



# Disclosure (Scotland) Act 2020

## 2020 asp 13

### PART 3

#### GENERAL

#### **91 Regulations**

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
  - (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) different provision for different purposes.
- (2) Regulations under section 9(3), 38(1) or 39(1) are subject to the affirmative procedure.
- (3) Regulations under section 92(1) containing provisions which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.
- (4) All other regulations under this Act are subject to the negative procedure.
- (5) This section does not apply to regulations under section 97(2).

#### **92 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).

#### **93 Consequential and minor modifications**

In schedule 5—

- (a) Part 1 contains modifications of enactments in consequence of Part 1.
- (b) Part 2 contains modifications of enactments in consequence of Part 2.

- (c) Part 3 contains minor modifications of enactments and other modifications in consequence of this Act.

#### **94 Individual culpability where organisation commits offence**

- (1) This section applies where—
- (a) an offence under this Act is committed by a relevant organisation, and
  - (b) the commission of the offence—
    - (i) involves consent or connivance on the part of a responsible individual, or
    - (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
- (a) “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
  - (b) “responsible individual” means, in relation to a relevant organisation—
    - (i) an individual falling within the corresponding entry in the second column of the table in subsection (4), or
    - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

<i>Organisation</i>	<i>Individual</i>
company as mentioned in section 1 of the Companies Act 2006	director, manager, secretary or other similar officer member, where the company’s affairs are managed by its members
limited liability partnership	member
other partnership	partner
any other body or association	individual who is concerned in the management or control of its affairs

#### **95 Meaning of “the PVG Act”**

In this Act, “the PVG Act” means the Protection of Vulnerable Groups (Scotland) Act 2007.

#### **96 Crown application**

- (1) Nothing in or under this Act makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Scottish Ministers, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).

- (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

**97 Commencement**

- (1) This Part, other than section 93, comes into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
- (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

**98 Short title**

The short title of this Act is the Disclosure (Scotland) Act 2020.