

Disclosure (Scotland) Act 2020

2020 asp 13

PART 2

PROTECTION OF VULNERABLE GROUPS

PROSPECTIVE

Listing

80 Reference by chief constable

- (1) The PVG Act is amended as follows.
- (2) After section 6 insert—

“6A Reference by chief constable

The chief constable must give Ministers any prescribed information that the chief constable holds in relation to an individual whom the chief constable considers is or has been carrying out a type of regulated role while not participating in the Scheme in relation to that type of regulated role.”

- (3) After section 10(1)(a) (consideration whether to list: organisational referrals etc.) insert—
 - “(aa) where prescribed information relating to an individual has been given to Ministers in pursuance of section 6A, or”.

81 Removal of references by court

- (1) The PVG Act is amended as follows.
- (2) The following provisions are repealed—
 - (a) section 7,
 - (b) section 11,
 - (c) section 32(1) and (2),

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- (d) schedule 1,
- (e) in the table in schedule 5, the entry relating to “relevant offence”.

- (3) In section 32 (relevant offences etc.)—
- (a) in subsection (4), the word “7,” is repealed,
 - (b) the title of the section becomes “ Individual not criminally responsible or unfit for trial: order treated as conviction ”.

82 Reference by councils or integration joint boards

- (1) Section 8 (reference by certain other persons) of the PVG Act is amended as follows.
- (2) In subsection (2)—
- (a) before the entry in the list for the General Teaching Council for Scotland insert — “ Councils ”,
 - (b) after the entry in the list for Healthcare Improvement Scotland insert— “ An integration joint board established by order under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 ”.
- (3) In subsection (3), before paragraph (a) insert—
- “(za) in relation to a council or an integration joint board mentioned in subsection (2), such functions as are conferred on either of them by the Social Work (Scotland) Act 1968, the Children (Scotland) Act 1995, the Adults with Incapacity (Scotland) Act 2000, the Adult Support and Protection (Scotland) Act 2007 or the Children and Young People (Scotland) Act 2014.”.

83 Application for removal from list

- (1) Section 25 (application for removal from list) of the PVG Act is amended as follows.
- (2) In subsection (3), for paragraph (b) substitute—
- “(b) Ministers are satisfied that there has been a relevant change in the applicant's circumstances since the applicant—
- (i) was listed, or
 - (ii) last made an application for removal from the list under this section.”.

(3) After subsection (4) insert—

“(4A) For the purposes of subsection (3)(b), a change in the applicant's circumstances is relevant if it is relevant to the question whether the applicant is no longer unsuitable to carry out regulated roles with children or, as the case may be, regulated roles with adults.”.

(4) Subsections (5) and (6) are repealed.

84 Ministers' powers to remove from list

- (1) The PVG Act is amended as follows.
- (2) In section 28 (late representations), after subsection (1) insert—

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“(1A) This section also applies where an individual listed under section 15 or 16 (other than one mentioned in subsection (1))—

- (a) seeks to make representations to Ministers as to why the individual should not have been listed, and
- (b) Ministers consider that it is appropriate in all the circumstances to allow the representations to be made.”.

(3) In section 29 (removal from list), in subsection (1)(b)—

- (a) the words “they are satisfied that the individual should not have been listed” become sub-paragraph (i), and
- (b) at the end of that sub-paragraph insert “, or
 - (ii) they are otherwise satisfied that the individual is no longer unsuitable to carry out regulated roles with children or, as the case may be, regulated roles with adults.”.

85 Appeals and removals: information power

- (1) The PVG Act is amended as follows.
- (2) In section 26 (determination of application for removal from list), subsection (3) is repealed.
- (3) After section 29 insert—

“Appeals and removals: information powers

29A Appeals and removals: application of sections 18 to 20

- (1) Sections 18 to 20 apply—
 - (a) for any of the purposes specified in subsection (2) as they apply for the purpose of enabling or assisting Ministers to decide whether to list an individual,
 - (b) with the modifications that are specified in subsection (2) in relation to the purpose.
- (2) The purposes (and modifications) are—
 - (a) enabling or assisting Ministers to consider, in relation to an appeal under section 21, 22 or 23, whether an individual should have been listed (with references to deciding whether to list an individual being read as references to deciding whether the individual should have been listed),
 - (b) enabling or assisting Ministers to determine under section 26 an application for removal from the children's list or the adults' list (with references to deciding whether to list an individual being read as references to determining whether to remove an individual from the list),
 - (c) enabling or assisting Ministers to consider, in relation to an appeal under section 27, whether an application for removal from the children's list or the adults' list should have been refused under section 26 (with references to deciding whether to list an individual

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being read as references to deciding whether an application for removal from the list should have been refused),

- (d) enabling or assisting Ministers to decide under section 28 or 29 whether to remove an individual from the children's list or the adults' list (with references to deciding whether to list an individual being read as references to deciding whether an individual should not have been listed or is no longer unsuitable to carry out regulated roles with children or, as the case may be, regulated roles with adults).". Confirmation of PVG Scheme membership".

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