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PROSPECTIVE

SCHEDULE 5 CONSEQUENTIAL AND MINOR MODIFICATIONS

PART 2

MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 2

Protection of Vulnerable Groups (Scotland) Act 2007

- 10 (1) The PVG Act is amended as follows.
- (2) In section 2 (referral ground)—
- (a) in paragraph (a), for the opening words substitute—
- “(a) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with children, is that the individual has, whether or not in the course of the individual carrying out that role—”,
- (b) in paragraph (b), for the opening words substitute—
- “(b) in relation to an individual who is or has been carrying out (or has been offered or supplied for) a regulated role with adults, is that the individual has, whether or not in the course of the individual carrying out that role—”.
- (3) In section 3 (reference following disciplinary action etc.)—
- (a) in subsection (1)—
- (i) in the opening words for “doing regulated work” substitute “carrying out a regulated role”,
- (ii) in paragraph (a)(ii) for “work” substitute “role”,
- (iii) in paragraph (b)(i) for “doing regulated work” substitute “carrying out the regulated role”,
- (b) in subsection (2)—
- (i) in the opening words for “doing regulated work” substitute “carrying out a regulated role”,
- (ii) in paragraph (a) for “doing the regulated work” substitute “carrying out the regulated role”,
- (iii) in paragraph (b) for “doing regulated work” substitute “carrying out the regulated role”,
- (iv) in paragraph (c)(ii) for “doing regulated work” substitute “carrying out the regulated role”,
- (c) in subsection (3)—
- (i) in paragraph (a) for the words from “regulated” to the end of that paragraph substitute “a regulated role is not to be treated as having stopped carrying out that role”,
- (ii) in paragraph (b) for “work” substitute “role”.

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- (4) In section 4 (reference by employment agency)—
- (a) in the opening words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (b) in paragraph (b)(i) for “further regulated work” substitute “ another regulated role ”,
 - (c) in paragraph (b)(ii) for “such work” substitute “ another regulated role ”.
- (5) In section 5 (reference by employment business)—
- (a) in the opening words for “regulated work” substitute “ a regulated role ”,
 - (b) in paragraph (b) for “doing regulated work” substitute “ carrying out the regulated role ”,
 - (c) in paragraph (c) for “further regulated work” substitute “ another regulated role ”.
- (6) In section 6(1) (reference relating to matters occurring before provisions come into force) for “doing the regulated work” substitute “ carrying out the regulated role ”.
- (7) In section 8(1) (reference by certain other persons) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (8) In section 10(4) (consideration whether to list: organisational referrals etc.) for the words from “work” to the end of that subsection substitute “ role (if any) which the individual is or has been carrying out. ”.
- (9) In section 12 (consideration whether to list: vetting information etc.) in each of subsections (1)(b) and (2)(b) for “do regulated work” substitute “ carry out a regulated role ”.
- (10) In section 13 (consideration whether to list: inquiries)—
- (a) in each of paragraphs (a) and (b) of subsection (1) for “doing regulated work” substitute “ carrying out a regulated role. ”,
 - (b) in subsection (4) for the words from “work” to the end of that subsection substitute “ role which the individual was carrying out ”.
- (11) In section 15 (inclusion in children's list after consideration) for “work” substitute “ carry out regulated roles ”.
- (12) In section 16 (inclusion in adults' list after consideration) for “work with protected” substitute “ carry out regulated roles with ”.
- (13) In section 18 (police information etc.) in each of subsections (1) and (4)(a) for “work” substitute “ role ”.
- (14) In section 19(2)(a) (information held by public bodies etc.) for “work” substitute “ role ”.
- (15) In section 20 (information held by regulated work providers)—
- (a) in subsection (2)—
 - (i) in paragraph (a) for “doing, or has done, regulated work” substitute “ carrying out, or has carried out, a regulated role ”,
 - (ii) in paragraph (b) for the words from “regulated” to the end of that paragraph substitute “ a regulated role by the person (whether or not the individual subsequently carried out the role), ”,
 - (iii) in paragraph (c) for “regulated work” substitute “ a regulated role ”,

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- (iv) in paragraph (d) for “do regulated work” substitute “ carry out a regulated role ”,
 - (b) the title of the section becomes “ Information held by providers of regulated roles ”.
- (16) In section 21 (appeals against inclusion in children's list), in subsection (3)(a) for “work” substitute “ carry out regulated roles ”.
- (17) In section 22 (appeals against inclusion in adults' list), in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (18) In section 26 (determination of application for removal from list)—
- (a) in subsection (1)(a) for “work” substitute “ carry out regulated roles ”,
 - (b) in subsection (2)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (19) In section 27 (appeals against refusal to remove individual from list)—
- (a) in subsection (2)(a) for “work” substitute “ carry out regulated roles ”,
 - (b) in subsection (3)(a) for “work with protected” substitute “ carry out regulated roles with ”.
- (20) In section 30 (notice of listing etc.)—
- (a) in subsection (1)(c), after “13” insert “ or section 45B(7) ”,
 - (b) in each of subsections (1)(b) and (2)(a) for “doing regulated work” substitute “ regulated roles ”,
 - (c) in subsection (3)(b)—
 - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
 - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (d) in subsection (3)(c)—
 - (i) in sub-paragraph (i) for “work” substitute “ roles ”,
 - (ii) in the closing words for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (e) in each of paragraphs (b) and (c) of subsection (4) for “doing regulated work” substitute “ carrying out a regulated role ”.
- (21) The italic heading before section 34 becomes “ Offences relating to regulated roles ”.
- (22) In section 34 (barred individuals not to do regulated work)—
- (a) in subsection (1), for “do, or to seek or agreed to do, any regulated work” substitute “ carry out, or to seek or agree to carry out, any regulated role ”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), for “work” substitute “ role ”,
 - (ii) in paragraph (b), for “work concerned was regulated work” substitute “ role concerned was a regulated role ”,
 - (c) the title of the section becomes “ Barred individuals not to carry out regulated roles ”.
- (23) In section 35 (organisations not to use barred individuals for regulated work)—
- (a) in subsection (1), for “regulated work to an individual barred from that work” substitute “ a regulated role to an individual barred from that role ”,
 - (b) in subsection (2)—

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- (i) for “do” substitute “ carry out ”,
 - (ii) for “regulated work” substitute “ a regulated role ”,
 - (c) in subsection (3)(a)(ii), for “work” substitute “ roles ”,
 - (d) in subsection (5), for “regulated work” substitute “ a regulated role ”,
 - (e) in subsection (6), for “doing that regulated work” substitute “ that regulated role ”,
 - (f) in subsection (7)—
 - (i) for “regulated work” substitute “ a regulated role ”,
 - (ii) for “do that work” substitute “ carry out that role ”,
 - (g) the title of the section becomes “ Organisations not to use barred individuals for regulated roles ”.
- (24) In section 36 (personnel suppliers not to supply barred individuals for regulated work)—
- (a) in subsection (1)—
 - (i) in paragraph (a) for “doing regulated work” substitute “ regulated roles ”,
 - (ii) in paragraph (b) for “do regulated work” substitute “ carry out a regulated role ”,
 - (b) in subsection (2) for “doing the regulated work” substitute “ the regulated role ”,
 - (c) The title of the section becomes “ Personnel suppliers not to supply barred individuals for regulated roles ”.
- (25) The title of section 37 becomes “ Penalties for offences relating to regulated roles ”.
- (26) In section 39(1) (restrictions on listing in children's list) for “work” substitute “ roles ”.
- (27) In section 40(1) (restrictions on listing in adults' list) for “work” substitute “ roles ”.
- (28) In section 44 (the Scheme) for “do, or wish to do, regulated work” substitute “ carry out, or wish to carry out, regulated roles ”.
- (29) In section 48 (scheme record), for paragraph (a) substitute—
- “(a) the information to be contained in a confirmation of scheme membership under section 46(2), and”.
- (30) In section 49(1)(c)(i) (vetting information) for “work” substitute “ role ”.
- (31) In section 58(1) (removal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
 - (b) in paragraph (a) for “doing that work” substitute “ carrying out that type of role ”,
 - (c) in paragraph (b) for “doing that work” substitute “ that type of regulated role ”.
- (32) In section 59 (withdrawal from scheme)—
- (a) in the opening words for “work” substitute “ role ”,
 - (b) in paragraph (b) for “doing that type of regulated work” substitute “ carrying out that type of regulated role ”.
- (33) In section 60 (notice of removal)—

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- (a) in subsection (1), after “section” insert “ 45B(3)(a) or (6), ”,
 - (b) in subsection (2)(a), for “work” substitute “ role ”.
- (34) In section 62 (evidence of identity), in subsection (1), for paragraph (c) substitute—
“(c) a request for confirmation of scheme membership under section 54.”.
- (35) The italic heading before section 65 becomes “ Offences relating to confirmation of scheme membership ”.
- (36) In section 65 (falsification of scheme records etc.)—
- (a) in subsection (1)—
 - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (b) and (c), for “a disclosure record” substitute “ such a confirmation ”,
 - (iii) in paragraph (c), for “disclosed” substitute “ made available ”,
 - (b) in subsection (2)—
 - (i) in paragraph (a), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
 - (ii) in paragraph (b), for “doing regulated work” substitute “ carrying out a regulated role ”,
 - (c) the title of the section becomes “ Falsification of confirmation of scheme membership ”.
- (37) In section 66 (unlawful disclosure of scheme records etc.)—
- (a) in subsection (1), for “disclosure information is disclosed under section 51, 52, 53 or 54” substitute “ a confirmation of scheme membership is made available under section 54 ”,
 - (b) in subsection (2)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) in paragraph (c), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
 - (c) in each of subsections (2)(c) and (4)(b) for “do, or to be offered or supplied for, regulated work” substitute “ carry out, or to be offered or supplied for, a regulated role ”,
 - (d) in subsection (3), for “disclosure information” substitute “ a confirmation of scheme membership ”,
 - (e) in subsection (4)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) in paragraph (a), for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (iii) in paragraph (b), for “disclosure was made” substitute “ confirmation of scheme membership was made available ”,
 - (f) in subsection (5), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,

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- (g) in subsection (6), for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (h) in subsection (7), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (i) in subsection (8)—
 - (i) for “disclosure information” substitute “ confirmation of scheme membership ”,
 - (ii) for “corresponding disclosure was made under section 52, 53 or 54” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (j) in subsection (9), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (k) the title of the section becomes “ Unlawful disclosure of confirmation of scheme membership ”.
- (38) In section 67 (unlawful requests for scheme records etc.)—
- (a) in subsection (1), for “disclosure record” substitute “ confirmation of scheme membership under section 54 ”,
 - (b) in subsection (2), for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (c) in subsection (3)—
 - (i) for “record or information” substitute “ confirmation of scheme membership ”,
 - (ii) for paragraph (a), substitute—
 - “(a) to carry out, or to be offered or supplied for, the type of regulated role to which the confirmation of scheme membership relates,”,
 - (iii) in paragraph (b), for “do that type of regulated work” substitute “ carry out that type of regulated role ”,
 - (d) subsection (4) is repealed,
 - (e) the title of the section becomes “ Unlawful requests for and use of confirmation of scheme membership ”.
- (39) In section 68 (unlawful disclosure etc.: supplementary)—
- (a) in subsection (2), for “do, or to be offered or supplied for, the type of regulated work” substitute “ carry out, or to be offered or supplied for, the type of regulated role ”,
 - (b) in subsection (1)—
 - (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
 - (c) in subsection (2)—
 - (i) for “disclosure information made” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) for “corresponding disclosure request was made” substitute “ confirmation of scheme membership was made available under section 54 ”,
 - (d) in subsection (3)—

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- (i) for “disclosure information” substitute “ a confirmation of scheme membership made available under section 54 ”,
 - (ii) in each of paragraphs (a) and (b), for “information” substitute “ confirmation of scheme membership ”,
 - (e) for subsection (4) substitute—
 - “(4) In sections 66 and 67(2) and in this section, references to a confirmation of scheme membership include references to any information contained in a confirmation of scheme membership.”.
- (40) The title of section 69 becomes “ Penalties for offences relating to confirmation of scheme membership ”.
- (41) In section 70 (fees)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (ii) in paragraph (b), for “disclosure requests” substitute “ requests for confirmations of scheme membership under section 54 ”,
 - (b) in subsection (2), after paragraph (c) insert—
 - “(d) the manner in which fees are to be paid.”,
 - (c) in subsection (4)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme, ”,
 - (ii) in paragraph (b), for “disclosure request” substitute “ request for confirmation of scheme membership under section 54 ”,
 - (iii) in the closing words, after “paid” insert “ in the manner provided for in the regulations. ”
- (42) In section 71 (forms)—
- (a) in subsection (1)—
 - (i) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (ii) for paragraph (c) substitute—
 - “(c) requests for confirmation of scheme membership under section 54 (including a statement under subsection (3) of that section),”,
 - (b) in each of subsections (2) and (3), for “declaration” substitute “ statement ”.
- (43) In section 72 (procedure), in subsection (2)—
- (a) in paragraph (a), after “Scheme” insert “ or to renew membership of the Scheme ”,
 - (b) paragraph (c) is repealed,
 - (c) for paragraph (d) substitute—
 - “(d) prescribe further procedure for making requests for confirmations of scheme membership under section 54 and making such confirmations available in pursuance of such requests.”.
- (44) In section 73 (consideration of suitability)—

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- (a) in the opening words, for “to do, or to be offered or supplied for, any type of regulated work” substitute “ to carry out, or to be offered or supplied for, any type of regulated role ”,
 - (b) in each of paragraphs (a) and (b), for “do that type of regulated work” substitute “ carry out that type of regulated role ”,
 - (c) paragraphs (c) to (f) are repealed.
- (45) In section 76(1)(b) (police access to scheme information) for “regulated work” substitute “ regulated roles ”.
- (46) In section 77 (statements of scheme membership: disclosure of whether individual under consideration for listing)—
- (a) in subsection (1)—
 - (i) for “Despite section 46(2)(c), a statement of scheme membership” substitute “ A confirmation of scheme membership made available under section 54 or a Level 2 disclosure made available under section 18 of the Disclosure (Scotland) Act 2020 ”,
 - (ii) after “individual” insert “ (or details of any conditions that Ministers have imposed under section 13A(1)) ”,
 - (b) after subsection (1), insert—
 - “(1A) Subsection (1) applies despite—
 - (a) section 46(2)(c) or (d) of this Act,
 - (b) section 16(4)(a)(iii) or (iv) or (b)(iii) or (iv) of the Disclosure (Scotland) Act 2020, or
 - (c) section 17(3)(b) or (c) of that Act,
 (as the case may be).”,
 - (c) in subsection (2)(b), for “or 13” substitute “ , 13 or 45B(7) ”.
- (47) The title of section 77 becomes “ Disclosure of whether an individual is under consideration for listing ”.
- (48) In section 92 (individuals barred from regulated work)—
- (a) in the opening words of each of subsections (1) and (2), for “work” substitute “ roles ”,
 - (b) in each of subsections (3) and (4) for “work” substitute “ roles ”.
- (49) The title of section 92 becomes “ Individuals barred from regulated roles ”.
- (50) Section 95 (work) is repealed.
- (51) In section 96 (fostering)—
- (a) in subsection (2), for “doing work” substitute “ carrying out a regulated role with children ”,
 - (b) in subsection (3)—
 - (i) after “37” insert “ and sections 45C to 45F ”,
 - (ii) for “work” in the first place it occurs substitute “ the carrying out of a regulated role ”,
 - (iii) for “work is done” substitute “ role is carried out ”,
 - (c) subsection (4) is repealed,
 - (d) in subsection (5), for “doing regulated work” substitute “ carrying out a regulated role ”.

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(52) In section 97(3) (general interpretation), for “11, 12 or 13” substitute “ 12, 13 or 45B(7) ”.

(53) In section 100 (orders and regulations), in subsection (4)—

- (a) for “Paragraph 28 of schedule 2 (except an order of the type mentioned in paragraph 15 of that schedule)” substitute “ Paragraph 33 of schedule 2 ”,
- (b) for “Paragraph 13 of schedule 3” substitute “ Paragraph 25 of schedule 3 ”.

(54) In schedule 5 (index)—

- (a) in the entry relating to—
 - (i) “barred from regulated work”, in the left hand column substitute “ barred from regulated roles ”,
 - (ii) “regulated work”, in the left hand column substitute “ regulated role ”,
 - (iii) “regulated work with adults”, in the left hand column substitute “ regulated role with adults ”,
 - (iv) “regulated work with children”, in the left hand column substitute “ regulated role with children ”,
 - (v) “scheme member”, in the right hand column substitute “ section 45(1)(a) ”,
- (b) at the appropriate place insert—

“confirmation of scheme membership section 46(2)”,

“type of regulated role section 91(5)”,

- (c) the following entries are repealed—
 - statement of scheme membership,
 - type of regulated work,
 - work, worker, working.

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