 51(2), (3) and (4) of the 2019 Act, paragraph 92 of schedule 24 and paragraph 1 of schedule 28 of the 2020 Act and S.I. 2022/500.

(10) 2011 asp 15. Section 9 was amended by paragraph 25 of schedule 2 of the Criminal Justice (Scotland) Act 2016 (asp 1).

(11) 1981 c. 45.

- (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

28B. An offence under section 234A of the Criminal Procedure (Scotland) Act 1995 (non-harassment orders)(**12**).

28C. An offence under any of the following provisions of the Protection from Harassment Act 1997(**13**)—

- (a) section 2 (offence of harassment)(**14**),
- (b) section 2A (offence of stalking)(**15**),
- (c) section 4 (putting people in fear of violence)(**16**),
- (d) section 4A (stalking involving fear of violence or serious alarm or distress)(**17**),
- (e) section 9 (breach of non-harassment order)(**18**).

Health

28D. An offence under any of the following provisions of the Health and Care Act 2022(**19**)—

- (a) section 140 (offence of virginity testing: Scotland),
- (b) section 141 (offence of offering to carry out virginity testing: Scotland),
- (c) section 142 (offence of aiding or abetting etc. a person to carry out virginity testing: Scotland),
- (d) section 152 (offence of carrying out hymenoplasty: Scotland),
- (e) section 153 (offence of offering to carry out hymenoplasty: Scotland),
- (f) section 154 (offence of aiding or abetting etc. a person to carry out hymenoplasty: Scotland).”.

(18) After paragraph 31 insert—

“**31A.** An offence under section 3A of the Female Genital Mutilation Act 2003 (offence of failing to protect girl from risk of genital mutilation)(**20**).”.

(19) After paragraph 32 insert—

(12) 1995 c. 46. Section 234A was inserted by section 11 of the Protection from Harassment Act 1997 (c. 40) and amended by paragraph 1 of schedule 3 of the Crime and Punishment (Scotland) Act 1997 (c. 48), section 49(1)(a) of the Criminal Justice (Scotland) Act 2003 (asp 7) (“the 2003 Act”), section 15(b), (c) and (d) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (“the 2010 Act”), section 5(2) and (3) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (“the 2016 Act”) and paragraph 3(1) of schedule 2 of the Criminal Justice (Scotland) Act 2016.

(13) 1997 c. 40.

(14) Section 2 was amended by paragraph 1 of schedule 8 of the Police Reform Act 2002 (c. 30) and section 125(3) of the Serious Organised Crime and Police Act 2005 (c. 15).

(15) Section 2A was inserted by section 111(1) of the Protection of Freedoms Act 2012 (c. 9) (“the 2012 Act”).

(16) Section 4 was amended by paragraph 143(3)(a) and (b) of schedule 9 of the 2012 Act and section 175(1)(a) of the Policing and Crime Act 2017 (c. 3) (“the 2017 Act”).

(17) Section 4A was inserted by section 111(2) of the 2012 Act and amended by section 175(1)(b) of the 2017 Act and S.I. 2022/500.

(18) Section 9 was amended by section 49(2)(a) and (b) of the 2003 Act and section 1(3) of the Domestic Abuse (Scotland) Act 2011 (asp 13).

(19) 2022 c. 31.

(20) 2003 c. 31. Section 3A was inserted by section 72(2) of the 2015 Act.

“**32A.** An offence under any of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015(**21**)—

- (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

32B. An offence under any of the following provisions of the Insolvency Act 1986(**22**)—

- (a) section 206 (fraud, etc. in anticipation of winding up)(**23**),
- (b) section 207 (transactions in fraud of creditors),
- (c) section 208 (misconduct in course of winding up)(**24**),
- (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).”.

(20) After paragraph 34 insert—

“**34A.** An offence under any of the following provisions of the Dentists Act 1984(**25**)—

- (a) section 38 (prohibition on practice of dentistry by laymen)(**26**),
- (b) section 39 (prohibition on use of practitioners’ titles by laymen)(**27**).

34B. An offence under section 28(1) of the Opticians Act 1989 (penalty for pretending to be registered etc.)(**28**).

34C. An offence under section 32 of the Osteopaths Act 1993 (offences)(**29**).

34D. An offence under section 32 of the Chiropractors Act 1994 (offences)(**30**).

34E. An offence under article 39 of the Health Professions Order 2001 (offences)(**31**).

34F. An offence under article 44 of the Nursing and Midwifery Order 2001 (offences)(**32**).”.

(21) After paragraph 37 insert—

“**37A.** An offence under the Official Secrets Act 1920(**33**).

37B. An offence under the Official Secrets Act 1989(**34**).

(21) 2015 asp 12.

(22) 1986 c. 45.

(23) Section 206 was amended by S.I. 1986/1996.

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

(25) 1984 c. 24.

(26) Section 38 was amended by S.I. 2005/2011 and S.I. 2007/3101.

(27) Section 39 was amended by S.I. 2005/2011 and S.I. 2007/3101.

(28) 1989 c. 44. Section 28(1) was amended by S.I. 2005/848 and 2007/3101.

(29) 1993 c. 21.

(30) 1994 c. 17.

(31) S.I. 2002/254. Article 39 was amended by paragraph 25 of schedule 5 of the Children and Social Work Act 2017 (c. 16) and S.I. 2009/1182.

(32) S.I. 2002/253. Article 44 was amended by S.I. 2018/838.

(33) 1920 c. 75.

(34) 1989 c. 6.

Proceeds of crime and money laundering

37C. An offence under any of the following provisions of the Proceeds of Crime Act 2002~~(35)~~—

- (a) Part 7 (money laundering), other than section 339(1A),
- (b) Part 8 (investigations).”.

(22) In paragraph 38—

- (a) after sub-paragraph (a) insert—
 - “(aa) section 9 (permitting girl to use premises for intercourse)~~(36)~~”;
- (b) omit the “and” immediately following sub-paragraph (b),
- (c) after sub-paragraph (c) insert—
 - “(d) section 13(9) (living on the earnings of another from male prostitution)~~(37)~~”.

(23) Before paragraph 40 insert—

“**39A.** An offence under section 67 of the Serious Organised Crime and Police Act 2005 (offences in connection with disclosure notices or search warrants)~~(38)~~”.

(24) After paragraph 41 insert—

“**41A.** An offence under section 51A of the Civic Government (Scotland) Act 1982 (extreme pornography)~~(39)~~”.

(25) For paragraph 43 substitute—

“**43.** An offence under any of the following provisions of the Sexual Offences Act 2003~~(40)~~—

- (a) section 67A (voyeurism: additional offences)~~(41)~~,
- (b) section 103I (breach of sexual harm prevention order or interim sexual harm prevention order)~~(42)~~,
- (c) section 113 (breach of sexual offences prevention order or interim sexual offences prevention order, etc.)~~(43)~~,
- (d) section 122H (breach of sexual risk order or interim sexual risk order)~~(44)~~”.

(26) After paragraph 44 insert—

“**44A.** An offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009~~(45)~~—

- (a) section 54 (incitement to commit certain sexual acts outside Scotland)~~(46)~~,

(35) 2002 c. 29.

(36) Section 9 was amended by paragraph 1(4) of schedule 5 of the Sexual Offences (Scotland) Act 2009 (asp 9) (“the 2009 Act”), paragraph 11(2)(a) and (b) and (3)(a) and (b) of schedule 4 of the 2010 Act and S.S.I. 2020/339.

(37) Section 13(9) was amended by paragraph 1(9) of schedule 5 of the 2009 Act and section 45(3) of the 2010 Act.

(38) 2005 c. 15.

(39) 1982 c. 45. Section 51A was inserted by section 42(2) of the 2010 Act.

(40) 2003 c. 42.

(41) Section 67A was inserted by section 1(2) of the Voyeurism (Offences) Act 2019 (c. 2) and amended by section 48(2), (3) and (4) of the Police, Crime, Sentencing and Courts Act 2022 (c. 32) and S.I. 2022/500.

(42) Section 103I was inserted by paragraph 2 of schedule 5 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) (“the 2014 Act”).

(43) Section 113 was amended by paragraph 63(2), (3) and (4) of schedule 11 of the 2014 Act, paragraph 209 of schedule 24 of the 2020 Act and S.S.I. 2011/25.

(44) Section 122H was inserted by paragraph 4 of schedule 5 of the 2014 Act.

(45) 2009 asp 9.

(46) Section 54 was amended by section 7(2), (3), (4), (5), (6) and (7) and paragraph 6 of schedule 2 of the 2016 Act.

- (b) section 54A (offences committed outside Scotland)(**47**),
- (c) section 55 (offences committed outside the United Kingdom; child victims)(**48**).

44B. An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual)(**49**).

44C. An offence under any of the following provisions of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016(**50**)—

- (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)(**51**).

Solicitors

44D. An offence under the Solicitors (Scotland) Act 1980(**52**).”.

- (27) Omit paragraph 46(a).
- (28) After paragraph 46 insert—

“Taxation

46A. An offence under any of the following provisions of the Criminal Finances Act 2017(**53**)—

- (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).”.

(29) In paragraph 47—

- (a) omit the “and” immediately following sub-paragraph (q),
- (b) after sub-paragraph (q) insert—
 - “(qa) section 58B (entering or remaining in a designated area)(**54**);”.

(30) In paragraph 57—

- (a) for “either” substitute “any”,
- (b) omit the “or” immediately after sub-paragraph (a),
- (c) after sub-paragraph (b) insert—
 - “(c) section 5 of the Human Trafficking and Exploitation (Scotland) Act 2015 (aggravation by connection with human trafficking activity)(**55**);
 - (d) section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (offences aggravated by involving abuse of partner or ex-partner).”.

(31) After paragraph 59 insert—

(47) Section 54A was inserted by section 8 of the 2016 Act.

(48) Section 55 was amended by paragraph 86 of schedule 7 of the 2010 Act, section 9(2), (3), (4), (5) and (6) of the 2016 Act and paragraph 5(3) of schedule 3 of the Domestic Abuse Act 2021 (c. 17).

(49) 2015 c. 9. Section 69 was amended by S.I. 2016/244.

(50) 2016 asp 22.

(51) Section 37 was amended by paragraph 311 of schedule 24 of the Sentencing Act 2020 (c. 17).

(52) 1980 c. 46.

(53) 2017 c. 22.

(54) 2000 c. 11. Section 58B was inserted by section 4(2) of the Counter-Terrorism and Border Security Act 2019 (c. 3).

(55) 2015 asp 12.

“**59A.** An offence of assault the conviction for which indicates that it resulted in any of the following—

- (a) disability,
- (b) disfigurement (permanent or otherwise),
- (c) impairment (permanent or otherwise)”.

(32) In paragraphs 60 and 61, for “59” substitute “59A”.