

# Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974

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## Appendix 2

Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)

(CLICK ON ARROW TO THE LEFT OF THE HEADINGS TO EXPAND THAT SECTION)

### 1) Disclosure Periods: Custodial sentences

Disclosure periods for custodial sentences		
Sentence length	18 or over on date of conviction	Under 18 on date of conviction
Up to (and including) 12 months	Length of sentence plus 2 years	Length of sentence plus 1 year
Over 12 months & up to (and including) 30 months	Length of sentence plus 4 years	Length of sentence plus 2 years
Over 30 months & up to (and including) 48 months	Length of sentence plus 6 years	Length of sentence plus 3 years
Over 48 months	This is an excluded sentence and the conviction will not become spent after a specific amount of time  A review mechanism will be available in due course for relevant sentences over 48 months	This is an excluded sentence and the conviction will not become spent after a specific amount of time  A review mechanism will be available in due course for relevant sentences over 48 months

What are the types of convictions which always have to be disclosed?

Certain convictions are not capable of becoming spent. This is where an “excluded sentence” is imposed in respect of that conviction. Excluded sentences are listed in section 5(1) of the 1974 Act.

What happens if I get another conviction for which an “excluded sentence” is imposed before my first conviction becomes spent?

Excluded sentences have no effect on the disclosure periods for previous or subsequent convictions. This means the disclosure period for the first conviction will not change.

#### Example

An individual over 18 is convicted of an offence and fined £500 (conviction 1). The disclosure period for this sentence is 12 months from the date of conviction. Six months later the person is convicted of supplying class A drugs and given a 5 year custodial sentence (conviction 2) in solemn proceedings. This is an excluded sentence under section 5(1) of the 1974 Act.

**Important Note:** This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act in Scotland.

Anyone in doubt should seek their own legal advice.

## Appendix 2

The disclosure period applicable to conviction 1 remains 12 months and will not be affected by conviction 2.

### 3. What happens if I was given an excluded sentence and was convicted again?

As stated above, excluded sentences have no effect on the disclosure periods for previous or subsequent sentences. This means the disclosure period for the subsequent conviction will be determined by the actual sentence given for that conviction.

#### Example

A person over 18 is convicted of an offence and sentenced to five years imprisonment. This is an excluded sentence. Six months after being released from prison they are convicted of a second offence and fined £500. The disclosure period applicable to the second offence is 12 months from the date of conviction and is unaffected by the first conviction.

## 2) Section 5 Rules Consecutive and concurrent sentences

Section 5(2F): For the purposes of this section:

- a) consecutive terms of;
  - i. imprisonment or other custodial sentences, or
  - ii. detention under section 209 of the Armed Forces Act 2006 are to be treated as a single term,
  
- b) terms of imprisonment, or of detention, which are:
  - i. wholly or partly concurrent, and
  - ii. imposed in respect of offences of which a person was convicted in the same proceedings are to be treated as a single term.

Therefore, if an individual receives more than one sentence for different offences at the same time, the total disclosure period will depend on whether the sentences run consecutively (one after the other) or concurrently (at the same time).

If consecutive sentences are imposed, then the sentences will be added together to calculate the disclosure period.

#### Example

A four month and six month prison sentence running consecutively will count as a ten month sentence (carrying a “buffer period” of 2 years, if over 18 at date of conviction, from the end of the sentence) giving a total disclosure period of two years and ten months before the convictions may become spent.

If concurrent sentences are imposed, then the longest applicable disclosure period will apply to all the sentences.

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### Example

A four month and six month prison sentence ordered to run concurrently will count as a single term of six months (carrying a “buffer period” of two years, if over 18 from date of conviction, from the end of the sentence) giving a total disclosure period of two years and 6 months before both convictions may become spent).

### 3) Suspended sentences

Section 5(2F)(c): No account is to be taken of any subsequent variation, made by a court in dealing with a person in respect of a suspended sentence of imprisonment, of the term originally imposed.

### Example

A 2 year custodial sentence suspended for 2 years will have the same disclosure period as a 2 year custodial sentence that has not been suspended, (i.e. 6 years from date of conviction or 4 years from date of conviction if under 18 at date of conviction).

### 4) Sentences imposed outwith Scotland

Section 5(2F)(d): A sentence imposed by a court outwith Scotland is to be treated as the sentence mentioned:

- i. in section 5,
- ii. in Table A or Table B, or
- iii. in any of sections 5C to 5J,

to which it most closely corresponds.

This is the closest equivalent rule. This means sentences outwith Scotland must be treated as the closest equivalent Scottish sentence in order to determine the appropriate disclosure period.

### 5) What happens if a person gets a custodial sentence over 48 months?

At the moment a conviction cannot become spent if a custodial sentence of more than 48 months is imposed. This is because the sentence is an excluded sentence.

However, the Management of Offenders (Scotland) Act 2019 (“the 2019 Act”) enables the Scottish Ministers to make regulations which will allow a person to apply for a review of their conviction if a “relevant sentence” was imposed in respect of that conviction (see below for the meaning of “relevant sentence”). The reviewer will determine whether or not the conviction should become spent (and therefore whether the person is a “protected person” in respect of that conviction).

A “relevant sentence” is;

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- a) a sentence of imprisonment or corrective training for a term exceeding 48 months, or
- b) a sentence of detention for a term exceeding 48 months under section 207 (detention of young offenders) or 208 (detention of children convicted on indictment) of the Criminal Procedure (Scotland) Act 1995.

These regulations have not yet been made meaning it is not yet possible to apply for such a review.

Separate guidance will be published in due course when the review mechanism has been developed and the necessary regulations have been approved by the Scottish Parliament.

### 6) Disclosure Periods: Non-custodial sentences

Disclosure periods for non-custodial sentences		
Disposal	18 or over on date of conviction	Under 18 on date of conviction
Absolute discharge	Zero	Zero
Admonishment	Zero	Zero
Bond of caution	6 months, or length of caution period, whichever is the longer	3 months, or length of caution period, whichever is the longer
A fine or compensation order	1 year	6 months
Community Payback Order, Drug Treatment & Testing Order and Restriction of Liberty Order	12 months or length of order, whichever is the longer	6 months or length of order, whichever is the longer
Adjournment/Deferral after conviction	Until relevant sentence <sup>1</sup> given	Until relevant sentence given
An order under section 61 of the Children and Young Persons (Scotland) Act 1937	N/A	12 months
Ancillary Orders <sup>2</sup>	Length of order	Length of order
An endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988	5 years	2½ years

<sup>1</sup> A “relevant sentence” is any sentence other than an adjournment or deferral, (or, where applicable, a further adjournment or deferral) imposed on the person in respect of the conviction.

<sup>2</sup> Examples of ‘ancillary orders’ are, non-harassment order, supervision and treatment orders, football banning order, antisocial behaviour order, exclusion from

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Any other sentence not mentioned in Table A or B or sections 5(2D), 5C to 5J	1 year	6 months
<b>Mental Health Orders</b>		
Hospital Direction	Not a sentence under the 1974 Act (not included in disclosure certificate)	All have same disclosure periods as someone 18 or over at date of conviction
Guardianship Order	Zero <sup>4</sup>	
Assessment/Treatment Order	Until final disposal given	
Interim Compulsion Order	Until final disposal given	
Compulsion Order (CO)	Length of order. After 12 months an application can be made to the MHTS <sup>5</sup> under section 164A of the MH 2003 Act <sup>6</sup> for disclosure of the CO to end	
Compulsion Order with Restriction Order (CORO)	Length of order. If the restriction order ends and the CO remains, an application can be made to the MHTS for disclosure of the CO to end 12 months after the restriction order ends	

licensed premises order, confiscation order, serious crime prevention order and an order disqualifying someone from driving.

4. Section 5J(1)(c) of the 1974 Act.

5. The Mental Health Tribunal for Scotland.

6. The Mental Health (Care and Treatment) (Scotland) Act 2003.

Any other sentence not mentioned in Table A or B or sections 5(2D), 5C to 5J of 1974 Act

This is essentially a “default” sentence. The purpose of this is to provide for a disclosure period for any new disposals that may be created but not yet included in the 1974 Act for whatever reason. If this was not included then any new disposal not included would not be required to be self-disclosed.

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The disclosure period for this default sentence is 12 months (or 6 months if the individual was under 18 at the date of conviction).

An endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988

An endorsement for a road traffic offence listed in schedule 2 of the Road Traffic Offenders Act 1988, imposed either by the court by order or by means of a fixed penalty notice (FPN) is a sentence for the purposes of the 1974 Act and may become spent after 5 years (or two and half years where the offender is under 18).

Road traffic legislation specifically provides that endorsement as a result of a FPN in these circumstances is to be treated, for the purposes of the 1974 Act, as a conviction and as if the endorsement had been made in pursuance of an order made by the court.

Where an order for disqualification from driving is imposed by the court on conviction, that conviction may become spent when the order ceases to have effect.

Where the court imposes more than one sentence or penalty for the offence then the longest disclosure period determines when the conviction may become spent.

### Example

An adult is convicted of a road traffic offence and the court imposes a fine (disclosure period 1 year), an order for endorsement (disclosure period 5 years) and an order disqualification from driving for 1 year (disclosure period 1 year).

The disclosure period for this conviction will be 5 years because the endorsement carries the longest disclosure period.

Once the conviction becomes spent, the person is not required to declare it when applying for most jobs or (motor) insurance.

For more information on the disclosure periods for particular driving offences, please consult: [www.direct.gov.uk/en/motoring/driverlicensing/endorsementsanddisqualifications/dg\\_10022425](http://www.direct.gov.uk/en/motoring/driverlicensing/endorsementsanddisqualifications/dg_10022425)

## 7) What happens if I have been convicted on an offence and also put on the Sex Offenders Register?

The 1974 Act is concerned with the disclosure of convictions and alternatives to prosecution (AtPs). It is not the way in which the risks posed by sex-offenders are managed in the community.

If a person commits a sexual offence they may be subject to notification requirements under Part 2 of the Sexual Offences Act 2003.

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However, notification requirements do not affect when a conviction becomes spent. A person may be subject to notification requirements in connection with a conviction despite that conviction being spent.

Further details on the management of sex offenders can be found on the attached links to Police Scotland's website.

[Registered sex offender management](#)  
[Multi Agency Public Protection Arrangements \(MAPPA\)](#)  
[Community 'Outing' of RSOs](#)

### 8) Children's hearings

Section 3 of the 1974 Act provides that, where a child is referred to a children's hearing on grounds that the child committed an offence, the acceptance or establishment (or deemed establishment) of that ground is a conviction for the purposes of the 1974 Act and the disposal by the hearing is a sentence.

Two different disposals are available to a children's hearing. They are a discharge and a compulsory supervision order.

The disclosure period for both a discharge and a compulsory supervision order is zero. This means they are spent immediately.

Children's Hearings		
Disposal	18 or over on date of conviction	Under 18 on date of conviction
Discharge	N/A	Zero
Compulsory supervision order	N/A	Zero

### 9) Alternatives to Prosecution (AtP)

Alternatives to Prosecution		
Category 1 AtPs	Zero	Zero
Category 2 AtPs	3 months	3 months

AtPs are disposals which are primarily available to Scottish police and Scottish prosecutors to deal with criminal conduct other than by way of prosecution before a criminal court.

AtPs broadly fall into two categories and can be divided into "Category 1" and "Category 2" AtPs. "Category 1" AtPs which become spent immediately and so have no disclosure period are:

- warning given by a constable
- warning given by a procurator fiscal and

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- fixed penalty notices given under section 129 of the Antisocial Behaviour (Scotland) Act 2004.

“Category 2” AtPs which become spent three months after the day on which given (and so have a disclosure period of three months) are other types of non-court based disposals available to the police and prosecutors. They are:

- a conditional offer issued in respect of the offence under section 302 of the Criminal Procedure (Scotland) Act 1995,
- a compensation offer issued in respect of the offence under section 302A of the 1995 Act,
- a work order made against the person in respect of the offence under section 303ZA of the 1995 Act,
- has, under subsection (5) of section 20A of the Nature Conservation (Scotland) Act 2004 (asp 6), given notice of intention to comply with a restoration notice given under subsection (4) of that section, and
- has accepted an offer made by a procurator fiscal in respect of the offence to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution.

Therefore, depending on the type of the AtP, the 1974 Act provides that an AtP either becomes spent immediately or 3 months after the AtP is given.

Please note: Anything corresponding to a warning, offer, order or notice given as a result of an offence committed under the law of a country or territory outside Scotland will be treated in the same manner as an equivalent AtP given in Scotland.

### Example

A person commits a minor offence and given a warning by a police constable. This is spent immediately and the person is not required to disclose it.

### Example

A person commits an offence and given a fiscal fine of £50. The person will be required to disclose this, if asked, for 3 months from the date it was given.

## 10) Disclosure periods: Service Disciplinary Offences

The 1974 Act applies to everyone convicted of a criminal offence or a service disciplinary offence (for example absence without leave) by either a civilian court (in the cases of criminal offences) or a Service Court or the Commanding Officer (in the cases of criminal or service disciplinary offences). The same disclosure periods apply to sentences which are imposed in the service justice system as are imposed by the civilian justice system.

### Example

A fine imposed by a Sheriff Court and a fine imposed by a Court Martial would each have the same disclosure period of a year beginning with the date of conviction.

There are certain service sentences that can only be imposed by the service justice system (e.g. sentence of dismissal from Her Majesty’s service or service detention). There are specific

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disclosure periods for such sentences which are set out in sections 5B and 5I of the 1974 Act. Please see the table below.

Disclosure periods for Service Disciplinary Offences		
Disposal	18 or over on date of conviction	Under 18 on date of conviction
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service	10 years	5 years
A sentence of dismissal from Her Majesty's service	7 years	3½ years
Any sentence of service detention within the meaning of the Armed Forces Act 2006, or any sentence of detention corresponding to such a sentence, in respect of a conviction in service disciplinary proceedings	5 years	2½ years
A custodial order under section 71AA of the Army Act 1955 or the Air Force Act 1955, or under section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than 6 months	7 years	7 years
A custodial order under schedule 5A of the Army Act 1955 or the Air Force Act 1955, or under schedule 4A of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than 6 months	7 years	7 years

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A sentence of detention for a term exceeding 6 months but not exceeding 30 months passed under section 71A(4) of the Army Act 1955 or Air Force Act 1955, section 43A(4) of the Naval Discipline Act 1957 or section 209 of the Armed Forces Act 2006	5 years	5 years
A sentence of detention for a term not exceeding 6 months passed under section 71A(4) of the Army Act 1955 or Air Force Act 1955, section 43A(4) of the Naval Discipline Act 1957 or section 209 of the Armed Forces Act 2006	3 years	3 years
A custodial order under any of the schedules of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 mentioned above, where the maximum period of detention specified in the order is 6 months or less	3 years	3 years
A custodial order under section 71AA of the Army Act 1955 or Air Force Act 1955, or section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is 6 months or less	3 years	3 years
A service community order, or an overseas community order, under the Armed Forces Act 2006	5 years	2½ years or the length of the order whichever is the longer
A community supervision order under schedule 5A of the Army Act 1955 or the Air Force Act 1955 or under schedule 4A of the Naval Discipline Act 1957	1 year or the length of the order, whichever is the longer	1 year or the length of the order, whichever is the longer

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An order under section 211 of the Armed Forces Act 2006	Where the person was 15 years of age or older at the date of the conviction <ul style="list-style-type: none"><li>• 5 years if the order was for a term exceeding 6 months</li><li>• 3½ years if the order was for a term of 6 months or less</li></ul>	Where the person was 15 years of age or older at the date of the conviction <ul style="list-style-type: none"><li>• 5 years if the order was for a term exceeding 6 months</li><li>• 3½ years if the order was for a term of 6 months or less</li></ul> Where the person was under 15 years of age at the date of the conviction <ul style="list-style-type: none"><li>• Length of the order plus 12 months</li></ul>
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### 11) [Section 6 \(the disclosure period applicable to a conviction\)](#)

A conviction becomes spent, and a person treated as a protected person in respect of that conviction, on the expiry of the disclosure period applicable to the conviction.

Section 6 of the 1974 Act sets out the rules which determine the length of the disclosure period of a conviction. The disclosure period applicable to a conviction depends principally on the disclosure period applicable to the sentence imposed for that conviction.

However, the rules as to when a conviction becomes spent get more complicated when more than one sentence is imposed for a conviction or if a person is convicted in solemn proceedings of further offences before their existing convictions are spent.

6. How does disclosure work if more than one sentence is imposed in respect of a conviction?

If more than one sentence is imposed in respect of a conviction (for example, a fine and a non-harassment order are both imposed), and the sentences have different disclosure periods attributable to them, the conviction requires to be disclosed in accordance with the longer or longest of these periods.

#### Example

If a 25 year old person gets convicted of an offence and is fined (12 month disclosure period) and is also given a 5 year non-harassment order (5 year disclosure period) then the disclosure period for that conviction will be 5 years.

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This is because the disclosure period applicable to the conviction is the same as the disclosure period applicable to the non-harassment order, which has the longer of the two disclosure periods for the two sentences.

7. What happens if someone gets convicted again before the disclosure period of a previous conviction ends?

### 12) Section 6(4) of the 1974 Act rule: Solemn proceedings

If someone gets convicted of a further offence, in solemn proceedings, before the end of the disclosure period applicable to the first conviction, then whichever of the two disclosure periods would end earlier is extended so as to end at the same time as the other disclosure period.

#### Example

A person aged 25 gets convicted of an offence and given a court fine. The disclosure period for that sentence is 12 months. As no other sentences are imposed the disclosure period applicable to that conviction is 12 months and the conviction would otherwise become spent after 12 months.

However, 6 months later the person is convicted of a further offence, in solemn proceedings, and given a 2 year custodial sentence. The disclosure period for that sentence will be 6 years. As no other sentences are imposed the disclosure period applicable to the conviction is 6 years.

The disclosure period for the first conviction is 12 months. The disclosure period for the second conviction is 6 years.

As the disclosure period for the second conviction is greater, the disclosure period for the first conviction is extended so that it will end at the same time as the disclosure period for the second conviction.

That is, both disclosure periods will end 6 years from the date of the second conviction for the offence which resulted in the custodial sentence. This means that both convictions may become spent 6 years following the date of conviction of the second offence (provided no further offences are committed in which the person is convicted in solemn proceedings).

However, there are 3 exceptions to this rule set out in the 1974 Act:

- 1) section 6(4A) to 6(4C)
- 2) section 6(5) to 6(5B)
- 3) section 6(6)

#### Section 6(4A) – 6(4C) of the 1974 Act rule: Adjournment and deferral

This rule is necessary to ensure the rule to extend disclosure periods under section 6(4) will not apply to situations where a case was adjourned or deferred, the person gets a further conviction during that period, and are then given a sentence with no disclosure period for the first offence. For instance, an absolute discharge or an admonishment. In such circumstances the second conviction will not impact on when the first conviction become spent.

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### Example

A person is convicted of an offence and sentencing is deferred for 6 months. During this period the person is convicted in solemn proceedings of a further offence and given a fine of £1,000. The disclosure period applicable to the fine is 12 months from the date of conviction.

After the 6 months deferral for sentencing in the first conviction the person is admonished for that first conviction.

The rule in section 6(4) would mean that the disclosure period applicable to the first conviction is extended to be the same as that of the second conviction (because that is longer). However, because an admonishment was given for that first conviction the rule in section 6(4B) applies and the disclosure period applicable to the first conviction is not extended. That means that the first conviction becomes spent.

### 13) Section 6(5) to 6(5B) rule: Ancillary orders

The rule in section 6(4) of the 1974 Act does not apply to extend the disclosure period applicable to a conviction when the only sentence imposed for the other conviction is an ancillary order.

An ancillary order is one mentioned in section 5(2D) of the 1974 Act. This exception to the rule is set out in section 6(5).

Where, in addition to the ancillary order another sentence is imposed for a conviction, in determining whether the disclosure period applicable to another conviction is extended by the rule in section 6(4), the disclosure period applicable to the ancillary order is to be disregarded. This exception to the rule is set out in section 6(5A) and (5B).

### Example

Section 6(5): A person aged 25 is convicted of an offence (conviction 1) and is given a 5 year non-harassment order (but no other sentence). This will have a disclosure period of 5 years. One year later the person is convicted again (conviction 2) and is given a fine. The disclosure period applicable to conviction 2 is 12 months. This is not extended to match the five-year disclosure period applicable to conviction 1.

### Example

Section 6(5A) and (5B): In a variation to the circumstances in the example immediately above, in addition to the non-harassment order given for conviction 1 the person also received a custodial sentence of 12 months.

The disclosure period applicable to the non-harassment order is five years and the disclosure period applicable to the custodial sentence is 3 years.

This means the disclosure period applicable to conviction 1 is 5 years. However, section 6(4) applies (if the second conviction occurred in solemn proceedings) and the disclosure period for conviction 2 is extended, because of the custodial sentence given.

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By virtue of section 6(5A) and (5B), the disclosure period applicable to conviction 2 is only extended until the disclosure period applicable to the custodial sentence imposed for conviction 1 has expired. The disclosure period for the non-harassment order is ignored in determining the length of the extension.

Applying this rule, the disclosure period applicable to conviction 2 will last two years instead of one year. This is because the disclosure period for the custodial sentence for conviction 1 is three years but one year has already elapsed between convictions 1 and 2, leaving 2 years remaining.

The disclosure period applicable to conviction 1 will remain five years owing to the non-harassment order.

### 14) [Section 6\(6\) rule: Summary proceedings, service proceedings and convictions outside a Scottish court](#)

The rule under section 6(4) of the 1974 Act does not apply if the subsequent conviction was one heard before a criminal court in summary proceedings. In such cases, each conviction becomes spent in accordance with the disclosure period for that conviction only and neither extends the other.

#### Example

A person aged 25 is fined for a summary offence (conviction 1). The disclosure period is 12 months. Six months later the person is fined again for a further summary offence (conviction 2). In such a case, the disclosure period for the conviction 1 will be 12 months from the date of that conviction and the disclosure period for conviction 2 will be 12 months from the date of that conviction. Therefore, disclosure of the conviction 1 will end 6 months before disclosure for conviction 2.

The rule under section 6(4) also does not apply to service disciplinary proceedings for an offence listed in schedule 1 of the 1974 Act or to any conviction by or before a court outside Scotland of an offence in respect of conduct which, if it had taken place in Scotland, would not have constituted an offence under the law in force in Scotland.

### 15) [What happens if I get another conviction for which an “excluded sentence” is imposed before my first conviction becomes spent?](#)

Excluded sentences have no effect on the disclosure periods for previous or subsequent conviction. This means the disclosure period for the first conviction will not change.

#### Example

An individual over 18 is convicted of an offence and fined £500 (conviction 1). The disclosure period for this sentence is 12 months from the date of conviction. Six months later the person is convicted of supplying class A drugs and given a 5 year custodial sentence (conviction 2) in solemn proceedings. This is an excluded sentence under section 5(1) of the 1974 Act.

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The disclosure period applicable to conviction 1 remains 12 months and will not be affected by conviction 2.

### 16) What happens if I was given an excluded sentence and was convicted again?

As stated above, excluded sentences have no effect on the disclosure periods for previous or subsequent sentences. This means the disclosure period for the subsequent conviction will be determined by the actual sentence given for that conviction.

#### Example

A person is convicted of an offence and sentenced to five years imprisonment. This is an excluded sentence. Six months after being released from prison they are convicted of a second offence and fined £500. The disclosure period applicable to the second offence is 12 months and is unaffected by the first conviction.

### 17) What happens if I get an AtP before my first conviction becomes spent?

The rule in section 6(4) of the 1974 Act only applies to convictions meaning that an AtP given when a prior conviction is unspent will have no effect on when that prior conviction becomes spent.

What happens if I get a conviction before my first AtP becomes spent?

The rule in section 6(4) of the 1974 Act only applies to convictions meaning that a conviction obtained when a prior AtP is unspent will have no effect on when that prior AtP becomes spent.

What happens if I get another AtP before my first AtP becomes spent?

There will be no impact on the disclosure period for the first AtP. That is both disclosure periods will be in accordance with the actual AtP given.

### 18) What happens if I was given a life sentence or an equivalent to a life sentence?

The conviction is not capable of being spent and self-disclosure will always be necessary.

What happens if a person is convicted of a further offence during the period of adjournment or deferral for a previous offence?

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In accordance with the rule under section 6(4A) to (4C), if a “relevant sentence<sup>3</sup>” is imposed for the previous conviction and if the “relevant sentence” is one where there is no disclosure period (e.g. admonishment<sup>4</sup>) then the rule under section 6(4) does not operate so as to extend the disclosure period applicable to the previous conviction.

Other rules may apply depending on what the decision of the court is and in what type of court the offences were prosecuted in.

If the court decides to treat the previous and subsequent offences together then the rule in section 6(2) may apply.

If the offences are prosecuted in solemn proceedings and if the “relevant sentence” is one where a disclosure period applies (e.g. fine or community payback order) then the rule in section 6(4) may apply.

However, until the “relevant sentence” is given for the previous offence the adjournment and deferral will continue to be disclosed.

If both offences are prosecuted separately in summary proceedings the disclosure period for both convictions will be based on the sentences given.

### 19) [What happens if I breach a Community Payback Order \(CPO\), Drug Testing and Treatment Order \(DTTO\) or a Restriction of Liberty Order \(RLO\)?](#)

The applicable rule is set out in section 6(3ZA) and (3ZB) of the 1974 Act.

This applies if a person is given a Conditional Discharge<sup>5</sup>, CPO, RLO or a DTTO for an offence (“offence A”) and the person breaches the order and, as a result of this breach, the person is given a further sentence for offence A after the disclosure period for the initial order has ended.

In such a case, the person is not to be treated as a protected person, and the conviction is not spent, until the disclosure period for that second sentence has expired.

To use the example of a CPO, in some circumstances where there has been a breach of the order, the court may revoke the order and deal with the person in respect of offence A as if the order had not been imposed.

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<sup>3</sup> A “relevant sentence” is any sentence other than an adjournment or deferral or, where applicable a further such adjournment or deferral.

<sup>4</sup> See section 5J for the full list of sentence with no disclosure period.

<sup>5</sup> Although a conditional discharge is not a disposal under Scots Law, the absence of a specific Scottish equivalent means that the reference is retained to ensure that the amendments do not create a gap in the regime for people in Scotland who have received this disposal elsewhere in Great Britain.

## Appendix 2

In this case, the disclosure period for the conviction resulting in the CPO would end at the point of revocation. However, the effect of this rule is that the person will not be treated as a “protected person” in respect of the conviction until the expiry of the disclosure period applicable to how the person is dealt with by the court as a result of breaching the CPO and the conviction will not be treated as spent until that period has expired.

### Example

A person is given a CPO with a supervision requirement of 2 years. The disclosure period for this sentence is 2 years (i.e. 12 months or the length of the order, whichever is longer). After 18 months the person breaches their CPO and is dealt with by the court. As a result, the court revokes the CPO and instead gives the individual concerned a 14 month custodial sentence.

This revised sentence has a disclosure period of 5 years and 2 months from the date of the original conviction (i.e. length of sentence plus 4 years). Therefore, as a result of the breach of the CPO and the fact the court imposed a custodial sentence of 14 months, the disclosure period for the conviction is extended by 3 years and 2 months, with the clock starting from the date of conviction.

## Appendix 3

### Offences which must be disclosed subject to exceptions

#### Common law offences

1. Abduction.
2. Abortion.
3. Assault to the danger of life.
4. Assault to severe injury.
5. Assault with intent to rape or ravish.
6. Assault with intent to commit the statutory offence of rape.
7. Bestiality.
8. Cruel and unnatural treatment of persons.
9. Culpable homicide.
10. Drugging.
11. Extortion.
12. Hamesucken.
13. Hijacking.
14. Piracy.
15. Plagium.
16. Reset of plagium.
17. Treason.
18. Uttering threats.

#### Statutory offences (CLICK ON HEADINGS TO JUMP TO THAT SECTION)

[ARMED FORCES](#)

[AVIATION AND MARITIME](#)

[CHILDREN](#)

[EXPLOSIVES](#)

[FORCED MARRIAGE](#)

[MEDICINES](#)

[OFFICIAL SECRETS ACTS](#)

[PROSTITUTION](#)

[SERIOUS ORGANISED CRIME](#)

[SERIOUS ORGANISED CRIME](#)

[STALKING AND HARASSMENT](#)

[TERRORISM](#)

[VIOLENT OFFENDER ORDERS](#)

[VULNERABLE PERSONS](#)

[WITNESS PROTECTION](#)

[STATUTORY AGGRAVATIONS](#)

#### [OTHER](#)

(CLICK ON ARROW TO THE LEFT OF THE HEADINGS TO EXPAND THAT SECTION)

#### Armed forces

19. An offence under section 42 of the Armed Forces Act 2006 (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this Schedule.

#### Aviation and maritime

20. An offence under the Piracy Act 1837.

21. An offence under any of the following provisions of the Aviation Security Act 1982—

(a) section 1 (hijacking);

(b) section 2 (destroying, damaging or endangering safety of aircraft);

(c) section 3 (other acts endangering or likely to endanger safety of aircraft); and

(d) section 4 (offences in relation to certain dangerous articles).

22. An offence under section 9 of the Aviation and Maritime Security Act 1990 (hijacking of ships).

23. An offence under article 241 of the Air Navigation Order 2009 in respect of a contravention of article 137 of that Order (endangering safety of aircraft).

## Appendix 3

### Children

24. An offence under section 12 of the Children and Young Persons (Scotland) Act 1937 (cruelty to persons under 16).

### Explosives

25. An offence under the Explosive Substances Act 1883.

### Firearms and other weapons

26. An offence under any of the following provisions of the Firearms Act 1968—

- (a) section 4 (conversion of weapons);
- (b) section 5 (weapons subject to a general prohibition);
- (c) section 16 (possession of firearm with intent to injure);
- (d) section 16A (possession of firearm with intent to cause fear or violence);
- (e) section 17 (use of firearm to resist arrest);
- (f) section 18 (carrying firearm with criminal intent);
- (g) section 19 (carrying firearm in a public place);
- (h) section 20 (trespassing with firearm);
- (i) section 21 (possession of firearm by persons previously convicted of crime);
- (j) section 24 (supplying firearms to minors);
- (k) section 25 (supplying firearm to person drunk or insane);
- (l) section 28A (7) (certificates: supplementary);
- (m) section 29 (variation of firearm certificates);
- (n) section 30D (3) (revocation of certificates: supplementary);
- (o) section 39 (offences in connection with registration);
- (p) section 40 (compulsory register of transactions in firearms);
- (q) section 46(5) (power of search with warrant);
- (r) section 47 (powers of constables to stop and search); and
- (s) section 48 (production of certificates).

27. An offence under the Chemical Weapons Act 1996.

### Forced marriage

28. An offence under section 122 of the Anti-social Behaviour, Crime and Policing Act 2014 (offence of forced marriage: Scotland).

### Human trafficking and exploitation

29. An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc.).

30. An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).

31. An offence under section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (slavery, servitude and forced or compulsory labour).

32. An offence under the Prohibition of Female Genital Mutilation (Scotland) Act 2005.

### Medical professions etc.

33. An offence under section 10Z9 of the National Health Service (Scotland) Act 1978 (offences in relation to registration).

34. An offence under any of the following provisions of the Medical Act 1983—

## Appendix 3

- (a) section 49 (penalty for pretending to be registered); and
  - (b) section 49A (penalty for pretending to hold a licence to practise).
35. An offence under article 38 (offences relating to the Register) of the Pharmacy Order 2010.

### Medicines

36. An offence under any of the following provisions of the Medicines Act 1968—
- (a) section 67(1A) and (1B) (offences under Part III); and
  - (b) section 78 (restrictions on use of titles, descriptions and emblems).

### Official Secrets Acts

37. An offence under the Official Secrets Act 1911.

### Prostitution

38. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (a) section 7 (procuring);
  - (b) section 11 (trading in prostitution and brothel-keeping); and
  - (c) section 12 (allowing child to be in brothel).

### Road traffic

39. An offence under any of the following provisions of the Road Traffic Act 1988—
- (a) section 1 (causing death by dangerous driving);
  - (b) section 3ZC (causing death by driving: disqualified drivers); and
  - (c) section 3A (causing death by careless driving when under influence of drink or drugs).

### Serious organised crime

40. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010 —
- (a) section 28 (involvement in serious organised crime);
  - (b) section 30 (directing serious organised crime); and
  - (c) section 31 (failure to report serious organised crime).

### Sexual offences

41. An offence under section 50(3) of the Customs and Excise Management Act 1979 (penalty for improper importation of goods) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876, but only where the prohibited goods include indecent photographs of persons.
42. A sexual offence within the meaning given by section 210A(10) of the Criminal Procedure (Scotland) Act 1995 other than an offence mentioned in paragraph (xxvii)(ZF) or (ZG) of that section (engaging while an older child in sexual conduct with or towards another older child).
43. An offence under section 113 of the Sexual Offences Act 2003 (breach of sexual offences prevention order or interim sexual offences prevention order, etc.).
44. An offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (offence: breach of RSHO or interim RSHO etc.).

## Appendix 3

### Stalking and harassment

45. An offence under section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 (racially aggravated harassment).
46. An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 38 (threatening or abusive behaviour); and
  - (b) section 39 (offence of stalking).

### Terrorism

47. An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 11 (membership);
  - (b) section 12 (support);
  - (c) section 15 (fund-raising);
  - (d) section 16 (use and possession);
  - (e) section 17 (funding arrangements);
  - (f) section 17A(2) or (4) (insurance payments made in response to terrorist demands);
  - (g) section 18 (money laundering);
  - (h) section 19 (disclosure of information: duty);
  - (i) section 21A (failure to disclose: regulated sector);
  - (j) section 21D (tipping off: regulated sector);
  - (k) section 38B (information about acts of terrorism);
  - (l) section 39 (disclosure of information, &c.);
  - (m) section 54 (weapons training)
  - (n) section 56 (directing terrorist organisation);
  - (o) section 57 (possession for terrorist purposes)
  - (p) section 58 (collection of information)
  - (q) section 58A (eliciting, publishing or communicating) and
  - (r) section 61 (inciting terrorism overseas);
48. An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—
- (a) section 47 (use etc. of nuclear weapons);
  - (b) section 50 (assisting or inducing certain weapons-related acts overseas);
  - (c) section 52 (powers of entry);
  - (d) section 54 (offences);
  - (e) section 67 (offences);
  - (f) section 79 (prohibition of disclosures relating to nuclear security)
  - (g) section 80 (prohibition of disclosures of uranium enrichment technology)
  - (h) section 113 (use of noxious substances or things to cause harm and intimidate)
  - (i) section 114 (hoaxes involving noxious substances or things); and
  - (j) paragraph 7 of Schedule 3 (offences).
49. An offence under the Terrorism Act 2006
50. An offence under any of the following provisions of the Counter-Terrorism Act 2008—
- (a) section 2 (offence of obstruction);
  - (b) section 54 (offences relating to notification);
  - (c) paragraph 15 of Schedule 5 (breach of foreign travel restriction order and offence);
  - (d) paragraph 30 of Schedule 7 (offences: failure to comply with requirement imposed by direction);
  - (e) paragraph 30A of Schedule 7 (offences: relevant person circumventing requirements); and
  - (f) paragraph 31 of Schedule 7 (offences in connection with licences).

## Appendix 3

### Violent offender orders

51. An offence under section 113(1) of the Criminal Justice and Immigration Act 2008 (breach of violent offender order or interim violent offender order).

### Vulnerable persons

52. An offence under section 83 of the Adults with Incapacity (Scotland) Act 2000 (offence of ill-treatment and wilful neglect).

53. An offence under section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (ill-treatment and wilful neglect of mentally disordered person).

54. An offence under any of the following provisions of the Protection of Vulnerable Groups (Scotland) Act 2007—

(a) section 34 (barred individuals not to do regulated work);

(b) section 35 (organisations not to use barred individuals for regulated work); and

(c) section 36 (personnel suppliers not to supply barred individuals for regulated work).

55. Any offence where the conduct in respect of which the person was convicted also constituted a breach of a banning order granted under section 19 of the Adult Support and Protection (Scotland) Act 2007 (banning orders).

### Witness protection

56. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—

(a) section 86 (offence of disclosing information about protection arrangements); and

(b) section 88 (offences of disclosing information relating to persons assuming new identity).

### Statutory aggravations

57. An offence in relation to which either of the following provisions apply—

(a) section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime); or

(b) section 31 of the Counter-Terrorism Act 2008 (offences aggravated by terrorism).

### Other

[COMMON LAW AGGRAVATIONS](#)

[INCHOATE OFFENCES](#)

[SUPERSEDED OFFENCES](#)

[COMBINED OFFENCES](#)

[CORRESPONDING OFFENCES ELSEWHERE IN THE UK OR ABROAD](#)

### Common law aggravations

58. An offence, the conviction for which indicates that it was committed against a child.

## Appendix 3

59. An offence, the conviction for which indicates that it included a sexual element.

### Inchoate offences

60. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of the offence of murder or any offence listed in paragraphs 1 to 59 of this schedule.

61. An offence committed by attempting or conspiring to commit the offence of murder or any offence listed in paragraphs 1 to 59 of this schedule.

### Superseded offences

62. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 61 of this schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

### Combined offences

63. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 62 of this schedule.

### Corresponding offences elsewhere in the UK or abroad

64. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 63 of this schedule.

NOTE – these lists are for guidance purposes only and the actual lists may have been amended since the creation of this document.

## Appendix 4

### Offences Which Are To Be Disclosed Subject To Rules (CLICK ON HEADINGS TO JUMP TO THAT SECTION)

#### Common law offences

1. An offence of perverting, or attempting to pervert, the course of justice (by whatever means and however the offence is described), including in particular—
  - (a) false accusation of a crime;
  - (b) perjury;
  - (c) prevarication on oath;
  - (d) prison breaking; and
  - (e) subornation of perjury.
2. Assault excluding any assault of a kind listed in Appendix 1.
3. Breach of the peace.
4. Clandestinely taking possession.
5. Culpable and reckless conduct.
6. Culpable and reckless endangering of the public.
7. Culpable and reckless fireraising.
8. Embezzlement.
9. False accusation of a crime.
10. Fraud.
11. Housebreaking with intent to steal.
12. Mobbing and rioting.
13. Opening a lockfast place with intent to steal.
14. Public indecency.
15. Reser (excluding reser of plagium).
16. Robbery.
17. Theft (excluding plagium).
18. Uttering.
19. Wilful fireraising.

#### Statutory offences

- ADULT SUPPORT AND PROTECTION
- ANIMALS
- ARMED FORCES
- ASSAULTING OR HINDERING PUBLIC OFFICIALS
- AVIATION
- BOMB HOAXES
- BRIBERY
- CARE SERVICES
- CHARITIES
- CHILD SUPPORT
- CHILDREN
- CROSSBOWS
- DOMESTIC ABUSE
- DRUGS
- ESCAPE FROM CUSTODY
- FINANCIAL SERVICES
- FIRE SAFETY
- FIREARMS
- FOOD SAFETY AND STANDARDS
- FORCED MARRIAGE
- FRAUD AND FORGERY
- HARASSMENT
- IMMIGRATION, ETC.
- INSOLVENCY
- LANDMINES
- MEDICINES
- MENTAL HEALTH
- NEGLIGENCE OF DUTY
- OBSCENE MATERIAL
- OFFENCES IN RELATION TO CHILDREN
- OFFENSIVE BEHAVIOUR
- OFFENSIVE WEAPONS
- OFFICIAL SECRETS ACTS
- PRISONS
- PROSTITUTION
- PUBLIC ORDER
- ROAD TRAFFIC
- SEXUAL OFFENCES
- SOLICITORS
- TERRORISM
- VETS

MISCELLANEOUS STATUTORY OFFENCES

STATUTORY AGGRAVATIONS

#### OTHER

## Appendix 4

(CLICK ON ARROW TO THE LEFT OF THE HEADINGS TO EXPAND THAT SECTION)

### Adult support and protection

20. An offence under section 49 of the Adult Support and Protection (Scotland) Act 2007 (obstruction).

### Animals

21. An offence under the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974.
22. An offence under any of the following provisions of the Wildlife and Countryside Act 1981—
- (a) section 1 (protection of wild birds, their nests and eggs and prevention of poaching);
  - (b) section 5 (prohibition of certain methods of killing or taking wild birds);
  - (c) section 9 (protection of other wild animals and prevention of poaching);
  - (d) section 11 (prohibition of certain methods of killing or taking wild animals);
  - (e) section 11A, 11B and 11C (offences in relation to snares);
  - (f) section 14ZC (prohibition on keeping etc. of invasive animals or plants);
  - (g) section 15A (possession of pesticides); and
  - (h) section 18 (attempts to commit offences etc.), but only in relation to an offence listed in subparagraphs (a) to (g) of this paragraph.
23. An offence under the Dangerous Dogs Act 1991.
24. An offence under the Protection of Badgers Act 1992.
25. An offence under any of the following provisions of the Conservation (Natural Habitats, &c.) Regulations 1994—
- (a) regulation 39 (protection of certain wild animals); and
  - (b) regulation 41 (prohibition of certain methods of taking or killing wild animals).
26. An offence under the Welfare of Animals (Slaughter or Killing) Regulations 1995.
27. An offence under the Wild Mammals Protection Act 1996.
28. An offence under the Protection of Wild Mammals (Scotland) Act 2002
29. An offence under the Animal Health and Welfare (Scotland) Act 2006

### Armed forces

30. An offence under section 42 of the Armed Forces Act 2006 (criminal conduct) where the corresponding offence under the law of England and Wales is, or corresponds to, an offence listed in this schedule.

### Assaulting or hindering public officials

31. An offence under section 89 of the Police Act 1996 (assaults on constables).
32. An offence under section 32 of the Commissioners for Revenue and Customs Act 2005 (assault).
33. An offence under the Emergency Workers (Scotland) Act 2005
34. An offence under section 85 of the Fire (Scotland) Act 2005 (false alarms).
35. An offence under section 90 of the Police and Fire Reform (Scotland) Act 2012 (assaulting or impeding police).

### Aviation

36. An offence under any of the following provisions of the Aviation Security Act 1982—

## Appendix 4

- (a) section 20B (detention direction); and
- (b) section 21FA (air cargo agents: documents).

### Bomb hoaxes

37. An offence under section 51 of the Criminal Law Act 1977 (bomb hoaxes).

### Bribery

38. An offence under the Bribery Act 2010

### Care services

39. An offence under any of the following provisions of the Regulation of Care (Scotland) Act 2001—

- (a) section 45 (application for registration under Part 3); and
- (b) section 52 (use of title “social worker” etc.).

40. An offence under any of the following provisions of the Public Services Reform (Scotland) Act 2010—

- (a) section 80(1) (offences in relation to registration under Chapter 3);
- (b) section 81 (false statements in application under Chapter 3); and
- (c) section 90 (offences under Chapter 4).

41. An offence under article 27 of the Public Services Reform (General Teaching Council for Scotland) Order 2011 (offences).

42. An offence under regulation 19 of the Social Care and Social Work Improvement (Scotland) (Requirements for Care Services) Regulations 2011 (offences).

### Charities

43. An offence under the Charities and Trustee Investment (Scotland) Act 2005

### Child Support

44. An offence under section 50 of the Child Support Act 1991 (unauthorised disclosure of information).

### Children

45. An offence under section 6 of the Child Abduction Act 1984 (offence in Scotland of parent, etc. taking or sending child out of United Kingdom).

### Crossbows

46. An offence under section 1 of the Crossbows Act 1987 (sale and letting on hire).

### Domestic abuse

47. An offence under section 2 of the Domestic Abuse (Scotland) Act 2011 (breach of domestic abuse interdict with power of arrest).

## Appendix 4

### Drugs

48. An offence under any of the following provisions of the Misuse of Drugs Act 1971—

- (a) section 3 (restriction of importation and exportation of controlled drugs);
- (b) section 4 (restriction of production and supply of controlled drugs);
- (c) section 4A (aggravation of offence of supply of controlled drug);
- (d) section 5(3) (restriction of possession of controlled drugs);
- (e) section 6 (restriction of cultivation of cannabis plant);
- (f) section 8(a) and (b) (occupiers etc. of premises to be punishable for certain activities taking place there);
- (g) section 12 (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners etc. convicted of certain offences);
- (h) section 13 (directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases);
- (i) section 17 (power to obtain information from doctors, pharmacists etc. in certain circumstances);
- (j) section 19(i) (attempts etc. to commit offences), but only in relation to an offence listed in subparagraphs (a) to (i) of this paragraph; and
- (k) section 20 (assisting in or inducing commission outside United Kingdom of offence punishable under corresponding law).

49. An offence under any of the following provisions of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported or exported under section 3(1) of the Misuse of Drugs Act 1971 (restriction of importation and exportation of controlled drugs)—

- (a) section 50(2) or (3) (penalty for improper importation of goods);
- (b) section 68(2) (offences in relation to exportation of prohibited or restricted goods); and
- (c) section 170 (fraudulent evasion of duty).

50. An offence under the Criminal Justice (International Co-operation) Act 1990

### Escape from custody etc.

51. An offence under section 316 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (inducing and assisting absconding etc.).

52. An offence under section 91 of the Police and Fire Reform (Scotland) Act 2012 (escape from custody).

### Financial Services

53. An offence under the Financial Services and Markets Act 2000

54. An offence under the Financial Services Act 2012

### Fire safety

55. An offence under section 72(1) or (3) of the Fire (Scotland) Act 2005 (offences)

### Firearms

56. An offence under any of the following provisions of the Firearms Act 1968—

- (a) section 1 (requirement of firearms certificate)

## Appendix 4

- (b) section 2 (requirement of certificate for possession of shot guns);
- (c) section 3 (business and other transactions with firearms and ammunition firearms);
- (d) section 22 (acquisition and possession of firearms by minors); and
- (e) section 23 (exceptions from section 22(4))

57. An offence under section 50(5) of the Civic Government (Scotland) Act 1982 (drunk in possession of firearm).

58. An offence under the Firearms (Amendment) Act 1997

59. An offence under any of the following provisions of the Violent Crime Reduction Act 2006—

- (a) section 28 (using someone to mind a weapon);
- (b) section 32 (sales of air weapons by way of trade or business to be face to face);
- (c) section 35 (restriction on sale and purchase of primers); and
- (d) section 36 (manufacture, import and sale of realistic imitation firearms).

### Food safety and standards

60. An offence under any of the following provisions of the Food Safety Act 1990—

- (a) section 7 (rendering food injurious to health); and
- (b) section 9 (inspection and seizure of suspected food).

61. An offence under regulation 4(b) of the General Food Regulations 2004.

### Forced marriage

62. An offence under section 9 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (offence of breaching order)

### Fraud and forgery

63. An offence under the Forgery and Counterfeiting Act 1981

64. An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments)

65. An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (articles for use in fraud)

66. An offence under section 92 of the Police and Fire Reform (Scotland) Act 2012 (impersonation etc.)

### Harassment

67. An offence under section 234A of the Criminal Procedure (Scotland) Act 1995 (nonharassment orders)

68. An offence under section 9 of the Protection from Harassment Act 1997 (breach of non-harassment order)

### Immigration, etc.

69. An offence under any of the following provisions of the Immigration Act 1971—

- (a) section 24 (illegal entry and similar offences);
- (b) section 24A (deception);
- (c) section 25 (assisting unlawful immigration to member State);
- (d) section 25A (helping asylum-seeker to enter United Kingdom);
- (e) section 25B (assisting entry to United Kingdom in breach of deportation or exclusion order);

## Appendix 4

- (f) section 26 (general offences in connection with administration of Act);
- (g) section 26A (registration card);
- (h) section 26B (possession of immigration stamp); and
- (i) section 27 (offences by captains, owners or agents of ships or aircraft).

70. An offence under any of the following provisions of the Immigration and Asylum Act 1999—

- (a) section 105 (false representations);
- (b) section 106 (dishonest representations);
- (c) any of the following paragraphs of Schedule 11—
  - (i) paragraph 1 (obtaining certificates of authorisation by false pretences);
  - (ii) paragraph 4 (assaulting a detainee custody officer); and
  - (iii) paragraph 5 (obstructing detainee custody officer); and
- (d) any of the following paragraphs of Schedule 12—
  - (i) paragraph 3 (failure to submit to a medical examination);
  - (ii) paragraph 4 (assisting detained persons to escape);
  - (iii) paragraph 5 (bringing alcohol into a detention centre); and
  - (iv) paragraph 6 (conveying articles into or out of a detention centre).

71. An offence under section 35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (deportation or removal: cooperation).

72. An offence under section 21 of the Immigration, Asylum and Nationality Act 2006 (offence).

### Insolvency

73. An offence under any of the following provisions of the Insolvency Act 1986—

- (a) section 131 (company's statement of affairs);
- (b) section 206 (fraud, etc. in anticipation of winding up);
- (c) section 208 (misconduct in course of winding up);
- (d) section 216 (restriction on re-use of company names); and
- (e) section 235 (duty to co-operate with office-holder).

### Landmines

74. An offence under section 2 of the Landmines Act 1998 (prohibited conduct).

### Medicines

75. An offence under section 67(2) or (3) (offences under Part III) of the Medicines Act 1968

76. An offence under any of the following provisions of the Human Medicines Regulations 2012—

- (a) regulation 34(1) (offences: breach of regulations and false information and defence concerning starting materials); and
- (b) regulation 255(1)(a), (b), (c) or (d) (offences relating to dealings with medicinal products).

### Mental health

77. An offence under section 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (false statements).

## Appendix 4

### Neglect of duty

78. An offence under Part 4 (shipping: alcohol and drugs) or Part 5 (aviation: alcohol and drugs) of the Railways and Transport Safety Act 200

79. An offence under section 22 of the Police and Fire Reform (Scotland) Act 2012 (failure to perform duty).

### Obscene material etc.

80. An offence under section 1(1) of the Indecent Displays Act 1981 (indecent displays).

81. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982 —

(a) section 51 (obscene material);

(b) section 51A (extreme pornography);

82. An offence under section 85(3) of the Postal Services Act 2000 (prohibition on sending certain articles by post).

83. An offence under section 127(1) of the Communications Act 2003 (improper use of public electronic communications network).

### Offences in relation to children

84. An offence under any of the following provisions of the Children and Young Persons (Scotland) Act 1937—

(a) section 15 (causing or allowing persons under 16 to be used for begging);

(b) section 22 (exposing children under seven to risk of burning);

(c) section 31(1) (penalties and legal proceedings in respect of general provisions as to employment);

(d) section 33 (prohibition of persons under sixteen taking part in performances endangering life or limb); and

(e) section 34 (restrictions on training for performances of a dangerous nature).

85. An offence under section 40(1) of the Children and Young Persons Act 1963 (offences).

86. An offence under section 50(2) of the Civic Government (Scotland) Act 1982 (drunk in charge of a child).

87. An offence under section 81 of the Children (Scotland) Act 1995 (offences in connection with orders etc. for the protection of children).

88. An offence under any of the following provisions of the Children's Hearings (Scotland) Act 2011—

(a) section 59 (offences); and

(b) section 171 (offences related to absconding).

### Offensive behaviour etc.

89. An offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

### Offensive weapons

90. An offence under the Restriction of Offensive Weapons Act 1959.

91. An offence under section 50(3) (penalty for improper importation of goods) or section 170 (fraudulent evasion of duty) of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under—

## Appendix 4

(a) section 1(2) of the Restriction of Offensive Weapons Act 1959 (penalties for offences in connection with dangerous weapons); or

(b) section 141(4) of the Criminal Justice Act 1988 (offensive weapons).

92. An offence under any of the following provisions of the Criminal Justice Act 1988—

(a) section 141 (offensive weapons); and

(b) section 141A (sale of knives and certain articles with blade or point to persons under eighteen).

93. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—

(a) section 47 (prohibition of the carrying of offensive weapons);

(b) section 48 (search for offensive weapons);

(c) section 49 (offence of having in a public place an article with a blade or point);

(d) section 49A (offence of having article with blade or point (or offensive weapon) on school premises);

(e) section 49C (offence of having offensive weapon etc. in prison); and

(f) section 50 (extension of constable's power to stop, search and arrest without warrant).

### Official Secrets Acts

94. An offence under the Official Secrets Act 1920

95. An offence under the Official Secrets Act 1989

### Prisons

96. An offence under section 41 of the Prisons (Scotland) Act 1989 (unlawful introduction of tobacco, etc., into prison)

### Proceeds of crime and money laundering

97. An offence under any of the following provisions of the Proceeds of Crime Act 2002—

(a) Part 7 (money laundering);

(b) Part 8 (investigations); and

(c) section 453A (certain offences in relation to financial investigators).

98. An offence under the Proceeds of Crime Act 2002 (External Investigations) Order 2013

99. An offence under the Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015.

### Prostitution

100. An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—

(a) section 9 (permitting girl to use premises for intercourse); and

(b) section 13(9) (living on earnings of another from male prostitution).

101. An offence under the Prostitution (Public Places) (Scotland) Act 2007

### Public order

102. An offence under any of the following provisions of the Public Order Act 1986—

(a) section 1 (riot);

(b) section 2 (violent disorder);

(c) section 3 (affray);

(d) section 4 (fear or provocation of violence);

## Appendix 4

- (e) section 4A (intentional harassment, alarm or distress);
- (f) section 5 (harassment alarm or distress);
- (g) section 18 (use of words or behaviour or display of written material);
- (h) section 19 (publishing or distributing written material);
- (i) section 20 (public performance of play);
- (j) section 21 (distributing, showing or playing a recording);
- (k) section 22 (broadcasting or including programme in cable programme service);
- (l) section 23 (possession of racially inflammatory material);
- (m) section 29B (use of words or behaviour or display of written material);
- (n) section 29C (publishing or distributing written material);
- (o) section 29D (public performance of play);
- (p) section 29E (distributing, showing or playing recording);
- (q) section 29F (broadcasting or including programme in programme service); and
- (r) section 29G (possession of inflammatory material).

### Road traffic

103. An offence under any of the following provisions of the Road Traffic Act 1988—

- (a) section 1A (causing serious injury by dangerous driving);
- (b) section 2 (dangerous driving);
- (c) section 2B (causing death by careless, or inconsiderate, driving);
- (d) section 3ZB (causing death by driving: unlicensed or uninsured drivers);
- (e) section 3ZD (causing serious injury by driving: disqualified drivers);
- (f) section 4(1) (driving, or being in charge, when under the influence of drink or drugs);
- (g) section 5(1)(a) (driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit); and
- (h) section 178 (taking motor vehicle without authority, etc.).

### Sexual offences

104. An offence under section 37(1) or (4) of the Sexual Offences (Scotland) Act 2009 (older children engaging in sexual conduct with each other).

### Solicitors

105. An offence under the Solicitors (Scotland) Act 1980

### Terrorism

106. An offence under any of the following provisions of the Terrorism Act 2000—

- (a) section 13 (uniform);
- (b) section 36 (police powers);
- (c) section 51 (offences);
- (d) section 116 (powers to stop and search);
- (e) paragraph 32 of Schedule 5 (urgent cases); and
- (f) paragraph 18 of Schedule 7 (offences).

### Vets

107. An offence under any of the following provisions of the Veterinary Surgeons Act 1966—

## Appendix 4

- (a) section 19 (restriction of practice of veterinary surgery by unqualified persons); and
- (b) section 20 (prohibition of use of practitioners' titles by unqualified persons).

### Miscellaneous statutory offences

108. An offence under any of the following provisions of the Civic Government (Scotland) Act 1982—

- (a) section 57 (being in or on building etc. with intent to commit theft);
- (b) section 58 (convicted thief in possession); and
- (c) section 60 (powers of search and seizure).

109. An offence under section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier).

110. An offence under section 85(1) of the Postal Services Act 2000 (prohibition on sending certain articles by post).

111. An offence under any of the following provisions of the Serious Organised Crime and Police Act 2005—

- (a) section 67 (offences in connection with disclosure notices or search warrants);
- (b) section 129 (corresponding Scottish offence);
- (c) section 145 (interference with contractual relationships so as to harm animal research organisation); and
- (d) section 146 (intimidation of persons connected with animal research organisation).

### Statutory aggravations

112. An offence (other than an offence listed in Appendix 1) in relation to which either of the following provisions applies—

- (a) section 96 of the Crime and Disorder Act 1998 (offences racially aggravated); or
- (b) section 74 of the Criminal Justice (Scotland) Act 2003 (offences aggravated by religious prejudice).

113. An offence (other than an offence listed in Appendix 1) to which either of the following provisions of the Offences (Aggravation by Prejudice) (Scotland) Act 2009 applies—

- (a) section 1(1) (prejudice relating to disability); or
- (b) section 2(1) (prejudice relating to sexual orientation or transgender identity).

### Other

[COMMON LAW AGGRAVATIONS](#)

[INCHOATE OFFENCES](#)

[SUPERSEDED OFFENCES](#)

[COMBINED OFFENCES](#)

[CORRESPONDING OFFENCES ELSEWHERE IN THE UK OR ABROAD](#)

## Appendix 4

### Common law aggravations

114. An offence (other than an offence listed in Appendix 1 or in paragraph 112 of this schedule), the conviction for which indicates that it included an element of racial prejudice or was racially motivated.

115. An offence (other than an offence listed in Appendix 1 or in paragraph 112 of this schedule), the conviction for which indicates that it included an element of religious prejudice or was motivated by religious prejudice.

### Inchoate offences

116. An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 115 of this schedule.

117. An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 115 of this schedule.

### Superseded offences

118. An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 117 of this schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).

### Combined offences

119. An offence which was charged, and the conviction for which was received, in conjunction with any offence listed in paragraphs 1 to 118 of this schedule.

### Corresponding offences elsewhere in the UK or abroad

120. An offence under the law of England and Wales or Northern Ireland, or any country or territory outside the United Kingdom, which corresponds to any offence listed in paragraphs 1 to 119 of this schedule.

NOTE – these lists are for guidance purposes only and the actual lists may have been amended since the creation of this document.

## Appendix 5

Table A - Disclosure periods: ordinary cases

Sentence	Disclosure period – aged 18 or over	Disclosure period – aged under 18
A custodial sentence not exceeding 12 months	The term of the sentence plus 2 years	The term of the sentence plus 1 year
A custodial sentence exceeding 12 months but not exceeding 30 months	The term of the sentence plus 4 years	The term of the sentence plus 2 years
A custodial sentence exceeding 30 months but not exceeding 48 months	The term of the sentence plus 6 years	The term of the sentence plus 3 years
A custodial sentence exceeding 48 months	NEVER SPENT  A review mechanism will be available in due course for relevant sentences over 48 months.	NEVER SPENT  A review mechanism will be available in due course for relevant sentences over 48 months.
A fine	12 months	6 months
A compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995	12 months	6 months
An order for endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988	5 years	2½ years
Caution for good behaviour where, in respect of a conviction, a person was ordained to find caution for good behaviour in respect of a period (“the caution period”).	whichever is the longer of— (i) 6 months from the date of the conviction, (ii) the length of the caution period	whichever is the longer of— (i) 3 months from the date of the conviction, (ii) the length of the caution period
Ancillary Orders  Examples of 'ancillary orders' are, non-harassment order, supervision and treatment orders, football banning order, antisocial behaviour order, exclusion from licensed premises order, confiscation order, serious crime prevention order and an order disqualifying someone from driving.	Length of Order	
Category 2 Alternatives to Prosecution <ul style="list-style-type: none"> <li>a conditional offer issued in respect of the offence under section 302 of the Criminal Procedure (Scotland) Act 1995,</li> <li>a compensation offer issued in</li> </ul>	Three Months	

## Appendix 5

<p>respect of the offence under section 302A of the 1995 Act,</p> <ul style="list-style-type: none"> <li>• a work order made against the person in respect of the offence under section 303ZA of the 1995 Act,</li> <li>• has, under subsection (5) of section 20A of the Nature Conservation (Scotland) Act 2004 (asp 6), given notice of intention to comply with a restoration notice given under subsection (4) of that section, and</li> <li>• has accepted an offer made by a procurator fiscal in respect of the offence to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution,</li> </ul>		
<p><b>Particular Court Orders –</b></p> <ul style="list-style-type: none"> <li>• <b>Community Payback Order,</b></li> <li>• <b>Drug Treatment &amp; Testing Order, and</b></li> <li>• <b>Restriction of Liberty Order</b></li> <li>•</li> </ul>	<p>whichever is the longer of—</p> <ul style="list-style-type: none"> <li>(i) 1 year from the date of the conviction</li> <li>(ii) a period beginning with that date and ending when the order ceases to have effect.</li> </ul>	<p>whichever is the longer of—</p> <ul style="list-style-type: none"> <li>(i) Six months from the date of the conviction</li> <li>(ii) a period beginning with that date and ending when the order ceases to have effect.</li> </ul>
<p>Absolute Discharge</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>Admonishment</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>children's hearing discharge</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>a supervision requirement under any provision of the Children (Scotland) Act 1995</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>a guardianship order</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>a compulsory supervision order under any provision of the Children's Hearings (Scotland) Act 2011</p>	<p>Nil - become spent immediately on imposition.</p>	
<p>Adjournment or Deferral</p>	<p>Until relevant sentence given</p>	
<p>Certain Mental Health Orders - Assessment Order Treatment Order Interim Compulsion Order</p>	<p>Length of order.</p>	
<p>Certain Mental Health Orders - Compulsion Order with Restriction Order</p>	<p>Length of order. If the restriction order ends and the CO remains, an application can be made to the Mental Health Tribunal for Scotland for disclosure of the CO to end 12 months after the restriction order ends.</p>	

## Appendix 5

Compulsion Orders	Length of order.  After 12 months an application can be made to the Mental Health Tribunal for Scotland under section 164A of the MH 2003 Act for disclosure of CO to end.	
Juvenile Offenders where (a) send the person to an approved school, or (b) commit the person to the care of a fit person	n/a	One year from the date of conviction.
Any sentence—  (a) not mentioned above in this Table or in Table B, or (b) other than one to which section 5(2D) applies	12 months	6 months

TABLE B -Disclosure periods: service disciplinary sentences

Sentence	Disclosure period – aged 18 or over	Disclosure period – aged under 18
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service	10 years	5 years
A sentence of dismissal from Her Majesty's service	7 years	3½ years
Any sentence of service detention within the meaning of the Armed Forces Act 2006, or any sentence of detention corresponding to such a sentence, in respect of a conviction in service disciplinary proceedings	5 years	2½ years
A custodial order under section 71AA of the Army Act 1955 or the Air Force Act 1955, or under section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than 6 months	7 years	7 years
A custodial order under schedule 5A of the Army Act 1955 or the Air Force Act 1955, or under schedule 4A of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than 6 months	7 years	7 years
A sentence of detention for a term exceeding 6	5 years	5 years

## Appendix 5

months but not exceeding 30 months passed under section 71A(4) of the Army Act 1955 or Air Force Act 1955, section 43A(4) of the Naval Discipline Act 1957 or section 209 of the Armed Forces Act 2006		
A sentence of detention for a term not exceeding 6 months passed under section 71A(4) of the Army Act 1955 or Air Force Act 1955, section 43A(4) of the Naval Discipline Act 1957 or section 209 of the Armed Forces Act 2006	3 years	3 years
A custodial order under any of the schedules of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 mentioned above, where the maximum period of detention specified in the order is 6 months or less	3 years	3 years
A custodial order under section 71AA of the Army Act 1955 or Air Force Act 1955, or section 43AA of the Naval Discipline Act 1957, where the maximum period of detention specified in the order is 6 months or less	3 years	3 years