



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### PART 1

#### DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

##### *Level 2 disclosures: review applications*

PROSPECTIVE

#### **28 Independent reviewer: information and representations**

- (1) In carrying out a review under this Part in respect of a Level 2 review application, the independent reviewer—
- (a) must by notice give the applicant an opportunity to make representations, and
  - (b) may by notice require any person mentioned in subsection (2) to provide the reviewer with information which the reviewer—
    - (i) believes the person holds, and
    - (ii) considers is necessary to carry out the review.
- (2) The persons are—
- (a) the applicant,
  - (b) the Scottish Ministers,
  - (c) the chief constable,
  - (d) the Scottish Courts and Tribunals Service,
  - (e) any other person the independent reviewer considers appropriate.
- (3) Where the review includes a review under section 22 of information about a spent childhood conviction or children's hearing outcome of the applicant, the Scottish Ministers must provide to the independent reviewer a statement of their reasons for their determination—
- (a) that the childhood conviction or children's hearing outcome is relevant for the purpose of the disclosure, and
  - (b) that information about the conviction or outcome of the applicant ought to be included in the disclosure.

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*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Section 28. (See end of Document for details)*

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- (4) Where the review includes a review under section 24 of information relating to the applicant provided by the chief constable in accordance with section 14, the Scottish Ministers must provide to the independent reviewer the statement of the chief constable's reasons for the chief constable's decision following the review under section 23.
- (5) Where the review includes a review under section 26 of the inclusion of a removable conviction of the applicant, the Scottish Ministers must provide to the independent reviewer a statement of their reasons for their decision following the review under section 25.
- (6) A notice under subsection (1)(a) must specify the period within which the applicant may make representations.
- (7) A notice under subsection (1)(b) must specify the information sought and the period within which it must be provided.
- (8) The chief constable must not provide information by virtue of a notice under subsection (1)(b) if the chief constable thinks that disclosing the information would be contrary to the interests of the prevention or detection of crime.
- (9) In carrying out the review, the independent reviewer must take account of any statement of reasons, representations or information received by virtue of subsection (1), (3), (4) or (5).

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Section 28.