

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019

EXPLANATORY NOTES

PART 2: DISCLOSURE OF CONVICTIONS AND OTHER INFORMATION RELATING TO TIME WHEN PERSON UNDER 12

Changes made by the Act

What this Part of the Act does

Effect of amendments of 1974 Act on 1997 and 2007 Acts

53. The amendments made to the 1974 Act by section 4 also have effects in relation to state disclosure of information under the 1997 Act and the 2007 Act. This is because, as already noted, the 1997 Act defines “conviction” with reference to the 1974 Act, and that definition also carries through to the 2007 Act. By virtue of the 1974 Act no longer applying in relation to convictions acquired, prior to the change in the age of criminal responsibility, for offences committed when a person was aged under 12, information about such offences will no longer be automatically disclosed as part of a basic disclosure, a standard disclosure or an enhanced disclosure under the 1997 Act. And, by virtue of the change in the age of criminal responsibility, pre-12 behaviour will not in the future result in a conviction, again meaning that such behaviour will not fall to be automatically disclosed in any of these types of disclosure. In addition, information about such convictions or behaviour will no longer be disclosed as vetting information as part of a scheme record under the 2007 Act. The existence of such a conviction or behaviour will also not automatically prevent a short scheme record stating that no vetting information exists.
54. But, as noted in paragraph 33, enhanced disclosures under the 1997 Act and scheme records under the 2007 Act may also include ORI – which may, as this Act does not include any provision to the contrary, include information about pre-12 behaviour. Subsections (2) and (3) of section 10 amend the 1997 Act and the 2007 Act respectively to make clear that ORI can include information about relevant behaviour within the meaning of section 5(1)(a) – that is, pre-12 behaviour which, prior to the implementation of this Act, resulted in a conviction (including the offence ground being accepted or established for children’s hearings purposes) or an alternative to prosecution. So, although information about pre-12 convictions will no longer be automatically disclosed under the 1997 and 2007 Acts, such information may be disclosed as ORI.