



# Management of Offenders (Scotland) Act 2019 2019 asp 14

## PART 2

### DISCLOSURE OF CONVICTIONS

#### *Applications for certain convictions to be treated as spent*

#### **34 Regulations under section 33: general details**

- (1) Regulations under section 33 may contain provision about (in particular)—
- (a) the process for applications, including as to—
    - (i) the way of applying,
    - (ii) information to be supplied by applicants,
  - (b) eligibility to make applications, including exceptions and exclusions,
  - (c) fees payable in connection with applications,
  - (d) the functions of the specified reviewer concerning applications, including as to—
    - (i) giving notifications,
    - (ii) obtaining information,
  - (e) the procedure for determining applications, including matters—
    - (i) to which the specified reviewer is to have regard,
    - (ii) which the specified reviewer is to take particularly into account,
  - (f) the types of determinations to be available in respect of applications, and the functions of the specified reviewer concerning determinations,
  - (g) the issuing of, and making of requests for, reasons for determinations,
  - (h) notifications of determinations,
  - (i) time limits in relation to—
    - (i) notifications of applications and determinations,
    - (ii) supplying information in connection with applications,
  - (j) second or subsequent applications relating to the same conviction, including setting a period that must expire before such applications may be made,

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*Changes to legislation: There are currently no known outstanding effects for the Management of Offenders (Scotland) Act 2019, Section 34. (See end of Document for details)*

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- (k) reconsideration, or consideration afresh, of determinations,
  - (l) reports to be produced by the specified reviewer, or guidance to be given to the reviewer by the Scottish Ministers, on the exercise of the reviewer's functions concerning applications and determinations,
  - (m) appeals against determinations, including—
    - (i) entitlement to appeal,
    - (ii) grounds, time limits and procedure for appeal,
  - (n) the legal effect of determinations, arrived at initially or on appeal, including the result that (both)—
    - (i) a person is to be treated as a protected person, and
    - (ii) a conviction is to be treated as spent.
- (2) In relation to a conviction that is, by virtue of the operation of regulations made under section 33, to be treated as a spent conviction, provision which may be made about the legal effect of determinations extends to (any of)—
- (a) provision that the conviction is to be, or is not to be, treated as a protected conviction within the meaning of—
    - (i) section 126ZA of the Police Act 1997,
    - (ii) section 57A of the Protection of Vulnerable Groups (Scotland) Act 2007, or
    - (iii) article 2A of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (S.S.I. 2013/50),
  - (b) provision as to the time from which the conviction is to be, or before which the conviction is not to be, treated as a protected conviction, and
  - (c) provision that the conviction is to be treated as if it were a conviction for an offence of a particular kind prescribed in the provision.
- (3) In this section and section 33, “the specified reviewer” means whoever is specified as such in regulations made under section 33.

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**Commencement Information**

**II** S. 34 in force at 30.11.2020 by S.S.I. 2020/245, reg. 2, sch. (with reg. 3)

**Changes to legislation:**

There are currently no known outstanding effects for the Management of Offenders (Scotland) Act 2019, Section 34.