



European Union (Future Relationship) Act 2020

2020 CHAPTER 29

PART 1

SECURITY

Criminal records

5 Requests for information made by member States

- (1) If—
- (a) the central authority of a member State makes a request to the designated UK authority for information relating to an individual's convictions, and
 - (b) conditions A and B are met,
- the designated UK authority must, as soon as practicable before the end of the relevant period, provide the information to the central authority (but see subsection (5)).
- (2) Condition A is that the request is made—
- (a) for any of the law enforcement purposes, or
 - (b) for the purposes of enabling the central authority to comply with a request made by an individual who is a UK national for information relating to the individual's convictions.
- (3) Condition B is that the information—
- (a) is recorded in the criminal records database for a part of the United Kingdom, or
 - (b) is retained in accordance with section 2.
- (4) “The relevant period” means the period of 20 working days beginning with the day on which the designated UK authority receives the request.

Changes to legislation: There are currently no known outstanding effects for the European Union (Future Relationship) Act 2020, Section 5. (See end of Document for details)

- (5) Subsection (1) does not require the designated UK authority to provide any information relating to a conviction that is spent unless—
- (a) the request has been made for the purposes of any criminal investigation or criminal proceedings, or
 - (b) subsection (6) applies.
- (6) If the request has been made for the purposes of determining the suitability of an individual to work with children, the information to be provided under subsection (1) must include any information relating to any conviction of the individual for a child sexual offence (whether or not spent).
- (7) Nothing in this section requires the designated UK authority to disclose any information if the disclosure would contravene the data protection legislation (but, in determining whether the disclosure would contravene that legislation, the duties imposed by this section are to be taken into account).
- (8) In this section—
- “ancillary offence” means—
- (a) an offence of attempting or conspiring to commit a child sexual offence,
 - (b) an offence under Part 2 of the Serious Crime Act 2007 in relation to a child sexual offence,
 - (c) an offence of inciting a person to commit a child sexual offence,
 - (d) an offence of aiding, abetting, counselling or procuring the commission of a child sexual offence, or
 - (e) an offence of being involved in and part in the commission of a child sexual offence;
- “child” means an individual under the age of 18;
- “child sexual offence” means—
- (a) an offence consisting of—
 - (i) the sexual abuse or sexual exploitation of a child, or
 - (ii) conduct relating to such abuse or exploitation,
 - (b) an offence relating to indecent images of a child,
 - (c) an offence consisting of any other behaviour carried out in relation to a child that is of a sexual nature or carried out for sexual purposes, or
 - (d) an ancillary offence;
- and for these purposes “offence” includes an offence under a law that is no longer in force;
- “conviction” means—
- (a) a conviction by or before a court in a part of the United Kingdom,
 - (b) a conviction in UK service disciplinary proceedings (whether or not in a part of the United Kingdom), or
 - (c) a conviction under the law of a country or territory outside the United Kingdom;
- “criminal proceedings” means—
- (a) proceedings before a court for dealing with an individual accused of an offence, or
 - (b) proceedings before a court for dealing with an individual convicted of an offence, including proceedings in respect of a sentence or order;

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“working day” means any day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day,
- (c) Good Friday, and
- (d) any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(9) For the purposes of this section a conviction is “spent” if—

- (a) in the case of a conviction in Northern Ireland, it is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27));
- (b) in any other case, it is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974.

Commencement Information

II [S. 5](#) in force at 31.12.2020 by [S.I. 2020/1662](#), [reg. 2\(e\)](#)

Changes to legislation:

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