

DISCLOSURE (SCOTLAND) ACT 2020

EXPLANATORY NOTES

PROVISION BY PROVISION COMMENTARY

Part 1: Disclosure of criminal history and other information

Level 2 disclosures: review applications

Section 21: Review of accuracy of information by the Scottish Ministers

48. This section makes similar provision to the corrections process provided for under section 117 of the 1997 Act and section 51 of the PVG Act. The corrections process is now integrated with the new review procedures provided for in sections 22 to 30. Where a Level 2 review application seeks a review of the accuracy of any information in the disclosure, Ministers must carry out a review and must decide whether the information in question is accurate. They must notify the applicant of their decision. A review of the accuracy of information in a Level 2 disclosure cannot take place where the information in question relates to reviewable information, for which there are separate review mechanisms under sections 22, 23 or 25. An accuracy review is also excluded where the information could be reviewed under section 18 of the ACR Act, i.e. where it relates to information that has been provided by the police about a person's behaviour while they were under the age of 12.
49. There is no further review by the independent reviewer under section 21. An accuracy review under section 21 is administrative in nature to enable the correction of the content of the disclosure, for example an error in the applicant's name, date of birth, address, or if the applicant has provided evidence to rebut the age presumption (see section 40). This is in contrast to the other review procedures under sections 22, 23 or 25, which involve an exercise of judgment as to whether information ought to be included in a Level 2 disclosure.