
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 51

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2018

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

2.—(1) The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013(1) is amended as follows.

(2) In article 4 (exclusion of section 4(2)(a) and (b) of the Act)—

(a) for paragraph 2(b) substitute—

“(b) a conviction which—

(i) falls within paragraph (2A); and

(ii) is not included in a higher level disclosure sent in connection with the purpose for which the question is put.”;

(b) after paragraph (2) insert—

“(2A) A spent conviction falls within this paragraph if it is—

(a) a conviction for an offence listed in schedule A1 and either—

(i) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of conviction; or

(ii) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction; or

(b) a conviction for an offence listed in schedule B1 which is not a protected conviction.”;

(c) in paragraph (4), for “for an offence listed in Schedule B1” substitute “which falls within paragraph (2A)”;

(d) after paragraph (4) insert—

“(5) Paragraph (4) does not apply if the failure to disclose the conviction related to a question asked when the conviction did not fall within paragraph (2A).”.

(3) In article 5 (exceptions from section 4(3) of the Act)—

(a) in paragraph (2), for sub-paragraph (b) substitute—

“(b) a conviction which—

(i) falls within paragraph (2A); and

(ii) is not included in a higher level disclosure sent in connection with the profession, office, employment, occupation, decision or proposed decision to which the exception would otherwise apply.”;

(b) after paragraph (2) insert—

(1) [S.S.I. 2013/50](#). Relevant amendments have been made by [S.I. 2014/1942](#) and by [S.S.I. 2015/329](#), [S.S.I. 2015/968](#), [S.S.I. 2016/91](#) and [S.S.I. 2016/147](#).

- “(2A) A spent conviction falls within this paragraph if it is—
- (a) a conviction for an offence listed in schedule A1 and either—
 - (i) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of conviction; or
 - (ii) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction; or
 - (b) a conviction for an offence listed in schedule B1 which is not a protected conviction.”;
 - (c) in paragraph (4), for “for an offence listed in Schedule B1” substitute “which falls within paragraph (2A)”;
 - (d) after paragraph (4) insert—
 - “(5) Paragraph (4) does not apply if the failure to disclose the conviction related to a question asked when the conviction did not fall within paragraph (2A).”.
- (4) The title of schedule A1 (offences which must always be disclosed)⁽²⁾ becomes “Offences which must be disclosed subject to exceptions”.
- (5) In schedule B1 (offences which are to be disclosed subject to rules)⁽³⁾—
- (a) in paragraph 75, for “and” substitute “or”; and
 - (b) in paragraph 81, omit sub-paragraph (c) and the word “and” immediately preceding it.

⁽²⁾ Schedule A1 was inserted by [S.S.I. 2015/329](#) and substituted by [S.S.I. 2016/91](#).

⁽³⁾ Schedule B1 was inserted by [S.S.I. 2015/329](#) and substituted by [S.S.I. 2016/91](#).