

## **SPENT AND PROTECTED CONVICTIONS**

**Information for applicants for taxi driver licences or private hire car driver licences and for landlords applying for registration in the register of private landlords**

**(amended 30 November 2020)**

All applicants for taxi driver and private hire car driver licences and applicants for landlord registration are required, by virtue of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 to disclose **both their unspent and their spent convictions** when completing their application.

However, as from 10 September 2015, certain spent convictions have become “protected convictions” which these applicants are no longer required to disclose.

The following information is intended to assist applicants:.

### **What is a spent conviction?**

Spent convictions are those convictions that have reached a set rehabilitation period as defined by the Rehabilitation of Offenders Act 1974. The amount of time for rehabilitation depends on the sentence imposed, not on the offence.

### **What is a unspent conviction?**

Unspent convictions are those convictions that have not yet reached this defined time.

### **Rehabilitation periods:**

For convictions in Scotland, the rehabilitation periods after which a conviction generally becomes spent are shown in the table below. The period runs from the date of the conviction, not the date of the offence. However, please note that where a person obtains a further conviction while still in their rehabilitation period for an earlier conviction, this may lengthen the rehabilitation period which applies.

**TABLE A - DISCLOSURE PERIODS – ORDINARY CASES**

<b>Sentence/disposal</b>	<b>Rehabilitation periods for adults (18 or over)</b>	<b>Rehabilitation periods for young people (under 18)</b>
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 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	2 ½ years
Any sentence  (a) not mentioned above in this Table or in Table B, or  (b) other than one to which section 5(2D), or any of sections 5C to 5J, applies	12 months	6 months

**TABLE B - DISCLOSURE PERIODS – SERVICE DISCIPLINARY SENTENCES**

<b>Sentence/disposal</b>	<b>Rehabilitation periods for adults (18 or over)</b>	<b>Rehabilitation periods for young people (under 18)</b>
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	3 ½ 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	2 ½ 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

<p>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</p>	<p>5 years</p>	<p>5 years</p>
<p>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</p>	<p>3 years</p>	<p>3 years</p>
<p>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</p>	<p>3 years</p>	<p>3 years</p>
<p>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</p>	<p>3 years</p>	<p>3 years</p>

## **What is a protected conviction?**

This is defined in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013. 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.

The conditions are:

- (a) The sentence is 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.

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 section 69(1)(b) and (12) of the Children (Scotland) Act 1995 or section 91(3)(b), 93(2)(b), 108(3)(b) or 119(3)(b) of the Children's Hearings (Scotland) Act 2011.

**Generally protected convictions cannot be disclosed. However, if Police Scotland wish for protected convictions to be taken into consideration, they need to notify the Licensing Authority.**

**The Licensing Committee may only hear details of and have regard to protected convictions if they are first satisfied that justice cannot be done without the Committee considering the protected convictions.**

**Committee members may ask the Police representative questions but the Police may not disclose, at that stage, more than the barest facts about each conviction (i.e. the general nature of the offence, the relative age of the protected conviction and its relative seriousness). The applicant will then be asked if they have any objection to the protected convictions being disclosed to and considered by the Committee and, if so, without disclosing details of the protected convictions themselves, to explain their reasoning for objecting.**

**The Committee will then decide whether they are satisfied that justice cannot be done without the protected convictions to be disclosed and considered by them.**

**If they are so satisfied, the protected conviction will only be circulated at this point to the members of the Licensing Committee.**

**THIS DOCUMENT IS GENERAL GUIDANCE AND SHOULD NOT BE CONSIDERED TO BE LEGAL ADVICE. WORKING OUT WHETHER A**

**CONVICTION IS SPENT AND, IF SO, WHETHER IT IS PROTECTED CAN BE COMPLICATED AND IT IS STRONGLY RECOMMENDED THAT APPLICANTS SEEK LEGAL ADVICE IF IN DOUBT.**

**Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013**

**SCHEDULE A1 (version in effect from 30 November 2020)**

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

**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 265 of the Air Navigation Order 2016 in respect of a contravention of article 240 of that Order (endangering safety of aircraft).

## **Children**

24. An offence under section 12 of the Children and Young Persons (Scotland) Act 19374 (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—

- (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**

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.)

## **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).

### **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).

55A. An offence under section 26 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (care worker offence)

### **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 applies—

(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**

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

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.

## **SCHEDULE B1 (version in effect from 30 November 2020)**

Offences which are to be disclosed subject to rules

### 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) perjury;
  - (b) prevarication on oath;
  - (c) prison breaking; and
  - (d) subornation of perjury.
2. Assault excluding any assault of a kind listed in Schedule A1.
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**

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 sub-paragraphs (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—

(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).

**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 (attempts etc. to commit offences), but only in relation to an offence listed in sub-paragraphs (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);
- (b) section 2 (requirement of certificate for possession of shot guns);
- (c) section 3 (business and other transactions with firearms and ammunition);
- (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 (non-harassment 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);

- (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).

### **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 2003

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) [ . ]

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(c) [...]

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~~83~~ (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—

(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);

(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—

(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 Schedule A1) 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 Schedule A1) 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**

114. An offence (other than an offence listed in Schedule A1 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 Schedule A1 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.