

# 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: review applications**

#### ***Section 31: Provision of new Level 2 disclosure on conclusion of review proceedings***

63. Once proceedings on a Level 2 review application have finally concluded (according to the definition in subsection (7)), Ministers must provide a new Level 2 disclosure to the applicant. The applicant is treated as having made a new application for a Level 2 disclosure on the date on which proceedings finally concluded. Ministers are required to give effect to the final outcome of the proceedings (as defined by subsection (9), for instance by correcting any inaccurate information or by excluding reviewable information which the final decision maker in the review process (be that Ministers, the chief constable, the independent reviewer or the sheriff) has determined is not relevant for the purpose of the disclosure and ought not to be included.
64. Where an application for review of reviewable information was unsuccessful, the applicant cannot make a Level 2 review application about the same information when their new Level 2 disclosure is issued to them at the end of the review process. The applicant may request subsequent review of the same information provided for the same purpose after a period of time (to be set in regulations), or if Ministers are satisfied their circumstances have changed in a material respect since the final outcome of proceedings.
65. Where information is excluded from the new Level 2 disclosure provided to the applicant, and the applicant is a PVG scheme member, Ministers must also exclude the information from a scheme member's PVG scheme record where the purpose of the disclosure related to the type of regulated role for which the individual is a scheme member. The information is also to be treated as not being vetting information for the purposes of the PVG Act. Consequential amendments are made in schedule 5 of the Act to section 51 of the PVG Act, which makes provision for corrections to a person's scheme record.