

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007, SCHEDULE 4 is up to date with all changes known to be in force on or before 06 October 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 4 (introduced by section 88)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Teaching Council (Scotland) Act 1965 (c. 19)

F1₁

Textual Amendments

F1 Sch. 4 para. 1 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, [Sch. 7](#)

F2₂

Textual Amendments

F2 Sch. 4 para. 2 repealed (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), [21](#)

Commencement Information

I1 Sch. 4 para. 2 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

F3₃

Textual Amendments

F3 Sch. 4 para. 3 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, [Sch. 7](#)

F4₄

Textual Amendments

F4 Sch. 4 para. 4 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, [Sch. 7](#)

Education (Scotland) Act 1980 (c. 44)

5 The Education (Scotland) Act 1980 is amended as follows.

Commencement Information

I2 Sch. 4 para. 5 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

6 In section 98A—

- (a) in subsection (5)(a)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,

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- (b) in subsection (6), for the definition of “disqualified from working with children” substitute—

““barred from regulated work with children” shall be construed in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);”.

Commencement Information

I3 Sch. 4 para. 6 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

- 7 In section 99(1A)—
- (a) in paragraph (g)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”,
- (b) in paragraph (h)(ii), for “disqualified from working with children” substitute “barred from regulated work with children”.

Commencement Information

I4 Sch. 4 para. 7 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

- 8 In section 135(1)—
- (a) after the definition of “attendance order” insert—
- ““barred from regulated work with children” has the meaning given by section 98A(6) of this Act;”,
- (b) the definition of “disqualified from working with children” is repealed.

Commencement Information

I5 Sch. 4 para. 8 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Foster Children (Scotland) Act 1984 (c. 56)

- 9 The Foster Children (Scotland) Act 1984 is amended as follows.

Commencement Information

I6 Sch. 4 para. 9 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

- 10 In section 7, after subsection (2) insert—
- “(3) A person who lives in the same premises as a barred person shall not maintain a foster child.
- (4) In subsection (3) (and in section 15(2A)), “barred person” means a person who is barred from regulated work with children (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)).”.

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Commencement Information

I7 Sch. 4 para. 10 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

11 In section 15, after subsection (2) insert—

“(2A) A person shall not be guilty of an offence under subsection (1)(c) above in relation to a contravention of section 7(3) if the person proves that he did not know, and had no reasonable ground for believing, that any other person living in the premises in which the person lives was a barred person.”.

Commencement Information

I8 Sch. 4 para. 11 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

12 In section 21, before the definition of “care home service” insert—

““barred person” has the meaning given by section 7(4);”.

Commencement Information

I9 Sch. 4 para. 12 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Criminal Procedure (Scotland) Act 1995 (c. 46)

13 The 1995 Act is amended as follows.

Commencement Information

I10 Sch. 4 para. 13 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

14 In section 106(1)—

- (a) paragraphs (db) and (dc) are repealed,
- (b) in paragraph (f), sub-paragraphs (ii) and (iii) are repealed.

Commencement Information

I11 Sch. 4 para. 14 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

15 In section 110(1)(a), the words “, the proposal to make a reference was made” are repealed.

Commencement Information

I12 Sch. 4 para. 15 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

16 Section 111(3) is repealed.

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Commencement Information

I13 Sch. 4 para. 16 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

17 In section 116, for subsection (2) substitute—

“(2) A person who has appealed against both conviction and sentence (or, as the case may be, against both conviction and a decision mentioned in section 106(1)(bb) or both conviction and disposal and order) may abandon the appeal in so far as it is against conviction and may proceed with it against sentence (or, as the case may be, decision, disposal or order) alone.”.

Commencement Information

I14 Sch. 4 para. 17 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

18 In section 118—

- (a) in subsection (4), for the words “106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f)” substitute “ 106(1)(ba), (bb), (c), (d), (da), (e) or (f) ”,
- (b) subsection (4AA) is repealed,
- (c) in subsection (7)—
 - (i) the words “or, as the case may be,” at the end of paragraph (a), and
 - (ii) paragraph (b),
 are repealed.

Commencement Information

I15 Sch. 4 para. 18 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

19 In section 121A(1), the words “(other than an appeal under section 106(1)(db) or (dc))” are repealed.

Commencement Information

I16 Sch. 4 para. 19 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

20 In section 173(2), the words “or (cb)” are repealed.

Commencement Information

I17 Sch. 4 para. 20 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

21 In section 175—

- (a) in subsection (2)—
 - (i) paragraph (cb)(but not the word “or” which appears immediately after that paragraph) is repealed,
 - (ii) in paragraph (d), sub-paragraphs (ii) and (iii) are repealed,
- (b) in subsection (8), for the words from “under” to the end of paragraph (c) substitute “ against both conviction and sentence may abandon the appeal in

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so far as it is against conviction and may proceed with it against sentence alone,”,

(c) in subsection (9), the words “or (cb)” are repealed.

Commencement Information

I18 Sch. 4 para. 21 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

22 Section 181(4) is repealed.

Commencement Information

I19 Sch. 4 para. 22 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

23 In section 186—

(a) the words “or (cb)”, where they appear in subsections (1), (2), (9) and (10), are repealed,

(b) in subsection (2)(a)—

(i) at the end of sub-paragraph (i) insert “ or ”,

(ii) sub-paragraph (iii)(and the word “or” which immediately precedes it) are repealed.

Commencement Information

I20 Sch. 4 para. 23 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

24 In section 187(1), the words “or (cb)” are repealed.

Commencement Information

I21 Sch. 4 para. 24 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

25 In section 189—

(a) subsection (2A) is repealed,

(b) in subsection (7)(b)—

(i) the words “or, as the case may be,” at the end of paragraph (a), and

(ii) paragraph (b),

are repealed.

Commencement Information

I22 Sch. 4 para. 25 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

26 In section 193A(1), the words “(other than by way of an appeal under section 175(2) (cb) of this Act against a reference only)” are repealed.

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Commencement Information

I23 Sch. 4 para. 26 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(1))

Police Act 1997 (c. 50)

27 Part 5 of the 1997 Act is amended as follows.

Commencement Information

I24 Sch. 4 para. 27 in force at 11.1.2008 for specified purposes by S.S.I. 2007/564, art. 2, Sch.

I25 Sch. 4 para. 27 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

28 In section 113A, after subsection (5) insert—

“(5A) The Scottish Ministers need not issue a criminal record certificate under subsection (1) if the statement accompanying the application states that the purpose for which the certificate is required is the purpose mentioned in disclosure condition C (set out in section 55 of the Protection of Vulnerable Groups (Scotland) Act 2007) (asp 14).”.

Commencement Information

I26 Sch. 4 para. 28 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

29 After section 113B insert—

“113CA Suitability information relating to children

“113CA “113CA Suitability information relating to children

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to children.
- (2) Suitability information relating to children is—
 - (a) whether the applicant is barred from regulated work with children;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
 - (c) whether the Scottish Ministers are considering whether to list the individual in the children's list;
 - (d) whether the Independent Barring Board is considering whether to include the applicant in the children's barred list in pursuance of paragraph 3 or 5 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

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113CB Suitability information relating to protected adults

113CB 113CB Suitability information relating to protected adults

- (1) In such cases as are prescribed, an enhanced criminal record certificate must also include suitability information relating to protected adults.
- (2) Suitability information relating to protected adults is—
 - (a) whether the applicant is barred from regulated work with adults;
 - (b) if the applicant is barred from such activity, such details as are prescribed of the circumstances in which the applicant became barred;
 - (c) whether the Scottish Ministers are considering whether to list the individual in the adults' list;
 - (d) whether the Independent Barring Board is considering whether to include the applicant in the adults' barred list in pursuance of paragraph 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006.

113CC Suitability information: supplementary

113CC 113CC Suitability information: supplementary

- (1) The Scottish Ministers may by order made by statutory instrument—
 - (a) amend section 113CA for the purpose of altering the meaning of suitability information relating to children;
 - (b) amend section 113CB for the purpose of altering the meaning of suitability information relating to protected adults.
- (2) Such an order is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3) Expressions used in sections 113CA and 113CB and in the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) have the same meaning in those sections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”

Commencement Information

I27 Sch. 4 para. 29 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.

I28 Sch. 4 para. 29 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a) (with art. 3)

30 Sections 113C to 113F are repealed.

Commencement Information

I29 Sch. 4 para. 30 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

31 In section 114—

- (a) in subsection (2), for “a Minister of the Crown” substitute “ a person mentioned in subsection (2A) ”,

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(b) after subsection (2) insert—

“(2A) Any of the following persons may make a statement for the purposes of subsection (2)—

- (a) a Minister of the Crown;
- (b) a member of the Scottish Executive;
- (c) any other office-holder in the Scottish Administration; or
- (d) a nominee of any person mentioned in paragraphs (a) to (c).”;

(c) in subsection (3), for “Sections 113A(3) to (6) and 113C to 113F” substitute “Section 113A(3) to (6)”.

Commencement Information

I30 Sch. 4 para. 31 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

32 In section 116—

- (a) in subsection (2), for “a Minister of the Crown, or a person nominated by a Minister of the Crown,” substitute “a person mentioned in subsection (2A)”;
- (b) after subsection (2) insert—

“(2A) Any of the following persons may make a statement for the purposes of subsection (2)—

- (a) a Minister of the Crown;
- (b) a member of the Scottish Executive;
- (c) any other office-holder in the Scottish Administration; or
- (d) a nominee of any person mentioned in paragraphs (a) to (c).”;

(c) in subsection (3), for “113C to 113F” substitute “113CA to 113CC”.

Commencement Information

I31 Sch. 4 para. 32 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

33 In section 117, after subsection (2) insert—

“(3) An application under this section may, in particular, request a review of any information contained in a certificate by virtue of section 113B(4).

(4) The Scottish Ministers, on receiving such a request, must ask the chief officer of the relevant police force who provided that information to reconsider whether the chief officer still thinks that the information concerned might be relevant for the purpose in respect of which it was requested.”.

Commencement Information

I32 Sch. 4 para. 33 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

34 In section 118—

- (a) in subsection (2A)(a), for “United Kingdom Passport Agency” substitute “Identity and Passport Service”;

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(b) after subsection (2A) insert—

“(2B) The Scottish Ministers may require an applicant to have fingerprints taken under subsection (2) only if they are not satisfied by other evidence provided under subsection (1) as to the applicant’s identity.”,

(c) for subsection (3) substitute—

“(3) The Scottish Ministers must arrange the destruction of any fingerprints taken in pursuance of subsection (2) as soon as reasonably practicable after they have been used for the purpose mentioned in subsection (1).”.

Commencement Information

I33 Sch. 4 para. 34 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

35 In section 119A(2), the words from “; and” to the end of the subsection are repealed.

Commencement Information

I34 Sch. 4 para. 35 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

36 In section 120(5)(b) for the words from “countersign” to “113B” substitute “—
(“) countersign applications under section 113A or 113B; or
(ii) make declarations in relation to disclosure requests made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).”.

Commencement Information

I35 Sch. 4 para. 36 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

37 In section 120A—

(a) in subsection (3)(b), for “included in any list mentioned in section 113C(3) or 113D(3)” substitute “barred from regulated work with children or adults (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14))”,

(b) in subsection (4)(b)(iii), after “applications” insert “ , or the making of declarations.”.

Commencement Information

I36 Sch. 4 para. 37 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

38 Section 121 is repealed.

Commencement Information

I37 Sch. 4 para. 38 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

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- 39 In section 122—
- (a) in subsection (3)—
 - (i) after “113B” insert “, or make a disclosure under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), ”,
 - (ii) after “application” insert “ or, as the case may be, made the declaration in relation to the disclosure request ”,
 - (iii) after “countersigned”, where it appears in paragraph (b), insert “ or, as the case may be, made the declaration ”,
 - (b) in subsection (4)(b)—
 - (i) the words after “person” become sub-paragraph (i), and
 - (ii) after that new sub-paragraph insert “; or
 - (ii) has made or is likely to make a declaration in relation to a disclosure request made under section 52 or 53 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)”.

Commencement Information

I38 Sch. 4 para. 39 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 4)

- 40 Before section 123 insert—

Delegation of functions of Scottish Ministers

“122B **Delegation of functions of Scottish Ministers**

- (1) The Scottish Ministers may, to such extent and subject to such conditions as they think appropriate, delegate any of their functions under this Part (other than excepted functions) to such person as they may determine.
- (2) An excepted function is a function—
 - (a) relating to the making of regulations or orders;
 - (b) relating to the publishing or revising of a code of practice;
 - (c) relating to the laying of a code of practice before the Scottish Parliament;
 - (d) relating to the determination of an appropriate fee under section 113B(5A) or 119(3); or
 - (e) under section 125A.
- (3) A delegation under subsection (1) may be varied or revoked at any time.
- (4) No proceedings are competent against a person performing functions delegated under this section by reason of an inaccuracy in the information made available or provided to the person in accordance with section 119.”.

Commencement Information

I39 Sch. 4 para. 40 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

- 41 In section 126(1), after the definition of “Minister of the Crown” insert—

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““office-holder in the Scottish Administration” has the same meaning as in the Scotland Act 1998 (c. 46);”.

Commencement Information

I40 Sch. 4 para. 41 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 3)

Protection of Children (Scotland) Act 2003 (asp 5)

42 The whole Act (other than sections 13 and 16) is repealed.

Commencement Information

I41 Sch. 4 para. 42 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5)

43 Section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004 is repealed.

Commencement Information

I42 Sch. 4 para. 43 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Charities and Trustee Investment (Scotland) Act 2005 (asp 10)

44 Paragraph 15 of schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005 is repealed.

Commencement Information

I43 Sch. 4 para. 44 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Inquiries Act 2005 (c. 12)

45 Part 2 of Schedule 2 to the Inquiries Act 2005 is repealed.

Commencement Information

I44 Sch. 4 para. 45 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a) (with art. 5(2))

Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)

46 The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 are repealed—

- (a) section 3(2)(d),
- (b) section 3(8), and

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(c) paragraph 14(2) of schedule 1.

Commencement Information

I45 [Sch. 4 para. 46](#) in force at 11.1.2008 by [S.S.I. 2007/564](#), art. 2, [Sch.](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by [2020 asp 13 s. 80\(2\)](#)
- s. 8(3)(za) inserted by [2020 asp 13 s. 82\(3\)](#)
- s. 10(1)(aa) inserted by [2020 asp 13 s. 80\(3\)](#)
- s. 13A-13C inserted by [2020 asp 13 s. 76\(2\)](#)
- s. 18(5) inserted by [2020 asp 13 sch. 5 para. 5\(2\)\(b\)](#)
- s. 30(3A)-(3C) inserted by [2020 asp 13 s. 77\(3\)](#)
- s. 45A inserted by [2020 asp 13 s. 71](#)
- s. 45B inserted by [2020 asp 13 s. 72](#)
- s. 45C-45G inserted by [2020 asp 13 s. 73\(2\)](#)
- s. 45H inserted by [2020 asp 13 s. 88\(3\)](#)
- s. 46A inserted by [2020 asp 13 s. 79](#)
- s. 49(3) inserted by [2020 asp 13 sch. 5 para. 5\(3\)\(c\)](#)
- s. 70(2)(d) inserted by [2020 asp 13 sch. 5 para. 10\(41\)\(b\)](#)
- s. 77(1A) inserted by [2020 asp 13 sch. 5 para. 10\(46\)\(b\)](#)
- s. 94(2A)(2B) inserted by [2020 asp 13 s. 75\(3\)](#)
- Sch. 1 para. 1(zra)(zrb) repealed by [2016 asp 22 Sch. 2 para. 5\(b\)](#)