POLICY NOTE

THE SCOTTISH CRIMINAL CASES REVIEW COMMISSION (PERMITTED DISCLOSURE OF INFORMATION) ORDER 2024

SSI 2024/220

The above instrument was made in exercise of the powers conferred by section 194K(1)(f) of the Criminal Procedure (Scotland) Act 1995. The instrument is subject to negative resolution procedure.

Summary Box

Insert one or two sentences to explain what the purpose of the instrument is.

The purpose of this instrument is to specify additional circumstances in which a member or employee of the Scottish Criminal Cases Review Commission ("the Commission") may disclose information, or authorise the disclosure of information, obtained by the Commission without committing an offence in terms of section 194J(3) of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"). The instrument specifies that the disclosure of such information is permitted if it is disclosed in response to a requirement under section 5 of the Post Office (Horizon System) Offences (Scotland) Act 2024 ("the 2024 Act").

Policy Objectives

Section 194J of the 1995 Act makes it an offence for members or employees of the Commission to disclose any information obtained by the Commission in the exercise of any of their functions unless the disclosure of the information is excepted from this section by section 194K or section 194M.

Section 194K(1)(f) provides an exception where the information is disclosed "in any circumstances in which the disclosure of information is permitted by an order made by the Scottish Ministers." This instrument is an exercise of that power.

The policy objective is to ensure that members and employees of the Commission can share information with the Scottish Ministers when they receive a notice under section 5 of the 2024 Act from the Scottish Ministers in relation to a small number of cases in which the Commission hold information.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Scottish Criminal Cases Review Commission (Permitted Disclosure of Information) Order 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
Scottish Government consulted with the Commission during the preparation of this instrument. The Commission confirmed that an order made under section 194K(1)(f) of the 1995 Act will enable them to share information in response to a requirement under section 5 of the 2024 Act.

Impact Assessments
There are no equality/children's/privacy, etc. impact issues.

Financial Effects

The Cabinet Secretary for Justice and Home Affairs confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate

28 August 2024