SCOTTISH STATUTORY INSTRUMENTS

2025 No. 27 (C. 4)

PROTECTION OF VULNERABLE GROUPS

The Disclosure (Scotland) Act 2020 (Commencement No. 5, Saving and Transitional Provision) Regulations 2025

Made - - - - 30th January 2025

Laid before the Scottish Parliament 3rd February 2025

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 97(2) and (3) of the Disclosure (Scotland) Act 2020(**a**) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the Disclosure (Scotland) Act 2020 (Commencement No. 5, Saving and Transitional Provision) Regulations 2025.

(2) This regulation and regulations 2, 4 to 10 and 12 come into force on 1 April 2025.

(3) Regulation 3 comes into force as follows—

(a) paragraphs (1) and (2) come into force on 1 April 2025,

(b) paragraph (3) comes into force on 1 July 2025.

(4) Regulation 11 comes into force on 1 July 2025.

Interpretation

2.—(1) In these Regulations—

"the 1997 Act" means the Police Act 1997(**b**),

"criminal conviction certificate" has the same meaning as in Part 5 of the 1997 Act,

"criminal record certificate" has the same meaning as in Part 5 of the 1997 Act,

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

"enhanced criminal record certificate" has the same meaning as in Part 5 of the 1997 Act,

"original certificate application" means an application for the certificate mentioned in section 116ZB(1) of the 1997 Act(**c**),

"original scheme record request" means a request for disclosure of a scheme record under section 52 of the PVG Act(**d**),

(**a**) 2020 asp 13.
(**b**) 1997 c. 50.
(**c**) Section 116ZB was repealed by paragraph 3 of schedule 5 of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**d**) Section 52 was repealed by paragraph 5(6) of schedule 5 of the Disclosure Act.

"PVG Act" means the Protection of Vulnerable Groups (Scotland) Act 2007(**a**),

"relevant date" means 1 April 2025,

"scheme record" means a document disclosed by the Scottish Ministers under section 52 of the PVG Act which—

(a) sets out the type of regulated work (with children or adults) in relation to which the individual is a scheme member,

(b) confirms that the scheme member is not barred from doing that work,

(c) states if the Scottish Ministers are considering whether to list the scheme member, and

(d) contains vetting information about the scheme member which the Scottish Ministers discovered as a result of enquiries or arrangements made under section 47 of the PVG Act,

"scheme member" has the meaning given by section 45(2) of the PVG Act(**b**),

"short scheme record" means a document disclosed by the Scottish Ministers under section 53 of the PVG Act(**c**) which—

(a) sets out the type of regulated work (with children or adults) in relation to which the individual is a scheme member,

(b) confirms that the scheme member is not barred from doing that work,

(c) states if the Scottish Ministers are considering whether to list the scheme member, and

(d) states that no vetting information is included in the scheme member's scheme record.

(2) Any words or expressions to which meanings are assigned by Part 1 of the Disclosure Act shall, for the purposes of these Regulations, have the same meanings as in that Act.

Appointed days

3.—(1) 1 April 2025 is the day appointed for the coming into force of the provisions of the Disclosure Act specified in column 1 of the table in the schedule (the subject matter of which is described in column 2 of that table).

(2) If a purpose is specified in column 3 of the table in relation to any provision specified in column 1, that provision comes into force on 1 April 2025 for that purpose only.

(3) 1 July 2025 is the day appointed for the coming into force of section 73(2) of the Disclosure Act for all remaining purposes.

Transitional provision relating to applications made under section 112 of the 1997 Act

4.—(1) Paragraph (2) applies where—

(a) before the relevant date, an individual has made an application for a criminal conviction certificate under section 112 of the 1997 Act(**d**), and

(b) on the relevant date, the Scottish Ministers have not yet issued the certificate.

(2) An application made under section 112 of the 1997 Act must be treated for all purposes as if it were an application for a Level 1 disclosure made under section 2 of the Disclosure Act.

Transitional provision relating to applications made under sections 113A, 113B, 114 or 116 of the 1997 Act and requests made under sections 52 or 53 of the PVG Act

5.—(1) Paragraph (2) applies where—

(a) before the relevant date—

(**a**) 2007 asp 14.
(**b**) Section 45 was substituted by section 70 of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**c**) Section 53 was repealed by paragraph 5(8) of schedule 5 of the Disclosure Act.
(**d**) Section 112 was repealed by paragraph 3 of schedule 5 of the Disclosure Act.

(i) an individual has made an application for—

(aa) a criminal record certificate under section 113A of the 1997 Act(**a**),

(bb) an enhanced criminal record certificate under section 113B of the 1997 Act(**b**),

(cc) a criminal record certificate under section 114 of the 1997 Act(**c**),

(dd) an enhanced criminal record certificate under section 116 of the 1997 Act(**d**), or

(ii) a scheme member has requested disclosure of—

(aa) their scheme record under section 52 of the PVG Act, or

(bb) their short scheme record under section 53 of the PVG Act, and

(b) on the relevant date, the Scottish Ministers have not yet issued the certificate or, as the case may be, disclosed the record.

(2) An application made under any of sections 113A, 113B, 114 or 116 of the 1997 Act or, as the case may be, a request for a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of that Act must be treated for all purposes as if it were an application for a Level 2 disclosure made under section 11 of the Disclosure Act.

Transitional provision relating to statements of scheme membership

6.—(1) Paragraph (2) applies where—

(a) before the relevant date, a scheme member has requested disclosure of their statement of scheme membership under section 54 of the PVG Act(**e**), and

(b) on the relevant date, the Scottish Ministers have not yet disclosed the statement.

(2) The request for a disclosure of a statement of scheme membership made under section 54 of the PVG Act must be treated for all purposes as if it were a request for a confirmation of scheme membership made under section 54 of the PVG Act (as substituted by section 86(3) of Disclosure Act).

(3) In this regulation, "statement of scheme membership" means a document which—

(a) sets out the type of regulated work in relation to which the individual is a scheme member,

(b) confirms the individual is not barred from doing that work, and

(c) states if the Scottish Ministers are considering whether to list the scheme member.

Transitional provision relating to disputes about accuracy of certificates issued under the 1997 Act and correction of inaccurate scheme records disclosed under the PVG Act

7.—(1) Paragraph (2) applies where—

(a) before the relevant date, the Scottish Ministers have—

(i) issued a certificate under any of sections 112, 113A, 113B, 114 or 116 of the 1997 Act to an individual, or

(ii) disclosed a scheme record under section 52 of the PVG Act, and

(b) on or after the relevant date, the individual or, as the case may be, scheme member notifies the Scottish Ministers that they believe that the information contained in the certificate or scheme record is inaccurate.

(**a**) Section 113A was repealed by paragraph 3 of schedule 5 of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**b**) Section 113B was repealed by paragraph 3 of schedule 5 of the Disclosure Act.
(**c**) Section 114 was repealed by paragraph 3 of schedule 5 of the Disclosure Act.
(**d**) Section 116 was repealed by paragraph 3 of schedule 5 of the Disclosure Act.
(**e**) Section 54 was substituted by section 86(3) of the Disclosure Act.

(2) The Scottish Ministers must—

(a) treat a certificate issued under section 112 of the 1997 Act as if it were a Level 1 disclosure in respect of which an application for review had been made under section 5(1) of the Disclosure Act,

(b) treat a—

(i) certificate issued under any of sections 113A, 113B, 114 or 116 of the 1997 Act, or

(ii) scheme record disclosed under section 52 of the PVG Act,

as if it were a Level 2 disclosure in respect of which an application for review had been made under section 20(1)(a) of the Disclosure Act.

(3) Where paragraph (2)(b) applies, the requirement in section 20(3) of the Disclosure Act does not apply.

(4) Paragraph (5) applies where the Scottish Ministers—

(a) are, before the relevant date, considering the accuracy of the information included in a—

(i) certificate issued under any of sections 112, 113A, 113B, 114 or 116 of the 1997 Act, or

(ii) scheme record disclosed under section 52 of the PVG Act, and

(b) have not, on the relevant date, made a decision on the accuracy of the information.

(5) The Scottish Ministers must—

(a) treat a certificate issued under section 112 of the 1997 Act as if it were a Level 1 disclosure in respect of which they are carrying out a review under section 6(2) of the Disclosure Act,

(b) treat a—

(i) certificate issued under any of sections 113A, 113B, 114 or 116 of the 1997 Act, or

(ii) scheme record disclosed under section 52 of the PVG Act,

as if it was a Level 2 disclosure in respect of which they are carrying out a review under section 21(2) of the Disclosure Act.

Transitional provision relating to certificates and scheme records with convictions falling within section 116ZA(1A) of the 1997 Act or section 52(2A) of the PVG Act

8.—(1) Paragraph (2) applies where—

(a) before the relevant date—

(i) the Scottish Ministers have—

(aa) issued a criminal record certificate or enhanced criminal record certificate to an individual which includes details of a conviction which falls within section 116ZA(1A) of the 1997 Act(**a**), or

(bb) complied with section 52(5) of the PVG Act in relation to a scheme record which includes vetting information about a conviction which falls within section 52(2A) of that Act, and

(ii) the individual (to whom the certificate has been issued, or as the case may be, record has been disclosed) has not yet notified the Scottish Ministers of an intention to make an application under section 116ZB(2) of the 1997 Act(**b**) or, as the case may be, section 52A(2) of the PVG Act(**c**), and

(b) on the relevant date—

(**a**) Section 116ZA was repealed by paragraph 3 of schedule 5 of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").

(**b**) Section 116ZB was repealed by paragraph 3 of schedule 5 of the Disclosure Act.

(**c**) Section 52A was repealed by paragraph 5(7) of schedule 5 of the Disclosure Act.

(i) the conviction which fell within section 116ZA(1A) of the 1997 Act or, as the case may be, section 52(2A) of the PVG Act is a—

(aa) removable conviction,

(bb) spent childhood conviction, or

(cc) children's hearing outcome, and

(ii) the period mentioned in section 116ZB(3)(a) of the 1997 Act or, as the case may be, section 52A(3)(a) of the PVG Act has not expired.

(2) The original certificate application or, as the case may be, original scheme record request must be treated for all purposes as if it were an application for a Level 2 disclosure under section 11 of the Disclosure Act.

(3) Paragraph (4) applies where—

(a) before the relevant date—

(i) the Scottish Ministers have—

(aa) issued a criminal record certificate or enhanced criminal record certificate to an individual which includes details of a conviction which falls within section 116ZA(1A) of the 1997 Act, or

(bb) complied with section 52(5) of the PVG Act in relation to a scheme record which includes vetting information about a conviction which falls within section 52(2A) of that Act, and

(ii) the individual (to whom the certificate has been issued, or as the case may be, record has been disclosed) has—

(aa) before the end of the period mentioned in section 116ZB(3)(a) of the 1997 Act, notified the Scottish Ministers that the individual intends to make an application under section 116ZB(2) of that Act, or

(bb) before the end of the period mentioned in section 52A(3)(a) of the PVG Act, section 52A(2) of the PVG Act, notified the Scottish Ministers that the individual intends to make an application under section 52A(2) of the PVG Act, and

(b) on the relevant date—

(i) the conviction which fell within section 116ZA(1A) of the 1997 Act or, as the case may be, section 52(2A) of the PVG Act is a—

(aa) removable conviction,

(bb) spent childhood conviction, or

(cc) children's hearing outcome, and

(ii) the period mentioned in section 116ZB(3)(b) of the 1997 Act or, as the case may be, section 52A(3)(b) of the PVG Act has not expired.

(4) The Scottish Ministers must, for all purposes, treat a notification of an intention to make an application —

(a) under section 116ZB(2) of the 1997 Act, or

(b) under section 52A(2) of the PVG Act,

as a Level 2 review application under section 20(1)(b) of the Disclosure Act.

(5) Where paragraph (4) applies, the requirement in section 20(3) of the Disclosure Act does not apply.

Savings and transitional provision relating to applications for an order under section 116ZB of the 1997 Act or section 52A of the PVG Act

9.—(1) Sections 116ZB of the 1997 Act and 52A of the PVG Act continue apply in relation to all applications made under those sections before the relevant date which are not finally disposed of by the relevant date.

(2) Where, on or after the relevant date, the sheriff allows an application made in accordance with section 116ZB(6)(a) or (7) of the 1997 Act—

(a) paragraphs (9) and (12) of section 116ZB of that Act do not apply,

(b) the sheriff must order the Scottish Minsters to—

(i) issue a Level 2 disclosure to the individual as if the individual had made an application for a Level 2 disclosure under section 11 of the Disclosure Act on the date on which the sheriff makes the order, and

(ii) exclude from that Level 2 disclosure the details which the sheriff is satisfied are not relevant.

(3) Where, on or after the relevant date, the sheriff refuses an application in accordance with section 116ZB(6)(b) of the 1997 Act—

(a) paragraphs (10) and (12) of section 116ZB of that Act do not apply,

(b) the sheriff must order the Scottish Ministers to issue a Level 2 disclosure to the individual as if the individual had made an application for a Level 2 disclosure under section 11 of the Disclosure Act on the date on which the sheriff makes the order.

(4) Where, on or after the relevant date, the sheriff allows an application made in accordance with section 52A(6)(a) or (7) of the PVG Act—

(a) section 52A(10) of that Act does not apply,

(b) the sheriff must order the Scottish Ministers to—

(i) issue a Level 2 disclosure to the individual as if the individual had made an application for a Level 2 disclosure under section 11 of the Disclosure Act on the date on which the sheriff makes the order, and

(ii) exclude from that Level 2 disclosure the information which the sheriff is satisfied is not relevant.

(5) Where, on or after the relevant date, the sheriff refuses an application made in accordance with section 52A(6)(b) of the PVG Act—

(a) section 52A(10) of that Act does not apply,

(b) the sheriff must order the Scottish Ministers to issue a Level 2 disclosure to the individual as if the individual had made an application for a Level 2 disclosure under section 11 of the Disclosure Act on the date on which the sheriff makes the order.

(6) An individual may not make a Level 2 review application under section 20(1) of the Disclosure Act in relation to a Level 2 disclosure issued under any of paragraphs (3)(b) or (5)(b), or any subsequent Level 2 disclosure provided for the same purpose as the original certificate application or, as the case may be, original scheme record request, in relation to the—

(a) details which the sheriff was satisfied were relevant to the purpose for which the original certificate application was required, or

(b) vetting information that the sheriff was satisfied was relevant to the type of regulated work in relation to which the original scheme record request was made.

(7) Paragraph (6) does not prevent the individual from making a Level 2 review application under section 20(1) of the Disclosure Act in relation to a subsequent Level 2 disclosure provided for the same purpose as the original certificate application or, as the case may be, original scheme record request if—

(a) the review application in relation to the subsequent Level 2 disclosure is made after the end of the period specified in regulations made under section 31(6)(a) of the Disclosure Act, or

(b) the Scottish Ministers are satisfied that the individual's circumstances have changed in a material respect since the application to the sheriff under section 116ZB(2) of the 1997 Act or, as the case may be, section 52A(2) was finally disposed of.

(8) For the purposes of this regulation an application to the sheriff under section 116ZB(2) of the 1997 Act or section 52A(2) of the PVG Act is finally disposed of when—

(a) the sheriff has determined the application in accordance with section 116ZB(6) or (7) of the 1997 Act or section 52A(6) or (7) of the PVG Act, or

(b) the proceedings are otherwise disposed of without making a determination.

Transitional provision relating to registered persons under the 1997 Act

10.—(1) With effect from the relevant date—

(a) a person who was a registered person under section 120(1) of the 1997 Act(**a**) must be treated, for all purposes, as an accredited body within the meaning of section 46(2)(a) of the Disclosure Act, and

(b) the Scottish Ministers must include that person in the register of accredited bodies in relation to the countersigning of applications for Level 2 disclosures under section 11 of the Disclosure Act.

(2) Where paragraph (1) applies, the conditions in section 47(4) and (5) of the Disclosure Act do not apply.

(3) Paragraph (4) applies where, before the relevant date, the Scottish Ministers have imposed conditions on a person under section 122(4) of the 1997 Act(**b**) in respect of their continuing to be listed in the registered maintained under section 120 of that Act.

(4) Any conditions imposed under section 122(4) of the 1997 Act must be treated as conditions imposed by the Scottish Ministers in relation to the registration of an accredited body by virtue of regulations made under section 54 or under section 55(7) of the Disclosure Act.

(5) Paragraph (6) applies where—

(a) before the relevant date, an individual has made an application to be a registered person under section 120(2) of the 1997 Act, and

(b) on the relevant date, the Scottish Ministers have not yet determined the application.

(6) An application made under section 120(2) of the 1997 Act must be treated, for all purposes, as if it were an application to be registered in the register of accredited bodies under section 47(1)(b) of the Disclosure Act.

Transitional provision relating to section 45C of the PVG Act

11.—(1) It is not an offence under section 45C of the PVG Act(**c**) for an individual to carry out any type of regulated role where that individual does not participate in the Scheme(**d**) in relation to that type of regulated role if—

(a) before 1 July 2025, the individual has applied to join the Scheme in relation to that type of regulated role, and

(b) that application has not been withdrawn or finally determined.

(2) For the purposes of paragraph (1)(b), an application is finally determined when—

(a) a confirmation of scheme membership is provided to the individual under section 46(1) of the PVG Act(**e**),

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(**a**) Section 120 was repealed by paragraph 3 of schedule 5 of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**b**) Section 122 was repealed by paragraph 3 of schedule 5 of the Disclosure Act.
(**c**) Section 45C was inserted by section 73(2) of the Disclosure Act.
(**d**) Section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) defines the Scheme for the purposes of that Act. Section 44 was amended by paragraph 10(28) of schedule 5 of the Disclosure Act.
(**e**) Section 46 was substituted by section 86(2) of the Disclosure Act.

(b) a Level 2 disclosure is provided to the individual under section 11 of the Disclosure Act, or

(c) the Scottish Ministers notify the individual that the application will not be considered by them in accordance with section 71(3) of the PVG Act(**a**).

(3) In this regulation, "type of regulated role" is to be construed in accordance with section 91(4) and (5) of the PVG Act (as substituted by section 74(2) of the Disclosure Act).

Transitional Provision relating to sections 45D and 45F of the PVG Act

12.—(1) Paragraph (2) applies where—

(a) an organisation—

(i) has, before the relevant date, received disclosure of a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of the PVG Act in relation to an individual which sets out that the individual participates in the Scheme in relation to a type of regulated work(**b**), and

(ii) on or after the relevant date, offers the individual a regulated role which is of the same type as the regulated work, or

(b) a personnel supplier—

(i) has, before the relevant date, received disclosure of a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of the PVG Act in relation to an individual which sets out that the individual participates in the Scheme in relation to a type of regulated work, and

(ii) on or after the relevant date, offers or supplies the individual to an organisation to carry out a regulated role which is of the same type as the regulated work.

(2) Sections 45D(1) and 45F(2) of the PVG Act(**c**) are to be read as if, for "received a Level 2 disclosure in pursuance of a request under section 18(1)(a) of the Disclosure (Scotland) Act 2020 containing a statement confirming that the individual participates in the Scheme in relation to that type of regulated role" there is substituted "received disclosure of a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of the PVG Act which sets out that the individual participates in the Scheme in relation to regulated work of the same type as the regulated role".

NATALIE DON-INNES
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
30th January 2025

(**a**) Section 71(3) was amended by paragraph 10(42)(b) of schedule 5 of the Disclosure (Scotland) Act 2020 ("the Disclosure Act").

(**b**) Section 91(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) ("the PVG Act") defined 'regulated work' for the purposes of the PVG Act as meaning "regulated work with children or protected adults". Section 91 was substituted by section 74(2) of the Disclosure Act and subsection (1) now defines 'a regulated role' as meaning "a regulated role with children or adults".

(**c**) Sections 45D and 45F were inserted by section 73(2) of the Disclosure Act.

SCHEDULE

Regulation 3

Provisions of the Disclosure Act coming into force on 1 April 2025.

Column 1 *Provisions of the Disclosure Act*	*Column 2* *Subject matter*	*Column 3* *Purpose*
Section 1(a)	Level 1 disclosure	
Section 2	Provision of Level 1 disclosures	
Section 3	Applications by accredited bodies on behalf of individuals	
Section 4	Provision of Level 1 disclosure to third parties	For all remaining purposes.
Section 5	Level 1 disclosure: application for review	For all remaining purposes.
Section 6	Review of accuracy of information by the Scottish Ministers	
Section 7	Provision of new Level 1 disclosure on conclusion of review proceedings	
Section 8	Level 2 disclosure	For all remaining purposes.
Section 9	Non-disclosable convictions	For all remaining purposes.
Section 10	Non-disclosable children's hearing outcomes	
Section 11	Provision of Level 2 disclosures	
Section 12	Level 2 disclosure applications: countersigning and purposes	
Section 13	Childhood information	
Section 14	Provision of relevant Scottish police information	
Section 15	Provision of relevant overseas police information	For all remaining purposes.
Section 16	Further information for certain purposes: non-PVG scheme members	For all remaining purposes.
Section 17	Further information for certain purposes: PVG scheme members	For all remaining purposes.
Section 18	Provision of Level 2 disclosure to accredited bodies	For all remaining purposes.
Section 19	Crown employment	
Section 20	Level 2 disclosure: application for review	For all remaining purposes.
Section 21	Review of accuracy of information by the Scottish Ministers	
Section 22	Review of childhood information by the independent reviewer	
Section 23	Review of relevant Scottish	

	police information by the police	
Section 24	Review of relevant Scottish police information by the independent reviewer	For all remaining purposes.
Section 25	Review of inclusion of removable convictions by the Scottish Ministers	
Section 26	Review of inclusion of removable convictions by the independent reviewer	For all remaining purposes.
Section 27	Combination of reviews by the independent reviewer	
Section 28	Independent Reviewer: information and representations	
Section 29	Notification of independent reviewer's decision	
Section 30	Appeal against independent reviewer's decision	
Section 31	Provision of new Level 2 disclosure on conclusions or review proceedings	For all remaining purposes.
Section 32	Disapplication of provisions of section 4 of the Rehabilitation of Offenders Act 1974	
Section 33	Level 2 disclosure: considering relevance and whether to include certain information	For all remaining purposes.
Section 35	Reclassification of applications	
Section 40	Presumption as to age in relaiton to convictions	
Section 41	Falsification of a Level 1 or Level 2 disclosure	
Section 42	Unlawful disclosure of a Level 2 disclosure	
Section 43	Lawful disclosures of Level 2 disclosures	
Section 44	Unlawful request for and use of a Level 2 disclosure	
Section 45	Offences under sections 42 and 44: supplementary provision	For all remaining purposes.
Section 47	Registration in the register for accredited bodies	For all remaining purposes.
Section 48	Protection of information: removal of registration	
Section 49	Suitable persons to have access to disclosure information	For all remaining purposes.
Section 50	Removal of registration on other grounds	For all remaining purposes.
Section 51	Lead signatories and	For all remaining purposes.

	countersignatories	
Section 52	Lead signatories and countersignatories: acceptance or refusal of nomination and removal from the register	For all remaining purposes.
Section 56	Sharing of Level 2 disclosure information by accredited bodies	For all remaining purposes.
Section 57	Evidence of identity	
Section 58	Power to use personal data to check identity	For all remaining purposes.
Section 59	Power to use fingerprints to check identify	For all remaining purposes.
Section 62	Fees for provision of information by the chief constable	
Section 63	Guidance for the chief constable	For all remaining purposes.
Section 64	Sharing of information with the chief constable	
Section 65	Sources of information	
Section 66	Delegation of functions of Scottish Ministers	
Section 67	Saving: disclosure of information and records	
Section 68	Definition of consideration of suitability	For all remaining purposes.
Section 70	Participation in the Scheme	
Section 73(1) and (3)	Compulsory Scheme membership	
Section 73(2)	Compulsory Scheme membership	Only insofar as it relates to section 45D, 45F and 45G.
Section 74	Regulated roles	For all remaining purposes.
Section 75	Meaning of “protected adult”	For all remaining purposes.
Section 77	Notice of consideration for listing	
Section 79	Notice of barred status	
Section 80	Reference by chief constable	For all remaining purposes.
Section 86	Confirmation of scheme membership under the PVG Act	For all remaining purposes.
Section 88	Offences outside Scotland	For all remaining purposes.
Section 93	Consequential and minor modifications	For all remaining purposes.
Schedule 1	List A offences	
Schedule 2	List B offences	
Schedule 3	Schedule to be substituted for schedule 2 of the PVG Act (schedule 2: regulated roles with children)	For all remaining purposes.
Schedule 4	Schedule to be substituted for schedule 3 of the PVG Act (schedule 3: regulated roles with adults)	For all remaining purposes.
Paragraphs 1 to 9, 11 and 13 of	Consequential and minor	For all remaining purposes.

schedule 5	modifications
Paragraph 10(1) to (40), (44) to (51), (53) and (54) of schedule 5	Consequential and minor modifications
Paragraph 10(41)(a)(ii), (b) and (c)(ii) and (iii) of schedule 5	Consequential and minor modifications
Paragraph 10(42)(a)(ii) and (b) of schedule 5	Consequential and minor modifications
Paragraph 10(43)(b) and (c) of schedule 5	Consequential and minor modifications

EXPLANATORY NOTE

(This note is not part of the Regulations)

Commencement

Regulation 3(1) and (2) and the schedule of these Regulations bring into force the provisions of the Disclosure (Scotland) Act 2020 ("the Disclosure Act") specified in column 1 of the table in the schedule on 1 April 2025, including section 86 (confirmation of scheme membership under the PVG Act) and paragraphs 3 (Police Act 1997) and 5 (Protection of Vulnerable Groups (Scotland) Act 2007) of schedule 5. If a purpose is stated in column 3 of the table in the schedule, the provision is only brought into force for that purpose. Regulation 3(3) brings section 73(2) of the Disclosure Act (compulsory Scheme membership) into force for all remaining purposes on 1 July 2025.

The Bill for the Disclosure Act received Royal Assent on 14 July 2020. By virtue of section 97(1) of the Disclosure Act, sections 91 (regulations), 92 (ancillary provisions), 94 (individual culpability where organisation commits an offence), 95 (meaning of "the PVG Act"), 96 (Crown application), 97 (commencement) and 98 (short title) came into force on the day after Royal Assent.

Savings and transitional

These Regulations make saving and transitional provision in relation to the commencement of some of these provisions. These include the vetting functions of the Scottish Ministers under the Police Act 1997 ("the 1997 Act") and the Protection of Vulnerable Groups (Scotland) Act 2007 ("the PVG Act") to reflect the changes made to the disclosure system by the Disclosure Act. The Regulations also make transitional provision in relation to offences inserted into the PVG Act by the Disclosure Act.

Part 1 of the Disclosure Act reforms the system of disclosure of criminal records administered by the Scottish Ministers. Prior to the Disclosure Act, disclosure functions were performed in accordance with Part 5 of the 1997 Act and Part 2 of the PVG Act. The Disclosure Act repeals Part 5 of the 1997 Act as it applies in Scotland, amends the PVG Act and makes provision for new Level 1 and Level 2 disclosures that replace criminal conviction certificates, criminal record certificates and enhanced criminal record certificates under the 1997 Act and scheme records and short scheme records under the PVG Act. Part 1 of the Disclosure Act also replaces the system of registration of registered persons (under the 1997 Act) who can countersign criminal record certificates, enhanced criminal record certificates, scheme records and short scheme records with the register of accredited bodies who can request Level 1 disclosure applications and countersign Level 2 disclosure applications.

Part 2 of the Disclosure Act amends the operation of the Protecting Vulnerable Groups Scheme ("the PVG Scheme") under the PVG Act by making it a requirement for anyone carrying out a regulated role (paid, unpaid or voluntary) to be a member of the PVG Scheme. Section 73 of the Disclosure Act inserts new offences (sections 45C to 45G) into the PVG Act to support this compulsory scheme membership policy.

Regulations 4 and 5 of these Regulations make transitional provision in relation to applications for certificates made under the 1997 Act and requests for scheme records and short scheme records made under the PVG Act. From the relevant date (1 April 2025), those certificates and records will be treated for all purposes as if they were applications for Level 1 or Level 2 disclosures made under the Disclosure Act and the new review mechanisms set out in sections 5 to 6 and 20 to 30 of the Disclosure Act will apply to the Level 1 and Level 2 disclosures provided to individuals as a result of those applications.

Regulation 6 of these Regulations makes transitional provision in relation to requests for disclosure of statements of scheme membership made under section 54 of the PVG Act. From the relevant date, those requests will be treated for all purposes as if they relate to a request for a

confirmation of scheme membership made under section 54 of the PVG Act (as substituted by section 86(3) of Disclosure Act).

Regulation 7 of these Regulations makes transitional provision in relation to disputes about accuracy of information contained in certificates issued under the 1997 Act or in scheme records disclosed under the PVG Act. The effect is that the Scottish Ministers must treat any notification received in relation to a certificate previously issued or scheme record previously disclosed, before the relevant date, as an equivalent Level 1 or Level 2 review application under the Disclosure Act for all purposes. If the Scottish Ministers are, before the relevant date, already considering the accuracy of information included in a certificate or a scheme record and have not, on the relevant date, made a decision on the accuracy of the information, they must treat the certificate previously issued or scheme record previously disclosed as an equivalent Level 1 or Level 2 review application under the Disclosure Act for all purposes and determine the dispute as if it were a Level 1 or Level 2 disclosure review application made under the Disclosure Act.

Regulation 8 of these Regulations makes transitional provision in relation to certificates issued under the 1997 Act and scheme records issued under the PVG Act which include details of a conviction that is eligible for removal (by order of a sheriff) from an individual's certificate or scheme record. The effect is that where the Scottish Ministers have, before the relevant date:

- issued a certificate or disclosed a scheme record that includes such a conviction and on the relevant date the individual has not notified the Scottish Ministers of their intention to make an application to the sheriff for an order requiring the issue of a new certificate that does not include the details of the conviction or removal of vetting information from their scheme record (and the timescale for doing so has not expired), on the relevant date the original certificate application or original scheme record request will be treated for all purposes as if it were an application for a Level 2 disclosure under the Disclosure Act. This means that any subsequent notification made by the individual (made within the timescale for doing so) will be treated as a Level 2 review application under section 20(1)(b) of the Disclosure Act,
- issued a certificate or disclosed a scheme record that includes such a conviction and the individual has already notified the Scottish Ministers of their intention to make an application to the sheriff for an order requiring the issue of a new certificate that does not include the details of the conviction or removal of vetting information from their scheme record but on the relevant date has not yet made such application, the individual's notification will be treated as a Level 2 review application under the Disclosure Act.

The transitional provision in regulation 8 will enable the Scottish Ministers to undertake a review of the 'removable conviction' under section 25 of the Disclosure Act.

Regulation 9 of these Regulations makes transitional provision in relation to applications to a sheriff by an individual, for an order requiring the issue of a new certificate or the removal of vetting information from their scheme record, where the application was made before the relevant date. It also makes provision for a Level 2 disclosure to be provided to the individual upon conclusion of the sheriff's determination of the application after the relevant date and for that Level 2 disclosure to be subject to provision that is similar to provision in section 31(5) and (6) of the Disclosure Act relating to the further review of information included in a Level 2 disclosure in circumstances where a sheriff refuses the application. This is to ensure that the review process applies equally to all individuals. Regulation 9 also saves sections 116ZB of the 1997 Act and 52A of the PVG Act in relation to all applications made under those sections before the relevant date which are not finally disposed of by that date.

Regulation 10 of these Regulations makes transitional provision so that any person, currently registered as a registered person in the register maintained under section 120(1) of the 1997 Act, will automatically be included in the register for accredited bodies maintained under section 46(1) of the Disclosure Act in relation to the countersigning of applications for Level 2 disclosures under section 11 of that Act with effect from the relevant date. It makes transitional provision so that any conditions that are attached to that person's registration continue to apply. It also makes transitional provision so that a person's application for registration in the register maintained

under section 120(1) of the 1997 Act made before the relevant date is treated for all purposes as if it were an application to be registered in the register of accredited bodies under section 47(1)(b) of the Disclosure Act if the Scottish Ministers haven't determined that application by the relevant date.

Regulation 11 of these Regulations makes transitional provision in respect of section 45C of the PVG Act so that an individual does not commit an offence under that section if the individual has, before the relevant date, made an application to join the PVG Scheme in relation to the type of regulated role concerned and the application has not been withdrawn or finally determined.

Regulation 12 of these Regulations makes transitional provision in respect of how sections 45D and 45F of the PVG Act are to be read where:

- an organisation which has, before the relevant date, received disclosure of a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of the PVG Act in relation to the individual that sets out that the individual participates in the Scheme in relation to the same type of regulated work as the regulated role offered, to ensure that that organisation does not commit an offence under section 45D, and
- a personnel supplier who has, before the relevant date, received disclosure of a scheme record under section 52 of the PVG Act or a short scheme record under section 53 of the PVG Act in relation to the individual that sets out that the individual participates in the Scheme in relation to the same type of regulated work as the regulated role offered, to ensure that that personnel supplier does not commit an offence under section 45F.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

Provision	*Date of Commencement*	*S.S.I. No.*
Sections 1, 4, 5, 8, 9, 15, 16, 17, 18, 20, 24, 26, 31, 33 (for the purposes of making regulations)	30 September 2024	2024/242
Sections 34, 36, 37, 38 and 39	30 September 2024	2024/242
Section 45 (for the purposes of making regulations)	30 September 2024	2024/242
Section 46	3 March 2025	2025/2
Section 47(1)(a), (2)(a), (3), (4), (7)(a), (b) and (c)(i), (8) and (11)(a)	3 March 2025	2025/2
Section 49 (for the purposes of making regulations)	30 September 2024	2024/242
Section 50(1), (2), (3), (5) and (6)	3 March 2025	2025/2
Section 51 (for the purposes of making regulations)	30 September 2024	2024/242
Section 51(1), (2), (6), (7), (8) and (9)	3 March 2025	2025/2
Section 51(5) (for all remaining purposes)	3 March 2025	2025/2
Section 52(1), (3)(b) and (6)	3 March 2025	2025/2
Section 53	3 March 2025	2025/2
Sections 54 and 55	30 September 2024	2024/242
Sections 56, 58 and 59 (for the purposes of making regulations)	30 September 2024	2024/242
Sections 60 and 61	30 September 2024	2024/242
Section 63 (partially)	10 December 2021	2021/380
Section 68 (for the purposes of making regulations)	30 September 2024	2024/242
Section 69 (partially)	10 December 2021	2021/380
Section 69 (for all remaining purposes)	30 September 2024	2024/242
Sections 73, 74(3) and (4) and 75 (for the	30 September 2024	2024/242

purposes of making regulations)		
Section 78	10 December 2021	2021/380
Section 80 (for the purposes of making regulations)	30 September 2024	2024/242
Section 82	30 September 2024	2024/242
Sections 83, 84 and 85	10 December 2021	2021/380
Section 86 (for the purpose of making regulations)	30 September 2024	2024/242
Sections 87 and 88(1) and (2)	10 December 2021	2021/380
Section 89 (partially)	10 December 2021	2021/380
Section 89 (for all remaining purposes)	1 April 2023	2023/79
Section 90	10 December 2021	2021/380
Section 93 (partially)	10 December 2021	2021/380
Section 93 (partially)	30 September 2024	2024/242
Schedules 3, 4 and paragraphs 5, 10(41) and 10(43) of schedule 5 (for the purposes of making regulations)	30 September 2024	2024/242
Paragraph 12 of schedule 5	10 December 2021	2021/380

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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.

£8.14

http://www.legislation.gov.uk/id/ssi/2025/27

ISBN 978-0-11-106205-0

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