



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### PART 1

#### DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

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

#### **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.
- (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

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*Status: This is the original version (as it was originally enacted).*

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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).