

# **DISCLOSURE (SCOTLAND) ACT 2020**

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## **EXPLANATORY NOTES**

### **PROVISION BY PROVISION COMMENTARY**

#### **Part 1: Disclosure of criminal history and other information**

##### **Level 2 disclosures**

##### ***Section 13: Childhood information***

32. Before providing a Level 2 disclosure to an applicant, Ministers must find out if the applicant has any spent childhood convictions and children’s hearing outcomes that are not non-disclosable convictions or non-disclosable outcomes. “Non-disclosable” is defined in sections 9 and 10 of the Act, both of which serve to act as a filter before the decision making process in this section is applied. If there are any such spent childhood convictions or children’s hearing outcomes, Ministers must decide if they are relevant to the purpose of the Level 2 disclosure, and if information about the conviction or outcome ought to be included in the disclosure. The effect of this section is that unspent childhood convictions are exempt from the decision-making process, the result of which will be disclosed following the rules set out in section 8 of the Act.
33. Ministers may request information under section 65 from the persons listed in subsection (3) of that section. If Ministers decide to include information about a spent childhood conviction or children’s hearing outcome in the disclosure, they must include such information as they consider appropriate and in such form as they consider appropriate. They are also required to notify the applicant of the reasons for their decision and advise the applicant of their right to make an application for review of the inclusion of that information by the independent reviewer. This marks a change from higher level disclosures issued under the 1997 Act and PVG Act, where there is no separate category of childhood information distinct from other convictions, and therefore no prior consideration of whether it is appropriate to include them in a disclosure.