

Annex C

Schedule 8A and 8B Offences

Schedules 8A and 8B were introduced into the Police Act 1997 on 10 September 2015, to address the operation of the 1997 Act in Scotland following a UK Supreme Court ruling about its operation in England and Wales.

The schedules, as listed below, consist of common law offences and statutory offences, where the offence is statutory a brief description is included.

[Schedule 8A - List of offences that must be disclosed to an employer unless a sheriff orders otherwise](#)

[Schedule 8B - List of offences that must be disclosed to an employer subject to rules](#)

Since these schedules were inserted into the 1997 Act, a number of statutory offences from the UK Parliament and the Scottish Parliament have come into force, or will shortly, which we believe merit inclusion in the schedules.

The following section includes the new offences categorised into either schedule 8A or schedule 8B, and sets out questions on whether you feel these offences have been placed appropriately on either list.

Proposed Schedule 8A Offences

Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s2	Disclosing, or threatening to disclose, an intimate photograph or film
Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s7	S7 of the 2016 Act amends and re-titles s54 of the Sexual Offences (Scotland) Act 2009 to 'Incitement to commit certain sexual acts outside Scotland'
Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s8	Inserts a new section into the Sexual Offences (Scotland) Act 2009 concerning 'Offences committed outside of Scotland'
Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s9	S9 of the 2016 Act amends s55 of the Sexual Offences (Scotland) Act 2009 which concerns offences committed outside the UK
Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s24	Breaching a Sexual Harm Prevention Order (SOPO)
Abusive Behaviour and Sexual Harm (Scotland) Act 2016, s23	Breaching a Sexual Risk Order (SRO)
Air Weapons and Licensing (Scotland) Act 2015, s2	Possessing an air weapon without a certificate
Air Weapons and Licensing (Scotland) Act 2015, s11(5)	Fail to comply with the requirements of a revocation notice
Air Weapons and Licensing (Scotland) Act	Fail to comply with the conditions of a police

2015, s15(4)	permit or a visitor permit. (The permits allow people to have air weapons subject to certain conditions without the need for a certificate)
Air Weapons and Licensing (Scotland) Act 2015, s16(6)	Fail to comply with a variation of the conditions of a police permit or a visitor permit
Air Weapons and Licensing (Scotland) Act 2015, s22(6)	Obstructing the inspection of an air weapons club, including an inspection of anything in that club
Air Weapons and Licensing (Scotland) Act 2015, s23(2)	Operate a recreational shooting facility without a certificate, or failure to display such a certificate
Air Weapons and Licensing (Scotland) Act 2015, s24(1)	Offence of a person other than a registered firearms dealer possessing an air weapon
Air Weapons and Licensing (Scotland) Act 2015, s24(2)	Offence of a person selling an air weapon to someone other than a registered firearms dealer, or to a person who holds an air weapons certificate
Air Weapons and Licensing (Scotland) Act 2015, s24(3)	Offence of a person manufacturing, testing or repairing an air weapon for someone other than a registered firearms dealer or, for a person who holds an air weapons certificate
Air Weapons and Licensing (Scotland) Act 2015, s25(2)	Offence of selling an air weapon to someone who is not a registered firearms dealer other than in circumstance where both parties to the sale are present
Air Weapons and Licensing (Scotland) Act 2015, s26(4)	Offence of obstructing police with search warrant
Air Weapons and Licensing (Scotland) Act 2015, S 27(3)	Offence of failing to provide air weapon certificate, or giving false name and address
Air Weapons and Licensing (Scotland) Act 2015, s 28(4)	Fail to comply with notice to surrender air weapon
Air Weapons and Licensing (Scotland) Act 2015, s 30(1)	Fail to keep air weapon safe, or fail to notify loss or theft of air weapon
Air Weapons and Licensing (Scotland) Act 2015, s31(1)	Offence of making false or reckless statements in connection with air weapons certificates, or police or visitor permits
Air Weapons and Licensing (Scotland) Act 2015, s31(2)	Use false certificate or permit to buy, use, test etc. air weapon
Air Weapons and Licensing (Scotland) Act	Offences by bodies corporate

2015, s33	
Crime and Security Act 2010, s46	Inserts a new section into the Firearms Act 1968, this offence relates to failing to prevent minors from having air weapons
Digital Economy Act 2017 Part 3	Concerns the restriction of access to online pornography
Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, s 26	Offence for a care worker to ill-treat or wilfully neglect a person in their care
Human Trafficking and Exploitation (Scotland) Act 2015, s1	Offence of human trafficking
Human Trafficking and Exploitation (Scotland) Act 2015, s4	Offence of slavery, servitude and forced or compulsory labour
Human Trafficking and Exploitation (Scotland) Act 2015, s5	Aggravation of an offence due to connection with human trafficking activity
Human Trafficking and Exploitation (Scotland) Act 2015, s6	Aggravation of human trafficking offence being committed against a child
Human Trafficking and Exploitation (Scotland) Act 2015, s7	Aggravation of human trafficking offence through abuse by a public position by a public official
Human Trafficking and Exploitation (Scotland) Act 2015, s32(1)(a)	Offence of doing something prohibited by an order under the 2015 Act, this includes: <ul style="list-style-type: none"> • trafficking and exploitation prevention order (sections 17 and 18) • interim trafficking and exploitation prevention order (section 24) • trafficking and exploitation risk order (section 26) • interim trafficking and exploitation risk order (section 30)
Human Trafficking and Exploitation (Scotland) Act 2015, s32(1)(b)	Offence of failing to do anything required by an order under the 2015 Act
Human Trafficking and Exploitation (Scotland) Act 2015, s39	Offences under the 2015 Act committed by bodies corporate
Serious Crime Act 2015, s42(1)	Inserts new section into the Computer Misuse Act 1990 concerning unauthorised acts causing, or creating risk of serious damage this covers acts which include damage to human welfare, the environment, loss of human life or human illness or injury

Serious Crime Act 2015, s69	Creates new offence 'Possession of Paedophile manual', which extends to England, Wales and Northern Ireland. There does not seem to be an equivalent offence in the law of Scotland.
Serious Crime Act 2015, s72	Inserts new offence of 'failing to protect girl from risk of genital mutilation' into the Female Genital Mutilation Act 2003, which extends to England, Wales and Northern Ireland

Proposed Schedule 8B Offences

Abusive Behaviour and Sexual Harm Scotland Act 2016, s 1	Inserts new statutory aggravator in connection with offence where there is abuse of a partner or ex-partner
Domestic Abuse (Scotland) Bill, s1	Abusive behaviour towards partner or ex-partner
Air Weapons and Licensing (Scotland) Act 2015, s53	Inserts two new sections into the Licensing (Scotland) Act 2005 in relation to the supply of alcohol to a child and the supply of alcohol to a child
Crime and Courts Act 2013, s56	Inserts new section into the Road Traffic Act 1988 concerning being in charge of a motor vehicle with concentration of specified controlled drug above specified limit
Criminal Finances Act 2017, s45(1)	Failure to prevent UK tax evasion
Criminal Finances Act 2017, s46(1)	Failure to prevent facilitation of UK tax evasion offences
Food (Scotland) Act 2015, s22(3)	Obstruct and authorised person; fail to comply with requirement; and provide false or misleading information in connection with a Food Standards Scotland observation
Food (Scotland) Act 2015, s27(1)	Fail to comply with enforcement requirement
Food (Scotland) Act 2015, s27(2)	Provide false or misleading information to support purported compliance with requirement
Food (Scotland) Act 2015, s29(3)	Obstruct an authorised person from carrying out monitoring of enforcement action
Immigration Act 2016, s34	Inserts new section on illegal working into the Immigration Act 1971

Immigration Act 2016, s35	Amends s 21 of the Immigration, Asylum and Nationality Act 2006 to create a new offence of employing an illegal worker
Immigration Act 2016, s39	Inserts new sections into the Immigration Act 2014 for offences relating to landlords and agents entering into tenancy agreements with a person whose immigration status disqualifies them from such an agreement
Immigration Act 2016, s53	Amends s 11 of the Immigration and Asylum Act 1999 to extend the assault and obstructing offences to functions relating to a search for nationality documents
Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, s23	Offence for a person to publish information that could identify a child involved in an inquiry in contravention of a Sheriff's order
Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, s23	Offence relating to bodies corporate
Psychoactive Substances Act 2016, s5	Supplying, or offering to supply, a psychoactive substance
Psychoactive Substances Act 2016, s7	Possession of a psychoactive substance with intent to supply
Psychoactive Substances Act 2016, s8	Importing or exporting a psychoactive substance
Psychoactive Substances Act 2016, s9	Possession of a psychoactive substance in a custodial institution
Psychoactive Substances Act 2016, s48	Intentionally obstruct a relevant enforcement officer in the performance of duties under sections 36 to 45 of the act including stop and search and entering and searching vehicles
Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016, s1	Offence for an adult to smoke in a vehicle when the vehicle is in a public place and when there is a child in the vehicle (subject to an exception if the vehicle is parked and adapted as living accommodation)
Wildlife and Natural Environment (Scotland) Act 2011, s6	Inserts new section into the Wildlife and Countryside Act 1981 concerning the protection of wild hares etc.
Wildlife and Natural Environment (Scotland) Act 2011, s7	Inserts new section into the Wildlife and Countryside Act 1981 on the prevention of poaching: wild hares, rabbits etc.
Wildlife and Natural Environment (Scotland)	Inserts new section into the Wildlife and Countryside Act 1981 on the sale,

Act 2011, s8	possession etc. of wild hares, rabbits etc. killed or taken unlawfully
Wild Animals in Travelling Circuses (Scotland) Bill 2018, s1	A circus operator commits an offence when if they cause or permit a wild animal to be used in a circus

There are a number of provisions from existing legislation not included in the offence lists created in 2015 that we consider should be added to schedules 8A and 8B.

For **schedule 8A**, these are:

Criminal Law (Consolidation) (Scotland) Act 1995, s13(9)	Offence in s13(9) of living on the earnings of another from male prostitution
Firearms (Amendment) Act 1988, s12(2)	Offence to fail to comply with a notice revoking a firearms certificate under section s30A(2), (3) or (4) of the Firearms Act 1968
Violent Crime Reduction Act 2006, s34	Inserts a new section 21A into the Firearms Act 1968 relates to offence of firing an air weapon beyond premises
Violent Crime Reduction Act 2006, s40	Inserts a new section 24A into the Firearms Act 1968 relates to offence of supplying imitation firearms to minors

For **schedule 8B**, these are:

Civil Government (Scotland) Act 1982, s49(1)	Offence of permitting any creature in his charge to cause danger or injury to any other person in a public place
Civil Government (Scotland) Act 1982, s49(4)	Fail to comply with an order to prevent the continuance of annoyance to another person in the vicinity of that other person's residence
Crime, Justice and Public Order Act 1994, s68(1)	Aggravated trespassing
Protection from Harassment Act 1997, s2	Offence of harassment as applies in England and Wales
Protection from Harassment Act 1997, s4	Offence of putting people in fear as applies in England and Wales

In addition to the offences described above considered to merit inclusion, there are some offences we do not consider should be included in either list and as such would not be disclosed on a higher level disclosure when spent. These offences include:

Cultural Property Armed Conflicts Act 2017, s3	Offence of serious violation of the Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict
Cultural Property Armed Conflicts Act 2017, s9(1)	Offence of unauthorised use of a cultural emblem
Cultural Property Armed Conflicts Act 2017, s17(1)	Offence of dealing in unlawfully exported cultural property