
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 329

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015

Interpretation

2.—(1) In article 2(1) of the 2013 Order (interpretation)—

(a) in the appropriate places insert—

““the 1997 Act” means the Police Act 1997(1);”;

““higher level disclosure” means—

(a) a criminal record certificate issued under section 113A(1)(2) or section 114(1)(3) of the 1997 Act;

(b) an enhanced criminal record certificate issued under section 113B(1)(4) or section 116(1) of that Act; or

(c) a scheme record disclosed under section 52(3) or (7) of the 2007 Act;”

““protected conviction” means a spent conviction of a kind mentioned in article 2A(1);”;

““sent” means—

(a) in relation to a criminal record certificate or an enhanced criminal record certificate issued under section 113A(1) or 113B(1) of the 1997 Act, sent in accordance with section 116ZA(2) or (4) of that Act to the registered person who countersigned the application for that certificate under section 113A(2) or, as the case may be, 113B(2)(a) of that Act;

(b) in relation to a criminal record certificate or enhanced criminal record certificate issued under section 114(1) or 116(1)(5) of the 1997 Act, sent in accordance with section 116ZA(2) or (4) of that Act to the person who made the statement under section 114(2) or, as the case may be, 116(2) of that Act; and

(c) in relation to a scheme record disclosed under section 52(3) or (7) of the 2007 Act, disclosed to the registered person who made the declaration mentioned in condition C in section 55 of that Act;”;

(b) for the definition of “lay representative” substitute—

““lay representative” means a person who—

(1) 1997 c.50.

(2) Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) and was relevantly amended by sections 78(2) and 79(1) of and paragraph 28 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the 2007 Act”).

(3) Section 114 was amended by S.S.I. 2006/50 and by section 79(1) of and paragraph 31 of schedule 4 to the 2007 Act.

(4) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) (“the 2005 Act”) and was relevantly amended by sections 79(1) and 80 of the 2007 Act and by section 108(2) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

(5) Section 116 was amended by paragraph 3 of Schedule 14 to the 2005 Act, section 79(1) of and paragraph 32 of schedule 4 to the 2007 Act and S.S.I. 2006/50.

- (a) is representing a party in civil proceedings in the sheriff court or proceedings in the Court of Session; and
 - (b) is not—
 - (i) a solicitor or an advocate; or
 - (ii) someone having the right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽⁶⁾
- (2) After article 2 of the 2013 Order insert—

“Protected convictions

- 2A.**—(1) For the purposes of this Order, a person’s conviction is a protected conviction if—
- (a) it is a spent conviction; and
 - (b) either—
 - (i) it is not a conviction for an offence listed in Schedule A1 or B1; or
 - (ii) it is a conviction for an offence listed in Schedule B1 and at least one of the conditions specified in paragraph (2) is satisfied.
- (2) The conditions are—
- (a) the sentence imposed in respect of the conviction was an admonition or an absolute discharge;
 - (b) 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; and
 - (c) the person was aged 18 or over on the date of conviction and at least 15 years have passed since the date of conviction.
- (3) In subsection (2)(a), the reference to an absolute discharge includes a reference to the discharge of the referral of a child’s case to a children’s hearing under—
- (a) section 69(1)(b) and (12) of the Children (Scotland) Act 1995⁽⁷⁾; or
 - (b) section 91(3)(b), 93(2)(b), 108(3)(b) or 119(3)(b) of the Children’s Hearings (Scotland) Act 2011⁽⁸⁾.”.

⁽⁶⁾ 1990 c.40.

⁽⁷⁾ 1995 c.36. Section 69 was repealed by paragraph 1 of schedule 6 to the Children’s Hearings (Scotland) Act 2011 (asp 1).

⁽⁸⁾ 2011 asp 1.