

MANAGEMENT OF OFFENDERS (SCOTLAND) ACT 2019

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 2 – Disclosure of Convictions

Transitional, schedule and definition

Section 37 – Transitional provision

153. Section 37 of the Bill contains transitional provisions. Amendments made to the 1974 Act by Part 2 of the Bill which refer in any way to a sentence apply to sentences imposed in respect of a conviction before the date on which the amending provision comes into force. Similarly, any amendment referring to a conviction applies in relation to a conviction before the date on which the amending provision comes into force. Both also apply in respect of a conviction on or after that date. This means that the changes to disclosure periods will apply in relation to convictions and sentences before and after the commencement of Part 2 of the Bill, and to convictions on the date of commencement.
154. Section 37(3) means that section 37(2) will also apply to a provision referring to a court's convicting of a person as it applies to a conviction.
155. Section 37(4) of the Bill says that the 1974 Act applies as if the amendments mentioned in section 37(1) and (2) had always had effect. However, this has to be read subject to section 37(5) to (9) of the Bill. This means that if, by virtue of section 37(4), a person would have been a protected person before the commencement of the relevant provisions of the Bill, and if their conviction would have been spent before such date, they are not in fact to be treated as a protected person, and their conviction is not to be treated as spent, until the date that the relevant amending provision comes into force. These provisions prevent the amendments made by Part 2 of the Bill from having retrospective application.

Section 38 – Remainder of amendments

156. Section 38 introduces schedule 2 which makes minor and consequential amendments to the 1974 Act.

Section 39 – Meaning of the 1974 Act

157. Section 39 makes it clear that any references to “the 1974 Act” in Part 2 of the Bill means the Rehabilitation of Offenders Act 1974.