Draft Regulations laid before the Scottish Parliament under section 100(4) of the Protection of Vulnerable Groups (Scotland) Act 2007 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2024 No.

PROTECTION OF VULNERABLE GROUPS

The Regulated Roles (Prohibitions and Requirements) (Scotland) Regulations 2024

Made - - - - 2024

Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 35(2), 45E(1), 72(1) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007(**a**) and all other powers enabling them to do so.

In accordance with section 100(4) of that Act(**b**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulated Roles (Prohibitions and Requirements) (Scotland) Regulations 2024.

(2) This regulation and regulations 2 and 4 come into force on the same day as paragraph 10(23) of Part 2 of schedule 5 of the Disclosure Act.

(3) Regulation 3 comes into force on the same day as section 45C of the PVG Act.

(4) In these Regulations—

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

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

"the relevant date" means the date on which regulation 3 comes into force.

Removal of barred individuals from regulated roles

2. Where an organisation for which an individual is carrying out a regulated role is notified under section 30(2)(a) of the PVG Act(**d**) that the individual has been barred from regulated roles with children or adults, that organisation—

(a) is prohibited from permitting the individual to carry out the regulated role from which the individual is barred, and

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(**a**) 2007 asp 14. Section 45E was inserted by section 73(2) of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**b**) Section 100(4) was amended by section 73(3) of the Disclosure Act.
(**c**) 2020 (asp 13).
(**d**) Section 30(2)(a) was amended by paragraph 10(20)(b) of schedule 5 of the Disclosure Act.

(b) must remove the individual from the regulated role from which the individual is barred.

Removal of non-PVG Scheme members from regulated roles

3.—(1) An organisation for which an individual is carrying out a type of regulated role—

(a) is prohibited from permitting the individual to carry out that type of regulated role, and

(b) must remove the individual from that type of regulated role,

where the individual does not participate in the PVG Scheme in relation to that type of regulated role.

(2) But paragraph (1) does not apply to an organisation in relation to an individual who is carrying out a type of regulated role for the organisation if—

(a) before the relevant date, the individual has applied to join the PVG Scheme in relation to that type of regulated role, and

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

(3) For the purposes of paragraph (2)(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(**a**),

(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.

(4) In this regulation—

"the PVG Scheme" means the scheme provided for by Part 2 of the PVG Act,

"type of regulated role" is to be construed in accordance with section 91(4) and (5) of the PVG Act(**b**).

Revocation

4. The Protection of Vulnerable Groups (Scotland) Act 2007 (Removal of Barred Individuals from Regulated Work) Regulations 2010(**c**) are revoked.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

(**a**) Section 46 was substituted by section 86(2) of the Disclosure (Scotland) Act 2020 (asp 13) ("the Disclosure Act").
(**b**) Section 91 was substituted by section 74(2) of the Disclosure Act.
(**c**) S.S.I. 2010/244.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the removal of individuals from regulated roles in certain circumstances.

Regulations 2 and 4 of these Regulations replace and revoke the Protection of Vulnerable Groups (Scotland) Act 2007 (Removal of Barred Individuals from Regulated Work) Regulations 2010.

Regulation 2 provides that where an organisation for which an individual is carrying out a type of regulated role receives notification under section 30(2)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007 ("the PVG Act") that the individual has been barred from that type of regulated role, the organisation is prohibited from permitting the individual to continue to carry out that type of regulated role and must remove the individual from the regulated role.

It is an offence under section 35(4) of the PVG Act for an organisation to fail to comply with regulation 2 of these Regulations and the penalties for such an offence are set out in section 37 of the PVG Act.

Regulation 3(1) provides that an organisation is prohibited from permitting an individual to carry out a type of regulated role and must remove the individual from the regulated role unless that individual participates in the PVG Scheme in relation to that type of regulated role.

It is an offence under section 45E(3) of the PVG Act for an organisation to fail to comply with regulation 3 of these Regulations and the penalties for such an offence are set out in section 45G of the PVG Act.

Regulation 3(2) makes transitional provision in respect of regulation 3(1) of these Regulations, so that an organisation which permits an individual to carry out a type of regulated role where that individual does not participate in the PVG Scheme in relation to that type of regulated role, does not commit an offence under section 45E of the Disclosure (Scotland) Act 2020 by failing to comply with regulation 3. Regulation 3(1) does not apply to an organisation, if the individual who is carrying out the regulated role for the organisation 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.

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