



# Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

## PART 2

### VETTING AND DISCLOSURE

#### *Offences relating to vetting information*

#### **65 Falsification of scheme records etc.**

- (1) It is an offence for a person, with intent to deceive, to—
- make a document which purports to be a disclosure record,
  - alter a disclosure record,
  - use, or allow another person to use, a disclosure record in a way which suggests that it relates to an individual other than the scheme member in respect of whom it was disclosed.
- (2) It is an offence for a person to knowingly make a false or misleading declaration or other statement for the purposes of—
- obtaining, or enabling another person to obtain, a disclosure record, or
  - satisfying Ministers that an individual who is doing regulated work is not doing so.

#### **Modifications etc. (not altering text)**

- C1** Pt. 2 modified (28.2.2011) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Consequential Provisions\) Order 2010 \(S.I. 2010/2660\)](#), arts. 1, **22**
- C2** Pt. 2 modified (28.2.2011) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Consequential Provisions\) Order 2010 \(S.I. 2010/2660\)](#), arts. 1, **21**

#### **Commencement Information**

- I1** [S. 65](#) in force at 28.2.2011 by [S.S.I. 2011/157](#), art. **2(a)**

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**Changes to legislation:** Protection of Vulnerable Groups (Scotland) Act 2007, Cross Heading: Offences relating to vetting information is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## 66 Unlawful disclosure of scheme records etc.

- (1) A person to whom disclosure information is disclosed under section 51, 52, 53 or 54 commits an offence if the person discloses it to any other person.
- (2) A person does not commit an offence under subsection (1) by disclosing the disclosure information—
  - (a) to any of the person's employees,
  - (b) where the person is not an individual, to any member or officer of the person, or
  - (c) where the disclosure was made for the purpose of enabling or assisting another person to consider a scheme member's suitability to do, or to be offered or supplied for, regulated work—
    - (i) to that other person,
    - (ii) to any of that other person's employees, or
    - (iii) where that other person is not an individual, to any member or officer of that other person.
- (3) An individual to whom disclosure information is disclosed lawfully by virtue of subsection (2)(a) or (b) or (4)(a) commits an offence if the individual discloses it to any other person.
- (4) An individual does not commit an offence under subsection (3) by disclosing the disclosure information, in the course of the individual's duties—
  - (a) to any other individual who is a member, officer or employee of the person to whom the corresponding disclosure was made under section 52, 53 or 54, or
  - (b) where the disclosure was made for the purpose of enabling or assisting another person to consider a scheme member's suitability to do, or to be offered or supplied for, regulated work—
    - (i) to that other person,
    - (ii) to any of that other person's employees, or
    - (iii) where that other person is not an individual, to any member or officer of that other person.
- (5) A person to whom disclosure information is disclosed lawfully by virtue of subsection (2)(c)(i) or (4)(b)(i) commits an offence if the person discloses it to any other person.
- (6) A person does not commit an offence under subsection (5) by disclosing the disclosure information—
  - (a) to any of the person's employees, or
  - (b) where the person is not an individual, to any member or officer of the person.
- (7) An individual to whom disclosure information is disclosed lawfully by virtue of subsection (2)(c)(ii) or (iii), (4)(b)(ii) or (iii) or (6) commits an offence if the person discloses it to any other person.
- (8) An individual does not commit an offence under subsection (7) by disclosing the disclosure information, in the course of the individual's duties, to any other individual who is a member, officer or employee of the person for whose purposes the corresponding disclosure was made under section 52, 53 or 54.
- (9) A person to whom disclosure information is disclosed unlawfully commits an offence if the person discloses it to any other person.

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#### Commencement Information

**I2** S. 66 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

### 67 Unlawful requests for scheme records etc.

- (1) It is an offence to request provision of, or to otherwise seek sight of, a disclosure record for a purpose other than the permitted purpose.
- (2) It is an offence to use disclosure information for a purpose other than the permitted purpose.
- (3) The permitted purpose is to enable or assist a person (“Z”) to consider the suitability of the individual to whom the record or information relates—
  - (a) to do, or to be offered or supplied for, the type of regulated work to which the disclosure record relates, or
  - (b) to do that type of regulated work in prescribed circumstances for any person other than Z in pursuance of arrangements under which services are provided to Z.
- (4) References in subsection (1) to disclosure records do not include references to information included in disclosure records.

#### Commencement Information

**I3** S. 67(1)(2)(3)(a)(4) in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

**I4** S. 67(3)(b) in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.

**I5** S. 67(3)(b) in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a)

### 68 Unlawful disclosure etc.: supplementary

- (1) Nothing in section 66 prevents disclosure of disclosure information—
  - (a) by the scheme member to whom the information relates,
  - (b) by any other person with the consent of the scheme member to whom the information relates,
  - (c) to an office-holder in the Scottish Administration or a government department,
  - (d) to a person appointed to any office by virtue of any enactment,
  - (e) in accordance with any obligation to provide information imposed by virtue of any enactment,
  - (f) for the purposes of answering a prescribed type of exempted question, or
  - (g) for some other prescribed purpose.
- (2) Nothing in subsections (2), (4), (6) or (8) of section 66 makes lawful any disclosure of disclosure information made otherwise than for the purpose of enabling or assisting the person in relation to whom the corresponding disclosure request was made to consider the suitability of the scheme member concerned to do, or to be offered or supplied for, the type of regulated work concerned.
- (3) Nothing in section 67 prevents use of disclosure information for a purpose other than the permitted purpose—

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- (a) by the scheme member to whom the information relates,
  - (b) by any other person with the consent of the scheme member to whom the information relates,
  - (c) by an office-holder in the Scottish Administration or a government department,
  - (d) by a person appointed to any office by virtue of any enactment,
  - (e) in accordance with any obligation to provide information imposed by virtue of any enactment,
  - (f) in order to answer a prescribed type of exempted question, or
  - (g) in any other prescribed circumstances.
- (4) References in sections 66 and 67 and in this section to disclosure information are references to—
- (a) disclosure records disclosed under section 52, 53 or 54, and
  - (b) any information in such a disclosure record which is obtained only by virtue of section 51, 52, 53 or 54.
- (5) “Exempted question”, where used in subsections (1)(f) and (3)(f), means a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (c. 53) has been excluded by order made under section 4(4) of that Act.

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**Commencement Information**

**I6** S. 68 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

**69 Penalties for offences relating to vetting information**

A person guilty of an offence under section 65, 66 or 67 is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

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**Commencement Information**

**I7** S. 69 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 65 cross-heading substituted by [2020 asp 13 sch. 5 para. 10\(35\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by [2020 asp 13 s. 80\(2\)](#)
- s. 8(3)(za) inserted by [2020 asp 13 s. 82\(3\)](#)
- s. 10(1)(aa) inserted by [2020 asp 13 s. 80\(3\)](#)
- s. 13A-13C inserted by [2020 asp 13 s. 76\(2\)](#)
- s. 18(5) inserted by [2020 asp 13 sch. 5 para. 5\(2\)\(b\)](#)
- s. 30(3A)-(3C) inserted by [2020 asp 13 s. 77\(3\)](#)
- s. 45A inserted by [2020 asp 13 s. 71](#)
- s. 45B inserted by [2020 asp 13 s. 72](#)
- s. 45C-45G inserted by [2020 asp 13 s. 73\(2\)](#)
- s. 45H inserted by [2020 asp 13 s. 88\(3\)](#)
- s. 46A inserted by [2020 asp 13 s. 79](#)
- s. 49(3) inserted by [2020 asp 13 sch. 5 para. 5\(3\)\(c\)](#)
- s. 70(2)(d) inserted by [2020 asp 13 sch. 5 para. 10\(41\)\(b\)](#)
- s. 77(1A) inserted by [2020 asp 13 sch. 5 para. 10\(46\)\(b\)](#)
- s. 94(2A)(2B) inserted by [2020 asp 13 s. 75\(3\)](#)