



Disclosure (Scotland) Act 2020

2020 asp 13

PART 1

DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

Level 2 disclosures: review applications

- 32 Disapplication of provisions of section 4 of the Rehabilitation of Offenders Act 1974**
- (1) Subsection (2) applies where—
- (a) a review is to be carried out by the independent reviewer under section 22 of information included in a Level 2 disclosure about—
 - (i) a spent childhood conviction of an applicant, or
 - (ii) a children’s hearing outcome of an applicant, or
 - (b) a review is to be carried out—
 - (i) by the Scottish Ministers under section 25, or
 - (ii) by the independent reviewer under section 26,of the inclusion of a removable conviction in a Level 2 disclosure.
- (2) Subsections (1)(a) and (b), (2)(a) and (b) and (3)(a) of section 4 of the Rehabilitation of Offenders Act 1974 (effect of becoming a protected person) (the “1974 Act”) do not apply—
- (a) for the purpose of the review and, in the case of a review by the independent reviewer, any appeal under section 30 against the independent reviewer’s decision in the review,
 - (b) in relation to the conviction or outcome that is the subject of the review.
- (3) Subsection (4) applies where—
- (a) a review as mentioned in subsection (1) is carried out by the independent reviewer or, as the case may be, the Scottish Ministers,
 - (b) the effect of the final outcome of the proceedings (within the meaning of section 31(9)) on the Level 2 review application giving rise to the review is that—

Status: This is the original version (as it was originally enacted).

- (i) the spent childhood conviction, children’s hearing outcome or removable conviction is relevant for the purpose of the Level 2 disclosure, and
 - (ii) information about or, as the case may be, details of the conviction or outcome ought to be included in the disclosure, and
 - (c) information about or, as the case may be, details of the conviction or outcome is or are included in a new Level 2 disclosure provided to the applicant by virtue of section 31(2).
- (4) Subsections (1)(a) and (b), (2)(a) and (b) and (3)(a) and (b) of section 4 of the 1974 Act do not apply—
 - (a) in relation to the purpose of the Level 2 disclosure, and
 - (b) in relation to the spent childhood conviction, children’s hearing outcome or removable conviction information about or, as the case may be, details of which is or are included in the disclosure.
- (5) Subsection (6) applies where—
 - (a) information about—
 - (i) a spent childhood conviction of an applicant,
 - (ii) a children’s hearing outcome of an applicant, or
 - (b) details of a removable conviction of an applicant,is or are included in a Level 2 disclosure as mentioned in subsection (3)(c).
- (6) Subject to subsections (1) and (2), the application of subsections (1)(a) and (b), (2)(a) and (b) and (3)(a) and (b) of section 4 of the 1974 Act is not excluded in relation to the spent childhood conviction, children’s hearing outcome or removable conviction, or any circumstances ancillary to it, during the period before the Level 2 disclosure was provided to the applicant.