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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Age of Criminal Responsibility (Scotland) Act 2019  
(Consequential Provisions and Modifications) Order 2021**

**PART 2**

Disclosure of convictions and other information relating to time when person under 12

**Referral of information to independent reviewer**

5.—(1) This article applies where—

- (a) a chief officer, having been requested to do so by the Scottish Ministers under section 113B(4) of the 1997 Act<sup>(1)</sup>, has identified information which relates to a time when the applicant was under 12 years of age and which, in the chief officer's opinion, ought to be included in an enhanced criminal record certificate issue under section 113B(1) of that Act, or
- (b) a chief officer, as a result of an enquiry or arrangements made under section 47 of the 2007 Act, has identified information which relates to a time when the scheme member was under 12 years of age and which, in the chief officer's opinion, ought to be included in a scheme record by virtue of section 49(1)(c) of that Act.

(2) The chief officer must, before providing that information to the Scottish Ministers, refer that information to the independent reviewer together with the following—

- (a) in the case of information falling within paragraph (1)(a), information about the purpose described in the statement under section 113B(2) of the 1997 Act in relation to which the enhanced criminal record certificate is required,
- (b) in the case of information falling within paragraph (1)(b), information about the regulated work in relation to which the scheme member to whom the scheme record relates participates in the scheme,
- (c) an explanation of why the chief officer considers the information ought to be included in the enhanced criminal record certificate or, as the case may be, scheme record, and
- (d) any other information the chief officer considers relevant to the exercise of the independent reviewer's functions.

(3) If provision of the type mentioned in section 23(2)(a) of the 2019 Act is in force, the chief officer must refer the information that the chief officer has identified and considers ought to be included in an enhanced criminal record certificate or, as the case may be, a scheme record to the independent reviewer within the time period specified by virtue of that section.

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(1) The functions of the Secretary of State in section 113B(4), so far as exercisable within devolved competence, have been transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).