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Changes to legislation: There are currently no known outstanding effects for the Disclosure (Scotland) Act 2020, Paragraph 5. (See end of Document for details)

SCHEDULE 5 CONSEQUENTIAL AND MINOR MODIFICATIONS

PROSPECTIVE

PART 1

MODIFICATIONS OF ENACTMENTS IN CONSEQUENCE OF PART 1

Protection of Vulnerable Groups (Scotland) Act 2007

- 5 (1) The PVG Act is amended as follows.
- (2) In section 18 (police information etc.)—
- (a) in subsection (4), for paragraph (b) substitute—
- “(b) any person who holds central records to provide them with the prescribed details of every relevant matter relating to the individual that is recorded those records.”,
- (b) after subsection (4) insert—
- “(5) In subsection (4)(b)—
- “central records” has the meaning given in section 69 of the Disclosure (Scotland) Act 2020,
- “relevant matter” means—
- (a) a conviction that is not a non-disclosable conviction within the meaning of section 9 of the Disclosure (Scotland) Act 2020,
- (b) a caution within the meaning given in section 69 of that Act that is not spent by virtue of schedule 3 of the Rehabilitation of Offenders Act 1974, and
- (c) a prescribed civil court order.”.
- (3) In section 49 (vetting information)—
- (a) in subsection (1), for paragraph (a) substitute—
- “(a) the prescribed details of every relevant matter relating to the scheme member that is recorded in central records,”,
- (b) after subsection (1) insert—
- “(1A) Section 33 of the Disclosure (Scotland) Act 2020 (Level 2 disclosure: considering relevance and whether to include certain information) applies for the purposes of subsection (1)(c) of this section as it applies for the purposes of the sections mentioned in subsection (1) of that section, but as if—
- (a) references to a person considering whether a conviction, children's hearing outcome or other information is relevant for the purpose of a Level 2 disclosure were references to the chief constable considering whether information is relevant to the type of regulated role in relation to which the scheme member participates in the Scheme,

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- (b) references to a person considering whether a conviction, children's hearing outcome or other information ought to be included in a Level 2 disclosure were references to the chief constable considering whether information ought to be included in the scheme member's scheme record,
 - (c) references to a conviction or children's hearing outcome were omitted, and
 - (d) references to other information were references to information mentioned in subsection (1)(c) of this section.”,
 - (c) after subsection (2) insert—
 - “(3) In subsection (1)(a), “central records” and “relevant matter” have the same meanings as in section 18(5).”.
 - (4) In section 51 (correction of inaccurate scheme record)—
 - (a) in subsection (1), after “section 50” insert “ or a review under section 21 of the Disclosure (Scotland) Act 2020, ”,
 - (b) subsections (2) to (7) are repealed.
 - (5) Section 52ZA (procedure following correction of inaccurate scheme record) is repealed.
 - (6) Section 52 (disclosure of scheme records) is repealed.
 - (7) Section 52A (review of vetting information in scheme record) is repealed.
 - (8) Section 53 (disclosure of short scheme records) is repealed.
 - (9) Section 55 (disclosure conditions) is repealed.
 - (10) Section 56 (Crown work) is repealed.
 - (11) Section 57 (disclosure restrictions) is repealed.
 - (12) Section 57A (meaning of “conviction” and “protected conviction”) is repealed.
 - (13) In section 97 (general interpretation)—
 - (a) in subsection (1)—
 - (i) in the definition of “prescribed” the words “(except where used in sections 18(4)(b) and 49(1)(a))” are repealed,
 - (ii) the following definitions are repealed—
 - “disclosure declaration”,
 - “disclosure record”,
 - “disclosure request”,
 - (b) in subsection (2), for the words from “doing” in the first place it occurs to the end of that subsection substitute “carrying out a regulated role for an organisation if they—
 - (a) have made available, in respect of the individual—
 - (i) a confirmation of scheme membership under section 54,
 - (ii) a Level 2 disclosure (within the meaning of section 8(1) of the Disclosure (Scotland) Act 2020) where section 17 of that Act applies,
- in relation to that regulated role,

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- (b) know that the confirmation of scheme membership or (as the case may be) the Level 2 disclosure was sought for the purpose of enabling or assisting the organisation to consider the scheme member's suitability to carry out that type of regulated role for the organisation (or to be offered such a role by the organisation), and
 - (c) have not been satisfied that the individual has not been engaged to carry out, or has stopped carrying out, that type of regulated role for the organisation.”
 - (c) in subsection (4), for “Part 5 of the 1997 Act” substitute “ Part 1 of the Disclosure (Scotland) Act 2020 ”,
 - (d) in subsection (5), for “in relation to an application under section 113B of the 1997 Act” substitute “ for the purposes of section 49 of the Disclosure (Scotland) Act 2020 ”.
- (14) In schedule 5 (index), the following entries are repealed—
- disclosure condition,
 - disclosure declaration,
 - disclosure information,
 - disclosure record,
 - disclosure request,
 - short scheme record.

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