



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### PART 2

#### PROTECTION OF VULNERABLE GROUPS

##### *Scheme membership*

#### 72 Failure to apply for renewal of Scheme membership

After section 45A of the PVG Act (inserted by section 71) insert—

##### **“45B Failure to apply for renewal of Scheme membership**

- (1) This section applies where a scheme member does not apply to renew the scheme member’s membership of the Scheme in relation to a type of regulated role before the end of the membership period.
- (2) Ministers must extend the scheme member’s participation in the Scheme in relation to that type of regulated role for a period of 4 weeks beginning with the end of the membership period (the “extended membership period”).
- (3) If before the end of the extended membership period—
  - (a) Ministers are satisfied that the scheme member is not carrying out a regulated role of that type, Ministers must remove the scheme member from the Scheme in relation to that type of regulated role, or
  - (b) Ministers are not so satisfied—
    - (i) they must send written notice to the persons mentioned in subsection (5) of the expiry of the extended membership period and that the scheme member’s participation in the Scheme in relation to that type of regulated role is to end on the expiry of that period unless the scheme member’s membership of the Scheme is renewed,
    - (ii) they may send written notice of those facts to any person other than an organisation for whom Ministers know the scheme member is carrying out a regulated role of the type in relation to which the member participates in the Scheme, and

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*Status: This is the original version (as it was originally enacted).*

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- (iii) they may extend the scheme member’s participation in the Scheme in relation to that type of regulated role for an additional period of 6 months beginning with the end of the extended membership period (the “discretionary membership period”).
- (4) Where Ministers decide under subsection (3)(b)(iii) to extend the scheme member’s participation in the Scheme for the discretionary membership period—
- (a) they must send written notice to the persons mentioned in subsection (5)—
    - (i) of that fact, and
    - (ii) that the scheme member’s participation in the Scheme in relation to the type of regulated role concerned is to end on the expiry of that period unless the scheme member’s membership of the Scheme is renewed, and
  - (b) they may send written notice of those facts to any person other than an organisation for whom Ministers know the scheme member is carrying out a regulated role of the type in relation to which the member participates in the Scheme.
- (5) The persons referred to in subsections (3)(b)(i) and (4)(a) are—
- (a) the scheme member,
  - (b) any organisation for whom Ministers know the scheme member is carrying out a regulated role of the type in relation to which the scheme member participates in the Scheme,
  - (c) any personnel supplier whom Ministers know has offered or supplied the scheme member to carry out a regulated role of the type in relation to which the scheme member participates in the Scheme,
  - (d) any relevant regulatory body (within the meaning of section 13A(8)) whom Ministers think it would be appropriate to notify.
- (6) If—
- (a) the scheme member does not apply to renew the scheme member’s membership of the Scheme in relation to that type of regulated role before the end of the discretionary membership period, and
  - (b) Ministers are satisfied that the scheme member is not carrying out a regulated role of that type,
- Ministers must remove the scheme member from the Scheme in relation to that type of regulated role.
- (7) If—
- (a) the scheme member does not apply to renew the scheme member’s membership of the Scheme in relation to that type of regulated role before the end of the discretionary membership period, and
  - (b) Ministers have reasonable grounds to believe that the scheme member is carrying out a regulated role of that type,
- Ministers must consider listing the scheme member in the children’s list or the adults’ list (or both) if they consider that it may be appropriate for the scheme member to be included in that list (or both of those lists).

- (8) For the avoidance of doubt, subsection (7) applies in relation to the scheme member regardless of the type of regulated role in relation to which the scheme member participates in the Scheme.
- (9) If the scheme member has applied, during the extended membership period or the discretionary membership period, to renew the scheme member's membership of the Scheme in relation to a type of regulated role but Ministers have not by the end of such a period determined the application, the scheme member's participation in the Scheme in relation to that type of regulated role is to continue in effect until the application is determined.
- (10) Subsections (5) and (6) of section 45A apply for the purposes of this section as they apply for the purposes of that section except that the reference in subsection (5)(b) of that section—
  - (a) to a notice given under subsection (3)(a) of that section is to be read as a reference to a notice given under subsection (3)(b)(i) or (4)(a) of this section, and
  - (b) to a notice given under subsection (3)(b) of that section is to be read as a reference to a notice given under subsection (3)(b)(ii) or (4)(b) of this section.
- (11) Ministers need not consider—
  - (a) an application for a Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020) where section 17 of that Act applies, or
  - (b) a request for confirmation of scheme membership under section 54, that is made by the scheme member during any discretionary membership period of the scheme member.”.