
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 380 (C. 28)

**CHILDREN AND YOUNG PERSONS
PROTECTION OF VULNERABLE ADULTS**

The Disclosure (Scotland) Act 2020 (Commencement
No. 1 and Transitory Provision) Regulations 2021

Made - - - - 28th October 2021
*Laid before the Scottish
Parliament* - - - - 1st November 2021
Coming into force - - 10th December 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 97(2) and (3) of the Disclosure (Scotland) Act 2020⁽¹⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Disclosure (Scotland) Act 2020 (Commencement No. 1 and Transitory Provision) Regulations 2021 and come into force on 10 December 2021.

(2) In these Regulations—

“the 2020 Act” means the Disclosure (Scotland) Act 2020,

“the PVG Act” means the Protection of Vulnerable Groups (Scotland) Act 2007⁽²⁾.

Appointed day

2.—(1) Subject to regulations 3 and 4, 10 December 2021 is the day appointed for the coming into force of the provisions of the 2020 Act specified in column 1 of the table in the schedule (the subject matter of which is described in column 2 of that table).

(2) If a purpose is specified in column 3 of the table in relation to any provision specified in column 1, that provision comes into force on 10 December 2021 for that purpose only.

Transitory provision: withdrawal from Scheme when under consideration for listing

3.—(1) Paragraph (2) has effect until the day on which section 72 of the 2020 Act (failure to apply for renewal of Scheme membership) comes into force.

(1) 2020 asp 13.
(2) 2007 asp 14.

(2) Section 59A(1)(b) of the PVG Act (withdrawal from Scheme when under consideration for listing) (as inserted by section 78 of the 2020 Act) is to be read as if “or section 45B(7)” is omitted.

(3) Paragraph (4) has effect until the day on which section 77 of the 2020 Act (notice of consideration for listing) comes into force.

(4) Section 59A(2) of the PVG Act is to be read as if—

- (a) “(3C) or” is omitted, and
- (b) for “either of those subsections of that section” there is substituted “subsection (4) of section 30”.

Transitory provision: regulated roles

4.—(1) This regulation has effect until the day on which section 74 of the 2020 Act (regulated roles) comes into force.

(2) The provisions of the PVG Act listed in paragraph (3) are to be read as if, for “carry out regulated roles with children or, as the case may be, regulated roles with adults” there is substituted “do regulated work with children, or as the case may be, regulated work with adults”.

(3) The provisions are—

- (a) section 25(4A) of the PVG Act (application for removal from list) (as inserted by section 83(3) of the 2020 Act),
- (b) section 29(1)(b)(ii) of the PVG Act (removal from list) (as inserted by section 84(3) of the 2020 Act), and
- (c) section 29A(2)(d) of the PVG Act (appeals and removals: application of sections 18 to 20) (as inserted by section 85(3) of the 2020 Act).

St Andrew’s House,
Edinburgh
28th October 2021

CLARE HAUGHEY
Authorised to sign by the Scottish Ministers

SCHEDULE

Regulation 2

Provisions of the 2020 Act coming into force on 10 December 2021

<i>Column 1</i> <i>Provisions of the 2020 Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 63	Guidance for chief constable	Only insofar as necessary to enable the Scottish Ministers to consult the chief constable in accordance with section 63(4) of the 2020 Act.
Section 69	Interpretation of Part 1	Only insofar as necessary to bring into force the definitions of “chief constable” and “police force”.
Section 78	Withdrawal from Scheme when under consideration for listing	
Section 83	Application for removal from list	
Section 84	Ministers’ powers to remove from list	
Section 85	Appeals and removals: information power	
Section 87	Retention of scheme records after removal	
Section 88(1) and (2)	Offences outside Scotland	
Section 89	Guidance for chief constable	Only insofar as necessary to enable the Scottish Ministers to consult the chief constable in accordance with section 84A(3) of the PVG Act (as inserted by section 89 of the 2020 Act).
Section 90	Meaning of “conviction”	
Section 93	Consequential and minor modifications	Only insofar as necessary to bring into force paragraph 12 of schedule 5.
Paragraph 12 of schedule 5	Other consequential and minor modifications: Protection of Vulnerable Groups (Scotland) Act 2007	

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring various provisions of the Disclosure (Scotland) Act 2020 (“the 2020 Act”) into force on 10 December 2021.

Regulation 2 and the schedule bring into force certain provisions which amend the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”) and, in doing so, change how the PVG Scheme currently operates (sections 78 (withdrawal from Scheme when under consideration), 83 (application for removal from list), 84 (Ministers’ powers to remove from list), 85 (appeals and removals: information power), 87 (retention of scheme records after removal), 88(1) and (2) (offences outside Scotland) and 90 (meaning of “conviction”) of the 2020 Act).

These Regulations also bring into force certain provisions for the limited purposes of allowing Scottish Ministers to consult on guidance about the chief constables’ functions before it is issued (sections 63 and 89) and other consequential and minor modifications to the PVG Act (section 93 and paragraph 12 of schedule 5).

Regulation 3 makes transitory provision relating to section 78 of the 2020 Act, which is brought into force by these Regulations and inserts a new section 59A into the PVG Act (withdrawal from Scheme when under consideration for listing). Regulation 3 provides that section 59A of the PVG Act (as inserted by section 78 of the 2020 Act) is modified for a transitory period, so that references to other new provisions being inserted into the PVG Act by sections 72 and 77 of the 2020 Act are omitted, until such time as those sections are brought into force.

Regulation 4 makes transitory provision in relation to specific sections of the PVG Act which are inserted or amended by sections 83, 84 and 85 of the 2020 Act (which are brought in to force by these Regulations). The purpose of this transitory provision is to modify those provisions of the PVG Act so that they use the terminology of ‘regulated work’ with children and protected adults. In due course, when section 74 of the 2020 Act is brought into force, the concept of ‘regulated work’ with children and adults will be replaced with the concept of ‘regulated roles’ with children and protected adults.

The Bill for the 2020 Act received Royal Assent on 14 July 2020. By virtue of section 97(1) of the 2020 Act, sections 91 (regulations), 92 (ancillary provisions), 94 (individual culpability where organisation commits offence), 95 (meaning of “the PVG Act”), 96 (crown application), 97 (commencement) and 98 (short title) came into force the day after Royal Assent.