POLICY NOTE

THE POLICE ACT 1997 AND THE PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007 (FEES) (CORONAVIRUS) AMENDMENT REGULATIONS 2022

SSI 2022/34

1. The above instrument was made in exercise of the powers conferred by sections 112(1)(b), 113A(1)(b), 113B(1)(b), 114(1)(b) and 116(1)(b) of the Police Act 1997 ("the 1997 Act") and sections 70(1) and (2) of the Protection of Vulnerable Groups (Scotland) Act 2007 ("the 2007 Act"), and all other powers enabling them to do so. The instrument is subject to negative procedure in the Scottish Parliament.

Purpose of the instrument.
This SSI amends the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Regulations 2020 ("the 2020 Regulations").

The 2020 Regulations provide that disclosure checks relating solely to recruitment for coronavirus work in qualifying sectors are free. As a result of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) (Amendment) Regulations 2021 (SSI 2021/71), the 2020 Regulations were amended to cease to have effect on 25 March 2022.

This SSI makes a further change to regulation 5(1) of the 2020 Regulations so that free checks relating solely to recruitment for coronavirus work in qualifying sectors will continue until 24 June 2022.

Policy Objectives

2. As part of Scottish Ministers' response to the COVID-19 pandemic, a Ministerial decision suspended charging fees for disclosure products and applications to join the PVG Scheme when the application was for recruitment into a role responding to the pandemic. In the first instance that suspension ran from Monday 30 March to Monday 11 May 2020, and was subsequently extended until Thursday 25 June 2020.

3. The policy aim behind the suspension of fees was to ensure that individuals and organisations recruiting individuals responding to the COVID-19 pandemic were not burdened by the cost of disclosure checks, and the administrative process associated with the fee being paid.

4. While that aim was achieved, the future picture about the coronavirus disease recurring remained uncertain. As such, Scottish Ministers made the 2020 Regulations which came into force on Friday 26 June 2020.

5. The objective behind the 2020 Regulations was to ensure that individuals and organisations recruiting individuals in qualifying sectors solely for the purpose of responding to the coronavirus pandemic do not have to pay for disclosure checks.

6. To achieve that objective, the 2020 Regulations waived the prescribed fees of £18 or £59 payable for PVG disclosure requests, and the prescribed fee of £59 when applying to join the PVG Scheme (set in the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees for Scheme Membership and Disclosure Requests) Regulations 2010 (SSI 2010/167), and also set a fee of £0 in relation to disclosure applications made under the 1997 Act (set in the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 (SSI 2010/168) but only when the disclosure application or requests is solely in connection with recruitment into coronavirus work in qualifying sectors.

7. When the 2020 Regulations were first made, it was provided that they would end on 25 December 2021. Scottish Ministers subsequently decided that the end date should be extended, and to achieve that, amendment regulations (SSI 2020/376) were made in November 2020 which came into force on 26 December 2020, and which had the effect of changing the end date in the 2020 Regulations to 25 March 2021.

8. Due to the continued impact of coronavirus and the increase in cases in late 2020, the Scottish Ministers decided in January 2021 that the 2020 Regulations should be amended so that the 2020 Regulations ceased to have effect on 25 March 2022. That amendment was achieved by SSI 2021/71.

9. The omicron variant of coronavirus has led to an increase in coronavirus cases in Scotland during December 2021 and January 2022. In light of that increase, the Scottish Ministers have agreed that the expiry date in regulation 5(1) of the 2020 Regulations should be further extended. This SSI substitutes a new expiry date into regulation 5(1) of the 2020 Regulations so that they now cease to have effect on 24 June 2022.

Consultation

10. There has been no formal consultation about the amendment regulations. Disclosure Scotland held informal discussions with stakeholder organisations recruiting staff and volunteers to respond to the COVID-19 pandemic at the time when the 2020 Regulations were being considered.

Impact Assessments

11. There are no Equality, Fairer Scotland or Children's Rights issues associated with these Regulations.

Financial Effects

12. A Business and Regulatory Impact Assessment was prepared for the 2020 Regulations which noted a short-term negative financial effect on the Scottish Government, and short-term positive financial effect for local government, health boards, voluntary organisations and businesses in Scotland as they respond to the COVID-19 pandemic.

Scottish Government
Children and Families Directorate

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