

## SCHEDULE 4

Article 5(a)

### EXCEPTED PROFESSIONS, OFFICES, EMPLOYMENTS AND OCCUPATIONS

#### PART 1

##### Professions

1. Medical practitioner.
2. Advocate, solicitor.
3. Accountant.
4. Dentist or any profession complementary to dentistry for which a title is specified in regulations under section 36A(2) of the Dentists Act 1984<sup>(1)</sup> (professions complementary to dentistry) by virtue of section 36A(3) of that Act.
5. Veterinary surgeon.
6. Nurse or midwife.
7. Ophthalmic optician, dispensing optician.
8. Registered pharmacist.
9. Registered pharmacy technician.
10. Registered teacher.
11. Any profession to which the Health Professions Order 2001<sup>(2)</sup> applies and which is undertaken following registration under that Order.
12. Registered osteopath.
13. Registered chiropractor.
14. Actuary.
15. Registered European lawyer, registered foreign lawyer.
16. Social worker.
17. Social service worker.

#### PART 2

##### Offices and employments

1. Judicial appointments.
2. Prosecutors, officers assisting prosecutors, and officers assisting in the work of the Crown Office.
3. Justices of the Peace and members of local authorities with signing functions under section 76 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007<sup>(3)</sup>.

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<sup>(1)</sup> 1984 c.24. Section 36A was added by the Dentists Act 1984 (Amendment) Order 2005 (S.I. 2005/2011), article 29.

<sup>(2)</sup> S.I. 2002/254.

<sup>(3)</sup> 2007 asp 6.

*Draft Legislation:* This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013* ISBN 978-0-11-101908-5

4. Clerks (including depute and assistant clerks) and officers of the High Court of Justiciary, the Court of Session and the justice of the peace court, sheriff clerks (including sheriff clerks depute) and their clerks and assistants and other support officers assisting in the work of the Scottish Court Service.

5. Precognition agents.

6. Constables, police custody and security officers, persons appointed as police cadets to undergo training with a view to becoming constables, persons employed for the purposes of a police force established under any enactment, persons appointed to assist in the carrying out of police functions and naval, military and air force police.

7. Any office, employment or work which is concerned with the administration of, or is otherwise normally carried out wholly or partly within the precincts of a prison, remand centre, young offenders institution, detention centre or removal centre, and members of visiting committees for prisons appointed under rules made under section 39 of the Prisons (Scotland) Act 1989(4) and members of visiting committees for remand centres and young offenders institutions appointed under section 19(3)(5) of that Act.

8. Traffic wardens appointed under or in accordance with section 95 of the Road Traffic Regulation Act 1984(6).

9. Any employment or work which is concerned with the provision of a care service.

10. Any employment or work which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of that person's normal duties.

11. Any regulated work with children.

12. Any employment or work in the Scottish Society for the Prevention of Cruelty to Animals where the person employed or working, as part of his or her duties, may carry out the killing of animals.

13. Any office, employment or work in the Serious Fraud Office.

14. Any office, employment or work in the Serious Organised Crime Agency.

15. Any office, employment or work in Her Majesty's Revenue and Customs.

16. Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.

17. Any office or employment in the Scottish Social Services Council.

18. Her Majesty's Inspectors, or any person appointed by the Scottish Ministers for the purposes of section 66 of the Education (Scotland) Act 1980(7) or section 9 of the Standards in Scotland's

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(4) 1989 c.45. Section 39 was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), section 24 and 25, Schedule 5, paragraph 6(6)(b) and Schedule 7, paragraph 1; by the Criminal Justice and Public Order Act 1994 (c.33), section 116(4); by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 75(4) (a); and by the Crime and Disorder Act 1998 (c.37), Schedule 8, paragraph 71 and Schedule 10, paragraph 1.

(5) Section 19(3) was amended by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9), Schedule 5, paragraph 6(4) (a).

(6) 1984 c.27. Section 95 was amended by the Police Reform and Social Responsibility Act 2011 (c.13), Schedule 16(3), paragraph 166; and by the Greater London Authority Act 1999 (c. 29), section 290(2).

(7) 1980 c.44. Section 66 was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c.39), section 82(1) and Schedule 10, paragraph 8(14); by the Further and Higher Education (Scotland) Act 1992 (c.37), Schedule 9, paragraph 7(5); by the Standards in Scotland's Schools etc. Act 2000 (asp 6), section 11 and 36 and Schedule 2, paragraph 3(7); by the Teaching and Higher Education Act 1998 (c.30), section 21; by the Education (Scotland) Act 1981 (c.58), Schedule 9 and by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289H and Schedule 7D item 54 (as inserted by Criminal Justice Act 1982 (c.48), sections 54 and 56(2) and Schedule 6).

Schools etc. Act 2000<sup>(8)</sup>, or members of any Management Board established to assist either Her Majesty's Inspectors or any such person, or any individual undertaking employment or work for Her Majesty's Inspectors or any such person in relation to the carrying out of inspections under section 66 of the Education (Scotland) Act 1980, section 9 of the Standards in Scotland's Schools etc. Act 2000 or section 115 of the 2010 Act<sup>(9)</sup>, or otherwise in regard to matters associated with such inspections.

19. The Principal Reporter or officers appointed under section 128(5) of the Local Government etc. (Scotland) Act 1994<sup>(10)</sup> to assist that officer.

20. Members of a panel established by virtue of section 101(1) of the Children (Scotland) Act 1995<sup>(11)</sup> (panels for curators *ad litem*, reporting officers and safeguarders).

21. Any office or employment in the Risk Management Authority.

22. Any office or employment in the Scottish Criminal Cases Review Commission.

23. Any office or employment in a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005<sup>(12)</sup>.

24. Any employment or work in a body concerned primarily with the provision of counselling or other support to individuals who are or appear to be victims of, or witnesses to, offences, and which involves having access to personal information about such individuals.

25. Any regulated work with adults.

26. Members mentioned in section 35(4)(c) of the Judiciary and Courts (Scotland) Act 2008<sup>(13)</sup> of a tribunal constituted under section 35(1) of that Act to consider the fitness for judicial office of a person holding a judicial office mentioned in section 35(2) of that Act.

27. Members mentioned in section 12A(4)(d) of the Sheriff Courts (Scotland) Act 1971<sup>(14)</sup> of a tribunal constituted under section 12A(1) of that Act to consider the fitness for shrieval office of a person holding a shrieval office mentioned in section 12A(2) of that Act.

28. Lay members of the Judicial Appointments Board for Scotland appointed by the Scottish Ministers under paragraph 2 of schedule 1 to the Judiciary and Courts (Scotland) Act 2008.

29. Non-judicial members of the Scottish Court Service mentioned in paragraph 2(3)(d) of schedule 3 to the Judiciary and Courts (Scotland) Act 2008.

30. Any office or employment in Social Care and Social Work Improvement Scotland.

31. Any office or employment in the General Teaching Council for Scotland.

32. A Head of Practice or a member of a Practice Committee of a licensed legal services provider.

## PART 3

### Occupations

1. Firearms dealer.

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<sup>(8)</sup> 2000 asp 6.

<sup>(9)</sup> Section 155 was amended by the Housing (Scotland) Act 2010 (asp 17), schedule 2, paragraph 15(2).

<sup>(10)</sup> 1994 c.39.

<sup>(11)</sup> 1995 c.36. Section 101(1) was substituted by the Regulation of Care (Scotland) Act 2001 (asp 8), section 75(a).

<sup>(12)</sup> 2005 asp 5.

<sup>(13)</sup> 2008 asp 6.

<sup>(14)</sup> 1971 c.58. Section 12A was added by the Judiciary and Courts (Scotland) Act 2008 (asp 6), section 40.

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2. Any occupation in respect of which an application to the Gambling Commission for a licence, certificate or registration is required by or under any enactment.
3. Any occupation which is concerned with the management of a place in respect of which the approval of the Scottish Ministers is required by section 1 of the Abortion Act 1967**(15)**.
4. Any occupation in respect of which the holder is required pursuant to regulation 4 of the Control of Explosives Regulations 1991**(16)** to obtain from the chief officer of police an explosives certificate certifying that person to be a fit person to acquire or acquire and keep explosives.
5. Taxi driver or private hire driver.
6. Any occupation in respect of which an application to the Security Industry Authority for a licence is required by the Private Security Industry Act 2001**(17)**.
7. Any occupation which is concerned with visiting persons detained in police stations, for the purposes of examining and reporting on the conditions under which they are held.
8. Any occupation in respect of which a licence or registration is required by or under Part V (driving instruction) of the Road Traffic Act 1988**(18)**.

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**(15)** 1967 c.87.  
**(16)** S.I. 1991/1531.  
**(17)** 2001 c.12.  
**(18)** 1988 c.52.