

DISCLOSURE (SCOTLAND) ACT 2020

EXPLANATORY NOTES

PROVISION BY PROVISION COMMENTARY

Part 1: Disclosure of criminal history and other information

Level 2 disclosures

Section 11: Provision of Level 2 disclosures

28. 28. Section 11 sets out the circumstances in which a Level 2 disclosure is provided to the applicant. Ministers must provide a Level 2 disclosure where the applicant is aged 16 years or over and makes an application which is countersigned by an accredited body and is for a permitted purpose (countersigning and permitted purpose are both further explained in section 12). Ministers also have discretion to provide a Level 2 disclosure to an applicant 12 years of age or over but under 16 years if they consider it appropriate to do so. There may be some exceptional cases where this is justified such as, for example, where a foster family had a 15 year old child in the household. The application must still comply with section 12 and the child will not be able to become a member of the PVG Scheme. Ministers can refuse to provide a Level 2 disclosure if they conclude that the person who countersigned the application or certain other persons connected with the application (listed in subsection (4)) have not complied with the code of practice issued by Ministers under section 55. Subsection (5) provides that an individual can only apply for a disclosure in relation to themselves.