SCOTTISH STATUTORY INSTRUMENTS

2024 No. 317

PROTECTION OF VULNERABLE GROUPS

The Disclosure and Use of Level 2 Disclosures (Prescribed Purpose and Circumstances) (Scotland) Regulations 2024

Made - - - - 31st October 2024

Laid before the Scottish Parliament 4th November 2024

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 45(1)(f) and 45(2)(f) of the Disclosure (Scotland) Act 2020(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Disclosure and Use of Level 2 Disclosures (Prescribed Purpose and Circumstances) (Scotland) Regulations 2024 and come into force on the same day as sections 42 and 44 of the Disclosure Act.

Interpretation

2. In these Regulations—

"the 1978 Act" means the National Health Service (Scotland) Act 1978(**b**),

"the Disclosure Act" means the Disclosure (Scotland) Act 2020,

"council" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**c**),

"educational institution" means a school or further education institution,

"further education institution" means a body listed under the heading "Institutions formerly eligible for funding by the Scottish Further Education Funding Council" in schedule 2 of the Further and Higher Education (Scotland) Act 2005(**d**) or a college of further education which is assigned to a regional strategic body by an order made under section 7C(1) of that Act,

(**a**) 2020 asp 13. Section 69 contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made.
(**b**) 1978 c. 29.
(**c**) 1994 c. 39. Section 2 was amended by paragraph 232(1) of schedule 22 of the Environment Act 1995 (c. 25).
(**d**) 2005 asp 6. Schedule 2 was relevantly amended by S.S.I. 2005/660, S.S.I. 2007/255, S.S.I. 2007/524, S.S.I. 2012/216 and S.S.I. 2013/319. Section 7C was inserted by section 8(3) of the Post-16 Education (Scotland) Act 2013 (asp 12).

"health body" means a Health Board or Special Health Board constituted by order under section 2 of the 1978 Act(**a**),

"hospital" has the meaning given in section 108(1) of the 1978 Act(**b**),

"independent health care service" has the meaning given in section 10F(1) of the 1978 Act(**c**),

"protected adult" has the meaning given in section 94 of the Protection of Vulnerable Groups (Scotland) Act 2007(**d**),

"school" has the meaning given in section 135(1) of the Education (Scotland) Act 1980(**e**).

Unlawful disclosure and use of a Level 2 disclosure: prescribed purpose and circumstances

3.—(1) This regulation only applies to Level 2 disclosures to which section 17 (further information for certain purposes: PVG scheme members) of the Disclosure Act applies.

(2) The purpose prescribed for the purposes of section 45(1)(f) (offences under sections 42 and 44: supplementary provision) of the Disclosure Act is that a Level 2 disclosure is disclosed in pursuance of an arrangement of a type described in paragraph (4).

(3) The circumstances prescribed for the purposes of section 45(2)(f) (offences under sections 42 and 44: supplementary provision) of the Disclosure Act are that the use of a Level 2 disclosure is in pursuance of an arrangement of a type described in paragraph (4).

(4) The types of arrangement referred to in paragraphs (2) and (3) are arrangements between an individual's employer and—

(a) a council or an educational institution under which the individual's employer is required to provide transport services to the council or to the educational institution for the transport of children or protected adults to or from an educational institution,

(b) a health body under which the individual's employer is required to provide transport services to the health body for the transport of children or protected adults to or from—

(i) a hospital,

(ii) any other premises at which facilities are available for any of the services provided by the health body under the 1978 Act,

(c) an independent health care service under which the individual's employer is required to provide transport services to the independent health care service for the transport of children or protected adults to or from an independent health care service.

NATALIE DON-INNES
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
31st October 2024

(**a**) Section 2 was amended by paragraph 1 of schedule 7 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 28, paragraph 19(1) of schedule 9 and schedule 10 of the National Health Service and Community Care Act 1990 (c. 19), paragraph 1(2) of schedule 1 of the National Health Service Reform (Scotland) Act 2004 (asp 7), paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 2(1) of the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5) and paragraph 1(2) of the schedule of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 (asp 3).

(**b**) There are amendments to section 108(1) which are not relevant to these Regulations.

(**c**) Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8) and was amended by S.S.I. 2016/148 S.S.I. 2017/67 and S.S.I. 2024/172.

(**d**) 2007 asp 14. Section 94 was amended by paragraph 33(b) of schedule 14 of the Public Services Reform (Scotland) Act 2010 (asp 8) and section 75 of the Disclosure (Scotland) Act 2020 (asp 13).

(**e**) 1980 c. 44. Section 135(1) was relevantly amended by section 2(2) of the Registered Establishments (Scotland) Act 1987 (c. 40) and schedule 3 of the Standards in Scotland's Schools etc. Act 2000 (asp 6).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 42 of the Disclosure (Scotland) Act 2020 ("the Disclosure Act") makes it an offence for a person, to whom a Level 2 disclosure is made available or disclosed, to unlawfully disclose it to another person. Section 44 of the Disclosure Act makes it an offence for a person to request, or otherwise seek sight of a Level 2 disclosure for a purpose other than a permitted purpose. Section 45 of the Disclosure Act sets out exceptions to the disclosure offences under sections 42 and 44.

These Regulations prescribe:

— for the purposes of section 45(1)(f) of the Disclosure Act, a purpose in relation to which the offence in section 42 does not apply when the Level 2 disclosure concerned is one to which section 17 of the Disclosure Act applies (regulation 3(2)),

— for the purposes of section 45(2)(f) of the Disclosure Act, circumstances in relation to which the offence in section 44 does not apply when the Level 2 disclosure concerned is one to which section 17 of the Disclosure Act applies (regulation 3(3)).

That purpose and those circumstances are where an individual's employer has arrangements with a council, school, other educational establishment, health body or independent health care service to provide transport to take children or protected adults to and from schools, further education establishments, hospitals or other premises at which facilities are available for services provided by health bodies (regulation 3(4)).

© Crown copyright 2024

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

£5.78

http://www.legislation.gov.uk/id/ssi/2024/317

ISBN 978-0-11-106122-0

