



Age of Criminal Responsibility (Scotland) Act 2019

2019 asp 7

PART 2

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

CHAPTER 1

DISCLOSURE OF CONVICTIONS ETC.

Disclosure of information about relevant behaviour

5 Disclosure of information about convictions etc. relating to time when person under 12

- (1) Sections 6 to 8 apply to behaviour (“relevant behaviour”) of a person which occurred when the person was under 12 years of age and—
- (a) which resulted in the person being—
 - (i) convicted of an offence, or
 - (ii) given an alternative to prosecution (within the meaning of section 8B(1) of the 1974 Act), or
 - (b) in relation to which—
 - (i) the person was taken to a place of safety by virtue of section 28,
 - (ii) an order under section 36 authorising a search in relation to the person was applied for,
 - (iii) the person was interviewed by virtue of section 40(2),
 - (iv) a child interview order was applied for in respect of the person,
 - (v) the person was questioned by virtue of section 54,
 - (vi) an order under section 63 authorising the taking of relevant physical data or a relevant sample from the person was applied for,

- (vii) relevant physical data or a relevant sample was taken from the person by virtue of section 59(1)(b) or 69.
- (2) For the purposes of sections 6 to 8, circumstances ancillary to relevant behaviour includes—
 - (a) where the behaviour resulted in the person being convicted of an offence, any circumstances of—
 - (i) the offence which was the subject of the conviction,
 - (ii) the conduct constituting the offence,
 - (iii) any process or proceedings preliminary to the conviction,
 - (iv) any sentence imposed in respect of the conviction,
 - (v) any proceedings (whether by way of appeal or otherwise) for reviewing the conviction or sentence,
 - (vi) anything done in pursuance of, or undergone in compliance with, any such sentence,
 - (b) where the behaviour resulted in the person being given an alternative to prosecution, any circumstances of—
 - (i) the offence in respect of which the alternative to prosecution is given or the conduct constituting the offence,
 - (ii) any process preliminary to the alternative to prosecution being given (including consideration by any person of how to deal with the offence and the procedure for giving the alternative to prosecution),
 - (iii) any proceedings for the offence which took place before the alternative to prosecution was given (including anything that happened after that time for the purpose of bringing the proceedings to an end),
 - (iv) any judicial review proceedings relating to the alternative to prosecution,
 - (v) anything done or undergone in pursuance of the terms of the alternative to prosecution.
- (3) For the purposes of subsections (1)(a)(i) and (2)(a)—
 - (a) the acceptance or establishment (or deemed establishment), in relation to the person, of the ground of referral to the children’s hearing referred to in section 3(1) of the 1974 Act is to be treated as a conviction, and
 - (b) any disposal of the case by the children’s hearing is to be treated as a sentence.
- (4) The Scottish Ministers may, by regulations, modify the meanings in subsections (1) and (2) of relevant behaviour and circumstances ancillary to such behaviour.
- (5) Regulations under subsection (4) may modify any enactment (including this Act).