

*Status: This version of this provision is prospective.*

*Changes to legislation: Disclosure (Scotland) Act 2020, Section 52 is up to date with all changes known to be in force on or before 01 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### PART 1

#### DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

##### *Accredited bodies*

PROSPECTIVE

#### **52 Lead signatories and countersignatories: acceptance or refusal of nomination and removal from the register**

- (1) Subject to subsection (2), the Scottish Ministers must accept the nomination of an individual as the lead signatory or a countersignatory of an accredited body if—
  - (a) the individual is 18 years of age or older, and
  - (b) the individual is—
    - (i) employed by the accredited body,
    - (ii) otherwise appointed by the accredited body to act as the lead signatory or a countersignatory of the accredited body, or
    - (iii) employed by a person acting on behalf of the accredited body.
- (2) Where the accredited body has registration of the type mentioned in section 47(1)(b) or (c), the Scottish Ministers may refuse to accept the nomination of an individual as the lead signatory or a countersignatory if, in their opinion, the individual is not a suitable person to have access to disclosure information.
- (3) The Scottish Ministers may remove all of the prescribed details of a lead signatory or countersignatory of an accredited body from the entry for the accredited body in the register of accredited bodies if they consider that—
  - (a) the lead signatory or countersignatory is not a suitable person to have access to disclosure information, or
  - (b) the lead signatory or countersignatory has failed to comply with the code of practice published under section 55.

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- (4) In determining, for the purposes of subsection (2) or (3)(a), whether an individual is a suitable person to have access to disclosure information, the Scottish Ministers may have regard in particular to—
- (a) the matters mentioned in section 49(1) (but subsection (2)(b) of that section applies for the purposes of this section as if it referred only to the provision of information relating to the individual who is (or is nominated as) the lead signatory or a countersignatory of the accredited body concerned), and
  - (b) any representations made by the individual who is (or is nominated as) the lead signatory or a countersignatory of the accredited body concerned.
- (5) Before refusing to accept a nomination by an accredited body of an individual as the lead signatory or a countersignatory under subsection (2), the Scottish Ministers must—
- (a) notify the individual—
    - (i) that they are considering whether to refuse the nomination, and
    - (ii) of the reasons for considering that refusal, and
  - (b) give the individual an opportunity to make representations.
- (6) Before deciding to remove all of the prescribed details of the lead signatory or a countersignatory of an accredited body from the entry for the accredited body in the register of accredited bodies under subsection (3)(a) or (b), the Scottish Ministers must—
- (a) notify the lead signatory or countersignatory—
    - (i) that they are considering whether to remove the details from the register of accredited bodies, and
    - (ii) of the reasons for considering that removal, and
  - (b) give the lead signatory or countersignatory an opportunity to make representations.
- (7) Where an accredited body has registration of the type mentioned in section 47(1)(c), a decision by the Scottish Ministers—
- (a) under subsection (2) to refuse the nomination of an individual as the lead signatory of the accredited body, or
  - (b) under subsection (3)(a) to remove the prescribed details of the lead signatory from the entry for the accredited body in the register of accredited bodies,
- relates only to the lead signatory acting in relation to Level 2 disclosures on behalf of the accredited body (and does not prevent the lead signatory acting otherwise on behalf of the accredited body).
- (8) In subsections (1), (2), (4) (insofar as it relates to subsection (2)), (5) and (7)—
- (a) the references to an accredited body include references to a person applying for registration in the register of accredited bodies, and
  - (b) the references to an accredited body having registration of a type mentioned in section 47(1) include references to a person applying for registration of that type in the register of accredited bodies.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 3 para. 31(1) words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(i\)](#)
- sch. 3 para. 20 words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(ii\)](#)
- sch. 3 para. 21 words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(iii\)](#)
- sch. 3 para. 31 words substituted by [2024 asp 5 Sch. para. 25\(2\)\(b\)](#)