

MANAGEMENT OF OFFENDERS (SCOTLAND) ACT 2019

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 2 – Disclosure of Convictions

Rules relating to disclosure

Section 23 - Disclosure period: particular court orders

95. Section 23(1) provides for amendments to the 1974 Act
96. Section 23(2) inserts a new section 5D after section 5C. Section 5D sets out the new disclosure periods for a community payback order, a drug treatment and testing order and a Restriction of Liberty Order.
97. Currently section 5 of the 1974 Act does not make any specific reference to these three community orders. Therefore, the disclosure period for these disposals is the current default period in existing Table A of 5 years or 2½ years if the person was under 18 at date of conviction.
98. New section 5D(1) of the 1974 Act sets out the disclosure period for these 3 disposals and section 5D(2) describes what these orders are. Section 5D(1)(a) sets the disclosure period for a person 18 years or older at date of conviction, that being one year from date of conviction or, if longer, a period beginning with date of conviction and ending when the order ceases to have effect. Section 5(1)(b) sets the disclosure period where the person was under 18 at the date of conviction.
99. Section 5D(3) sets out what is meant by ‘when the order ceases to have effect’. For community payback orders (CPO)s this a reference to when the requirement imposed by the order ceases or ceased to have effect or otherwise requires or required to be complied with. This is because CPOs may include elements, such as a compensation requirement, which has to be complied with within a set time frame, however may be complied with prior to expiry of this timeframe.
100. For drug treatment and testing orders and for restriction of liberty orders, this is when the requirement that is imposed by the order ceases (or ceased) to have effect.