
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 52

The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018

Citation and commencement

1.—(1) This Order may be cited as the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018.

(2) This Order comes into force on 17th February 2018.

Interpretation²

2. In this Order—

“the 1997 Act” means the Police Act 1997;

“the 2007 Act” means the Protection of Vulnerable Groups (Scotland) Act 2007; and

“the relevant date” means 17th February 2018.

Amendment of the 1997 Act

3.—(1) The 1997 Act is amended as follows.

(2) In section 116ZA (copies of criminal record certificate or enhanced criminal record certificate)⁽¹⁾—

(a) in subsection (1)(b), for the words from “for” to the end substitute “which falls within subsection (1A)”;

(b) after subsection (1) insert—

“(1A) A conviction falls within this subsection if it is—

(a) a conviction for an offence listed in schedule 8A which is a spent conviction and either—

(i) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of the conviction, or

(ii) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction,

(b) a conviction for an offence listed in schedule 8B which is—

(i) a spent conviction, but

(ii) not a protected conviction.”;

(c) in subsection (3)(b), for the words from “for” to the end substitute “which falls within subsection (1A)”.

⁽¹⁾ Section 116ZA was inserted by article 3(4) of [S.S.I. 2015/423](#).

(3) In section 116ZB (application for an order for a new criminal record certificate or enhanced criminal record certificate)(2), in subsection (1)(b), for the words from “for” to the end substitute “which falls within section 116ZA(1A)”.

(4) The title of schedule 8A (offences which must always be disclosed)(3) becomes “Offences which must be disclosed unless a sheriff orders otherwise”.

(5) In schedule 8B (offences which are to be disclosed subject to rules)(4)—

(a) in paragraph 75, for “and” substitute “or”;

(b) in paragraph 81, sub-paragraph (c) and the word “and” immediately preceding it are repealed.

Amendment of the 2007 Act 2

4.—(1) The 2007 Act is amended as follows.

(2) In section 52ZA (procedure following correction of inaccurate scheme record)(5)—

(a) in subsection (1)(c), for the words from “for” to the end substitute “which falls within subsection (4)”;

(b) after subsection (3) insert—

“(4) A conviction falls within this subsection if it is—

(a) a conviction for an offence listed in schedule 8A of the 1997 Act which is a spent conviction and either—

(i) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of conviction, or

(ii) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction,

(b) a conviction for an offence listed in schedule 8B of the 1997 Act which is—

(i) a spent conviction, but

(ii) not a protected conviction.”.

(3) In section 52 (disclosure of scheme records)(6)—

(a) in subsection (2), for the words from “for” to the end substitute “which falls within subsection (2A)”;

(b) after subsection (2) insert—

“(2A) A conviction falls within this subsection if it is—

(a) a conviction for an offence listed in schedule 8A of the 1997 Act which is a spent conviction and either—

(i) the person was aged under 18 on the date of conviction and at least 7 years and 6 months have passed since the date of conviction, or

(ii) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction,

(b) a conviction for an offence listed in schedule 8B of the 1997 Act which is—

(i) a spent conviction, but

(2) Section 116ZB was inserted by article 3(4) of [S.S.I. 2015/423](#).

(3) Schedule 8A was inserted by article 3(8) of [S.S.I. 2015/423](#).

(4) Schedule 8B was inserted by article 3(8) of [S.S.I. 2015/423](#).

(5) Section 52ZA was inserted by article 4(5) of [S.S.I. 2015/423](#).

(6) Section 52 was substituted by article 4(6) of [S.S.I. 2015/423](#).

- (ii) not a protected conviction.”;
- (c) in subsection (4), for the words from “for” to the end substitute “which falls within subsection (2A).”.
- (4) In section 57A (meaning of “conviction” and “protected conviction”)(7), after “sections” insert “52ZA,”.

Current applications for criminal record certificates and enhanced criminal record certificates under sections 113A, 113B, 114 and 116 of the 1997 Act

- 5.—(1) Paragraph (2) of this article applies where the Scottish Ministers—
- (a) have, before the relevant date, received an application for—
 - (i) a criminal record certificate under section 113A (criminal record certificates) or, as the case may be, section 114 (criminal record certificates: Crown employment) of the 1997 Act; or
 - (ii) an enhanced criminal record certificate under section 113B (enhanced criminal record certificates) or, as the case may be, section 116 (enhanced criminal record certificates: judicial appointments and Crown employment) of the 1997 Act; and
 - (b) have not by that date issued the certificate.
- (2) An application referred to in paragraph (1) is to be treated for all purposes as having been received after the relevant date.

Current applications for new certificates under section 117 of the 1997 Act

- 6.—(1) Paragraph (2) of this article applies where the Scottish Ministers—
- (a) have, before the relevant date, received an application for a new criminal record certificate or, as the case may be, a new enhanced criminal record certificate under sections 113A to 116 of the 1997 Act in accordance with section 117 (disputes about accuracy of certificates) of the 1997 Act; and
 - (b) have not by that date issued the new certificate.
- (2) An application referred to in paragraph (1) is to be treated for all purposes as having been received after the relevant date.

Current disclosure requests under sections 52 and 53 of the 2007 Act

- 7.—(1) Paragraph (2) of this article applies where the Scottish Ministers—
- (a) have, before the relevant date, received a request for—
 - (i) disclosure of a scheme member’s scheme record under section 52 (disclosure of scheme records) of the 2007 Act; or
 - (ii) disclosure of a scheme member’s short scheme record under section 53 (disclosure of short scheme records) of the 2007 Act; and
 - (b) have not by that date disclosed the scheme record or, as the case may be, short scheme record.
- (2) Any request for a disclosure referred to in paragraph (1) is to be treated for all purposes as having been received after the relevant date.

(7) Section 57A was inserted by article 4(8) of [S.S.I. 2015/423](#).

Correction of scheme records under sections 51 and 52ZA of the 2007 Act

8.—(1) Paragraph (2) of this article applies where the Scottish Ministers—

(a) have, before the relevant date, received—

- (i) a notification of changes under section 50 (duty to notify certain changes) of the 2007 Act;
- (ii) a request from a scheme member for correction of a scheme record under section 51 (correction of inaccurate scheme record) of the 2007 Act; or
- (iii) a request from a scheme member for correction of a scheme record under section 52ZA (procedure following correction of inaccurate scheme record) of the 2007 Act; and

(b) have not by that date corrected the scheme record.

(2) A notification or, as the case may be, a request referred to in paragraph (1) is to be treated for all purposes as having been received after the relevant date.

St Andrew's House,
Edinburgh
8th February 2018

MAREE TODD
Authorised to sign by the Scottish Ministers