



Disclosure (Scotland) Act 2020

2020 asp 13

PART 1

DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

PROSPECTIVE

Level 1 disclosures

1 Level 1 disclosure

In this Part, a “Level 1 disclosure”, in relation to an individual, is a certificate—

- (a) containing the prescribed details of every unspent conviction (including an unspent childhood conviction) of the individual that is recorded in central records or, if there are no such convictions, stating that fact, and
- (b) if the individual is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, stating that fact.

2 Provision of Level 1 disclosures

- (1) The Scottish Ministers must provide a Level 1 disclosure to an individual who—
 - (a) is 16 years of age or older, and
 - (b) makes an application.
- (2) The Scottish Ministers may provide a Level 1 disclosure to an individual who—
 - (a) is 12 years of age or older but under 16 years of age, and
 - (b) makes an application,if it appears to them from the information contained in the application that it is appropriate in the circumstances to provide the disclosure.
- (3) The Scottish Ministers may refuse to provide a Level 1 disclosure to an individual under subsection (1) if it appears to them from the information contained in the application that the information that would be contained in the disclosure could more appropriately be obtained from another person.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Cross Heading: Level 1 disclosures. (See end of Document for details)

- (4) A Level 1 disclosure provided under subsection (1) or (2) may relate only to the applicant.

3 Applications by accredited bodies on behalf of individuals

- (1) An accredited body may make an application under section 2 on behalf of an individual.
- (2) An application by an accredited body on behalf of an individual may be made only with the consent of the individual.
- (3) The Scottish Ministers must not consider any such application that does not comply with subsection (2).
- (4) Where an application under section 2 is made by an accredited body on behalf of an individual, the individual is to be treated for the purposes of this Part as the applicant and, accordingly, any Level 1 disclosure provided as a result of the application is to be provided to the individual.
- (5) Subsection (4) is subject to section 4.
- (6) The Scottish Ministers may refuse to provide a Level 1 disclosure to an individual under section 2(1) where—
- (a) the application for the disclosure is made on behalf of the individual by an accredited body, and
 - (b) the Scottish Ministers consider that the accredited body or its lead signatory or countersignatory has failed to comply with the code of practice published under section 55.

4 Provision of Level 1 disclosure to third parties

- (1) Where a Level 1 disclosure is provided to an applicant by using electronic communications, the applicant may, within the prescribed period, either—
- (a) request that the Scottish Ministers arrange for the disclosure to be made available by electronic communications to such other person or persons as the applicant may specify, or
 - (b) notify the Scottish Ministers that the applicant intends to make a Level 1 review application under section 5 in relation to the disclosure.
- (2) If the applicant makes a request under subsection (1)(a), the Scottish Ministers must comply with the request.
- (3) Where notification has been given under subsection (1)(b), the notification is to be treated as withdrawn if, before the end of the prescribed period, the applicant makes a request under subsection (1)(a).
- (4) If no request or notification is made or given under subsection (1) within the prescribed period, at the end of that period the disclosure lapses and nothing further may be done in relation to it.
- (5) Subsection (4) does not prevent the applicant subsequently making another application for a Level 1 disclosure.

Status: *This version of this cross heading contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Cross Heading: Level 1 disclosures. (See end of Document for details)*

(6) Otherwise, the Scottish Ministers must not make the disclosure available to any other person.

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Cross Heading: Level 1 disclosures.