

DISCLOSURE (SCOTLAND) ACT 2020

EXPLANATORY NOTES

PROVISION BY PROVISION COMMENTARY

Part 1: Disclosure of criminal history and other information

Level 2 disclosures

Section 18: Provision of Level 2 disclosure to accredited bodies

42. An applicant who receives a Level 2 disclosure has the choice, within a period to be prescribed by regulations subject to the negative procedure, either to ask Ministers to share a copy of the disclosure with the accredited body that countersigned the application, or to notify Ministers of an intention to seek a review under section 20. Ministers must make the disclosure available to the accredited body on request by the applicant.
43. The individual can change their mind in cases where they have indicated an intention to seek a review. To do so they must make a request before the end of the prescribed period for Ministers to share their Level 2 disclosure with the accredited body. If the individual takes no action and does not notify Ministers of their decision either to share the disclosure or seek a review, the disclosure lapses at the end of the prescribed period and nothing more may be done with it. However, a failure to act does not prevent the individual from making another Level 2 disclosure application for the same purpose.
44. If the provisions in this section are not followed, Ministers are not otherwise permitted to make the disclosure available to the accredited body or any other person. This is a change from the law for standard and enhanced disclosures under the 1997 Act, and the PVG scheme record under the PVG Act, which are usually provided to the accredited body without the need for a further request by the applicant that disclosure should take place.