



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### DISCLOSURE (SCOTLAND) ACT 2020

#### PART 1

##### DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

###### *Level 1 disclosures*

- 1 Level 1 disclosure
- 2 Provision of Level 1 disclosures
- 3 Applications by accredited bodies on behalf of individuals
- 4 Provision of Level 1 disclosure to third parties

###### *Level 1 disclosures: review applications*

- 5 Level 1 disclosure: application for review
- 6 Review of accuracy of information by the Scottish Ministers
- 7 Provision of new Level 1 disclosure on conclusion of review proceedings

###### *Level 2 disclosures*

- 8 Level 2 disclosure
- 9 Non-disclosable convictions
- 10 Non-disclosable children's hearing outcomes
- 11 Provision of Level 2 disclosures
- 12 Level 2 disclosure applications: countersigning and purposes
- 13 Childhood information
- 14 Provision of relevant Scottish police information
- 15 Provision of relevant overseas police information
- 16 Further information for certain purposes: non-PVG scheme members
- 17 Further information for certain purposes: PVG scheme members
- 18 Provision of Level 2 disclosure to accredited bodies
- 19 Crown employment

*Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020. (See end of Document for details)*

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*Level 2 disclosures: review applications*

- 20 Level 2 disclosure: application for review
- 21 Review of accuracy of information by the Scottish Ministers
- 22 Review of childhood information by the independent reviewer
- 23 Review of relevant Scottish police information by the police
- 24 Review of relevant Scottish police information by the independent reviewer
- 25 Review of inclusion of removable convictions by the Scottish Ministers
- 26 Review of inclusion of removable convictions by the independent reviewer
- 27 Combination of reviews by the independent reviewer
- 28 Independent reviewer: information and representations
- 29 Notification of independent reviewer's decision
- 30 Appeal against independent reviewer's decision
- 31 Provision of new Level 2 disclosure on conclusion of review proceedings
- 32 Disapplication of provisions of section 4 of the Rehabilitation of Offenders Act 1974

*Level 2 disclosures: considering relevance and whether to include information*

- 33 Level 2 disclosure: considering relevance and whether to include certain information

*Common provisions relating to Level 1 and Level 2 disclosures*

- 34 Form and manner of provision of disclosures
- 35 Reclassification of applications
- 36 Regulations about procedure for disclosure requests
- 37 Regulations about review procedure
- 38 Power to modify definitions of Level 1 disclosure and Level 2 disclosure
- 39 Childhood information: power to modify other enactments
- 40 Presumption as to age in relation to convictions

*Offences relating to Level 1 and Level 2 disclosures*

- 41 Falsification of a Level 1 or Level 2 disclosure
- 42 Unlawful disclosure of a Level 2 disclosure
- 43 Lawful disclosures of Level 2 disclosures
- 44 Unlawful request for and use of a Level 2 disclosure
- 45 Offences under sections 42 and 44: supplementary provision

*Accredited bodies*

- 46 Register of accredited bodies
- 47 Registration in the register of accredited bodies
- 48 Protection of information: removal of registration
- 49 Suitable persons to have access to disclosure information
- 50 Removal of registration on other grounds
- 51 Lead signatories and countersignatories
- 52 Lead signatories and countersignatories: acceptance or refusal of nomination and removal from the register

*Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020. (See end of Document for details)*

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- 53 Notification and review of decisions: removal from register or refusal of registration or nomination
- 54 Regulations about registration
- 55 Code of practice
- 56 Sharing of Level 2 disclosure information by accredited bodies

*Evidence of identity*

- 57 Evidence of identity
- 58 Power to use personal data to check identity
- 59 Power to use fingerprints to check identity

*General*

- 60 Form and manner of applications and notices
- 61 Fees
- 62 Fees for provision of information by the chief constable
- 63 Guidance for chief constable
- 64 Sharing of information with the chief constable
- 65 Sources of information
- 66 Delegation of functions of Scottish Ministers
- 67 Saving: disclosure of information and records
- 68 Definition of consideration of suitability
- 69 Interpretation of Part 1

**PART 2**

PROTECTION OF VULNERABLE GROUPS

*Scheme membership*

- 70 Participation in Scheme
- 71 Duration of Scheme membership
- 72 Failure to apply for renewal of Scheme membership
- 73 Compulsory Scheme membership

*Regulated roles*

- 74 Regulated roles
- 75 Meaning of “protected adult”

*Scheme members under consideration for listing*

- 76 Conditions imposed on scheme members under consideration for listing
- 77 Notice of consideration for listing
- 78 Withdrawal from Scheme when under consideration for listing

*Notice of barred status*

- 79 Notice of barred status

*Listing*

- 80 Reference by chief constable
- 81 Removal of references by court
- 82 Reference by councils or integration joint boards
- 83 Application for removal from list

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- 84 Ministers' powers to remove from list
- 85 Appeals and removals: information power

*Confirmation of PVG Scheme membership*

- 86 Confirmation of scheme membership under the PVG Act

*Miscellaneous*

- 87 Retention of scheme records after removal
- 88 Offences outside Scotland
- 89 Guidance for chief constable
- 90 Meaning of “conviction”

**PART 3**

GENERAL

- 91 Regulations
- 92 Ancillary provision
- 93 Consequential and minor modifications
- 94 Individual culpability where organisation commits offence
- 95 Meaning of “the PVG Act”
- 96 Crown application
- 97 Commencement
- 98 Short title

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SCHEDULE 1 — List A offences

PART 1 — COMMON LAW OFFENCES

- 1 Abduction.
- 2 Abortion.
- 3 Assault to the danger of life.
- 4 Assault to severe injury.
- 5 Assault with intent to rape or ravish.
- 6 Assault with intent to commit the statutory offence of rape....
- 7 Bestiality.
- 8 Cruel and unnatural treatment of persons.
- 9 Culpable homicide.
- 10 Defeating the ends of justice.
- 11 Drugging.
- 12 Embezzlement.
- 13 Extortion.
- 14 Hamesucken.
- 15 Perverting the course of justice (by whatever means and however...
- 16 Plagium.
- 17 Reset of plagium.
- 18 Wilful fire-raising.

PART 2 — STATUTORY OFFENCES

*Armed forces*

- 19 An offence under section 42 of the Armed Forces Act...

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*Bribery*

- 20 An offence under the Bribery Act 2010.

*Children*

- 21 An offence under section 12 of the Children and Young...

*Computer misuse*

- 22 An offence under section 3ZA of the Computer Misuse Act...

*Domestic abuse*

- 23 An offence under section 76 of the Serious Crime Act...  
24 An offence under section 2 of the Domestic Abuse (Scotland)...  
25 An offence under section 1 of the Domestic Abuse (Scotland)...

*Explosives*

- 26 An offence under the Explosive Substances Act 1883.

*False statements and declarations*

- 27 An offence under section 44 of the Criminal Law (Consolidation)...

*Firearms and other weapons*

- 28 An offence under section 1A of the Prevention of Crime...  
29 An offence under any of the following provisions of the...  
30 An offence under the Chemical Weapons Act 1996.  
31 An offence under section 139AA of the Criminal Justice Act...

*Forced marriage*

- 32 An offence under section 9 of the Forced Marriage etc....  
33 An offence under section 122 of the Anti-social Behaviour, Crime...

*Fraud and forgery*

- 34 An offence under any of the following provisions of the...

*Harassment*

- 35 An offence under section 234A of the Criminal Procedure (Scotland)...  
36 An offence under any of the following provisions of the...

*Human trafficking and exploitation*

- 37 An offence under section 22 of the Criminal Justice (Scotland)...  
38 An offence under section 4 of the Asylum and Immigration...  
39 An offence under section 47 of the Criminal Justice and...  
40 An offence under section 3A of the Female Genital Mutilation...  
41 An offence under the Prohibition of Female Genital Mutilation (Scotland)...  
42 An offence under any of the following provisions of the...

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### *Insolvency*

43 An offence under any of the following provisions of the...

#### *Medical professions etc.*

44 An offence under section 10Z9 of the National Health Service...

45 An offence under any of the following provisions of the...

46 An offence under article 38 of the Pharmacy Order 2010...

### *Medicines*

47 An offence under any of the following provisions of the...

#### *Proceeds of crime and money laundering*

48 An offence under any of the following provisions of the...

### *Prostitution*

49 An offence under any of the following provisions of the...

### *Road traffic*

50 An offence under any of the following provisions of the...

### *Serious organised crime*

51 An offence under any of the following provisions of the...

### *Sexual offences*

52 An offence under section 50(3) of the Customs and Excise...

53 An offence under section 51A of the Civic Government (Scotland)...

54 A sexual offence within the meaning given in section 210A(10)...

55 An offence under any of the following provisions of the...

56 An offence under section 7 of the Protection of Children...

57 An offence under any of the following provisions of the...

58 An offence under section 69 of the Serious Crime Act...

59 An offence under any of the following provisions of the...

### *Solicitors*

60 An offence under the Solicitors (Scotland) Act 1980.

### *Stalking and harassment*

61 An offence under section 50A of the Criminal Law (Consolidation)...

62 An offence under section 39 of the Criminal Justice and...

### *Taxation*

63 An offence under any of the following provisions of the...

### *Terrorism*

64 An offence under any of the following provisions of the...

65 An offence under any of the following provisions of the...

66 An offence under the Terrorism Act 2006.

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67 An offence under any of the following provisions of the...

*Violent offender orders*

68 An offence under section 113(1) of the Criminal Justice and...

*Vulnerable persons*

69 An offence under section 83 of the Adults with Incapacity...

70 An offence under section 315 of the Mental Health (Care...

71 An offence under any of the following provisions of the...

72 Any offence where the conduct in respect of which the...

73 An offence under section 26 of the Health (Tobacco, Nicotine...

*Witness protection*

74 An offence under any of the following provisions of the...

*Statutory aggravations*

75 An offence (other than another List A offence) in relation...

PART 3 — OTHER

*Common law aggravations*

76 An offence the conviction for which indicates that it was...

77 An offence the conviction for which indicates that it included...

*Inchoate offences*

78 An offence committed by aiding, abetting, counselling, procuring or inciting...

79 An offence committed by attempting or conspiring to commit the...

*Superseded offences*

80 An offence superseded (whether directly or indirectly) by any offence...

*Combined offences*

81 An offence which was charged, and the conviction for which...

*Corresponding offences elsewhere in the UK or abroad*

82 An offence under the law of England and Wales or...

SCHEDULE 2 — List B offences

PART 1 — COMMON LAW OFFENCES

1 Assault excluding any assault that is a List A offence....

2 Breach of the peace.

3 Clandestinely taking possession.

4 Culpable and reckless conduct.

5 Culpable and reckless endangering of the public.

6 Culpable and reckless fire-raising.

7 Fraud.

8 Hijacking.

9 Housebreaking with intent to steal.

- 10 Opening a lockfast place with intent to steal.
- 11 Piracy.
- 12 Public indecency.
- 13 Reset (excluding reset of plagium).
- 14 Robbery.
- 15 Theft (excluding plagium).
- 16 Treason.
- 17 Uttering.
- 18 Uttering threats.

PART 2 — STATUTORY OFFENCES

*Adult support and protection*

- 19 An offence under section 49 of the Adult Support and...

*Armed forces*

- 20 An offence under section 42 of the Armed Forces Act...

*Assaulting or hindering public officials*

- 21 An offence under section 89 of the Police Act 1996...
- 22 An offence under section 32 of the Commissioners for Revenue...
- 23 An offence under the Emergency Workers (Scotland) Act 2005.
- 24 An offence under section 85 of the Fire (Scotland) Act...
- 25 An offence under section 90 of the Police and Fire...

*Aviation, maritime and spaceflight*

- 26 An offence under the Piracy Act 1837.
- 27 An offence under any of the following provisions of the...
- 28 An offence under section 9 of the Aviation and Maritime...
- 29 An offence under article 265 of the Air Navigation Order...
- 30 An offence under any of the following paragraphs of schedule...

*Care services*

- 31 An offence under any of the following provisions of the...
- 32 An offence under any of the following provisions of the...
- 33 An offence under article 27 of the Public Services Reform...
- 34 An offence under regulation 19 of the Social Care and...

*Charities*

- 35 An offence under the Charities and Trustee Investment (Scotland) Act...

*Child Support*

- 36 An offence under section 50 of the Child Support Act...

*Children*

- 37 An offence under section 6 of the Child Abduction Act...

*Computer misuse*

- 38 An offence under any of the following provisions of the...



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### *Crossbows*

- 39 An offence under section 1 of the Crossbows Act 1987...

### *Drugs*

- 40 An offence under any of the following provisions of the...  
41 An offence under any of the following provisions of the...  
42 An offence under the Criminal Justice (International Co-operation) Act  
1990....  
43 An offence under any of the following provisions of the...

### *Escape from custody etc.*

- 44 An offence under section 316 of the Mental Health (Care...  
45 An offence under section 91 of the Police and Fire...

### *Financial services*

- 46 An offence under the Financial Services and Markets Act 2000....  
47 An offence under the Financial Services Act 2012.

### *Fire safety*

- 48 An offence under section 72(1) or (3) of the Fire...

### *Firearms*

- 49 An offence under any of the following provisions of the...  
50 An offence under section 50(5) of the Civic Government (Scotland)...  
51 An offence under the Firearms (Amendment) Act 1997.  
52 An offence under any of the following provisions of the...  
53 An offence under section 31 of the Air Weapons and...

### *Food safety and standards*

- 54 An offence under any of the following provisions of the...  
55 An offence under regulation 4(b) of the General Food Regulations...

### *Fraud and forgery*

- 56 An offence under any of the following provisions of the...  
57 An offence under section 46A of the Criminal Law (Consolidation)...  
58 An offence under the Fraud Act 2006.  
59 An offence under section 993 of the Companies Act 2006...  
60 An offence under section 49 of the Criminal Justice and...  
61 An offence under section 92 of the Police and Fire...

### *Immigration etc.*

- 62 An offence under any of the following provisions of the...  
63 An offence under section 35 of the Asylum and Immigration...  
64 An offence under section 21 of the Immigration, Asylum and...

### *Insolvency*

- 65 An offence under any of the following provisions of the...

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### *Landmines*

66 An offence under section 2 of the Landmines Act 1998...

### *Lasers*

67 An offence under the Laser Misuse (Vehicles) Act 2018.

### *Medicines*

68 An offence under section 67(2) or (3) of the Medicines...

69 An offence under any of the following provisions of the...

### *Mental health*

70 An offence under section 318 of the Mental Health (Care...

### *National security*

70A An offence under sections 1 to 4, 12, 13, 17...

### *Neglect of duty*

71 An offence under Part 4 (shipping: alcohol and drugs) or...

72 An offence under section 22 of the Police and Fire...

### *Obscene material etc.*

73 An offence under section 1(1) of the Indecent Displays (Control)...

74 An offence under section 51 of the Civic Government (Scotland)...

75 An offence under section 85(3) of the Postal Services Act...

76 An offence under section 127(1) of the Communications Act 2003...

### *Offences in relation to children*

77 An offence under any of the following provisions of the...

78 An offence under section 40(1) of the Children and Young...

79 An offence under section 50(2) of the Civic Government (Scotland)...

80 An offence under section 81 of the Children (Scotland) Act...

81 An offence under any of the following provisions of the...

### *Offensive weapons*

82 An offence under the Restriction of Offensive Weapons Act 1959...

83 An offence under section 50(3) (penalty for improper importation of...

84 An offence under any of the following provisions of the...

85 An offence under any of the following provisions of the...

86 An offence under any of the following provisions of the...

### *Official Secrets Acts*

87 An offence under the Official Secrets Act 1911.

88 An offence under the Official Secrets Act 1920.

89 An offence under the Official Secrets Act 1989.

### *Proceeds of crime and money laundering*

90 An offence under any of the following provisions of the...

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- 91 An offence under the Proceeds of Crime Act 2002 (External...
- 92 An offence under the Proceeds of Crime Act 2002 (External...

*Prostitution*

- 93 An offence under the Prostitution (Public Places) (Scotland) Act 2007....

*Public order*

- 94 An offence under any of the following provisions of the...
- 95 An offence under section 68(1) of the Criminal Justice and...

*Road traffic*

- 96 An offence under any of the following provisions of the...

*Sexual offences*

- 97 An offence under section 37(1) or (4) of the Sexual...

*Terrorism*

- 98 An offence under any of the following provisions of the...

*Threatening or abusive behaviour*

- 99 An offence under section 38 of the Criminal Justice and...

*Miscellaneous statutory offences*

- 100 An offence under any of the following provisions of the...
- 101 An offence under section 22 of the Rent (Scotland) Act...
- 102 An offence under section 85(1) of the Postal Services Act...
- 103 An offence under any of the following provisions of the...

*Statutory aggravations*

- 104 An offence (other than a List A offence) in relation...
  - 105 An offence (other than a List A offence) to which...
- PART 3 — OTHER

*Common law aggravations*

- 106 An offence (other than a List A offence or an...
- 107 An offence (other than a List A offence or an...

*Inchoate offences*

- 108 An offence committed by aiding, abetting, counselling, procuring or  
inciting...
- 109 An offence committed by attempting or conspiring to commit any...

*Superseded offences*

- 110 An offence superseded (whether directly or indirectly) by any offence...

*Combined offences*

- 111 An offence which was charged, and the conviction for which...

*Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020. (See end of Document for details)*

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*Corresponding offences elsewhere in the UK or abroad*

112 An offence under the law of England and Wales or...

SCHEDULE 3 — Schedule to be substituted for Schedule 2 of the PVG Act  
SCHEDULE 2 Regulated roles with children (introduced by section 91(2))...

SCHEDULE 4 — Schedule to be substituted for Schedule 3 of the PVG Act  
SCHEDULE 3 Regulated roles with adults (introduced by section 91(3))...

SCHEDULE 5 — Consequential and minor modifications  
PART 1 — MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 1

*Caravan Sites and Control of Development Act 1960*

1 In section 32P of the Caravan Sites and Control of...

*Rehabilitation of Offenders Act 1974*

2 (1) The Rehabilitation of Offenders Act 1974 is amended as...

*Police Act 1997*

3 In the Police Act 1997, Part 5 (certificates of criminal...

*Antisocial Behaviour etc. (Scotland) Act 2004*

4 In section 85A of the Antisocial Behaviour etc. (Scotland) Act...

*Protection of Vulnerable Groups (Scotland) Act 2007*

5 (1) The PVG Act is amended as follows.

*Housing (Scotland) Act 2014*

6 In section 35 of the Housing (Scotland) Act 2014 (fit...

*Age of Criminal Responsibility (Scotland) Act 2019*

7 (1) The Age of Criminal Responsibility (Scotland) Act 2019 is...  
PART 2 — MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 2

*Education (Scotland) Act 1980*

8 (1) The Education (Scotland) Act 1980 is amended as follows....

*Foster Children (Scotland) Act 1984*

9 In section 7(4) (persons disqualified from keeping foster children) of...

*Protection of Vulnerable Groups (Scotland) Act 2007*

10 (1) The PVG Act is amended as follows.

*Age of Criminal Responsibility (Scotland) Act 2019*

11 In section 26 of the Age of Criminal Responsibility (Scotland)...

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PART 3 — OTHER CONSEQUENTIAL AND MINOR MODIFICATIONS

*Protection of Vulnerable Groups (Scotland) Act 2007*

- 12 (1) The PVG Act is amended as follows.

*Children's Hearings (Scotland) Act 2011*

- 13 In the Children's Hearings (Scotland) Act 2011, the following provisions...

**Changes to legislation:**

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