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Education, Children and Young People Committee

Subordinate Legislation considered by the Committee on 19 February 2025



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Education, Children and Young People Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills and matters relating to the Historical Abuse Inquiry, redress and languages falling within the responsibility of the Deputy First Minister.



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Introduction

1. At its meeting on 19 February 2025, the Education, Children and Young People Committee considered five pieces of subordinate legislation that were subject to the affirmative procedure.
2. This report summarises the purpose and the scrutiny of these instruments as well as confirming the Committee's decisions.
3. The [minutes](#) of the meeting have been published. The [Official Report](#) of the meeting has also been published.

Disclosure (Scotland) Act 2020 (Incidental, Supplementary and Consequential Provision) Regulations 2025 [draft]

4. [The Disclosure \(Scotland\) Act 2020 \(Incidental, Supplementary and Consequential Provision\) Regulations 2025 \[draft\]](#) were laid before Parliament on 21 January 2025.
5. The purpose of the instrument is as follows:
 - The Disclosure (Scotland) Act 2020 (“the Disclosure Act”) reforms the system of disclosure of criminal records administered by the Scottish Ministers. Prior to the Disclosure Act, disclosure functions were performed in accordance with Part 5 of the Police Act 1997 (“the Police Act”) and Part 2 of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”). The Disclosure Act repeals Part 5 of the Police Act as it applies in Scotland and amends the PVG Act.
 - This instrument makes various incidental, supplementary and consequential modifications to primary and secondary legislation to ensure that the disclosure system operates as the Disclosure Act intended and to reflect the changes made to the disclosure system by that Act.
 - It also revokes various enactments which, as a consequence of the changes made by the Disclosure Act, are no longer required.
6. A draft policy note published to accompany the regulations can be accessed [here](#).
7. The Delegated Powers and Law Reform Committee considered the regulations at its meeting on the 28 January 2025. That Committee published its [report](#) on 29 January 2025 and agreed that no points arose.
8. At its meeting on 19 February 2025, the Committee took evidence on the regulations from Natalie Don-Innes MSP, Minister for Children, Young People and The Promise.
9. Natalie Don-Innes MSP, Minister for Children, Young People and The Promise moved motion S6M-16124— That the Education, Children and Young People Committee recommends that the Disclosure (Scotland) Act 2020 (Incidental, Supplementary and Consequential Provision) Regulations 2025 [draft] be approved.

Conclusion

The Committee agreed SM6-16124 unanimously.

The Disclosure (Scotland) Act 2020 (List A and B Offences) Amendment Regulations 2025 [draft]

10. [The Disclosure \(Scotland\) Act 2020 \(List A and B Offences\) Amendment Regulations 2025 \[draft\]](#) were laid before Parliament on 14 January 2025.
11. The purpose of the instrument is as follows:
 - These Regulations amend schedules 1 and 2 of the Disclosure (Scotland) Act 2020 (“the Disclosure Act”).
 - Regulation 2 makes amendments to the list of offences in schedule 1 (List A offences) to update the list of offences for which convictions must and children’s hearing outcomes may be disclosed on a Level 2 disclosure provided under the Disclosure Act, unless that conviction is removed by the Scottish Ministers, the independent reviewer or a sheriff.
 - Regulation 3 makes amendments to schedule 2 (List B offences) to update the list of offences for which convictions must and children’s hearing outcomes may be disclosed on a Level 2 disclosure provided under the Disclosure Act until they become non-disclosable within the meaning of sections 9 and 10 of the Disclosure Act.
 - Children’s hearing outcomes will only ever be disclosed on a Level 2 disclosure subject to a review by the Scottish Ministers under section 13 of the Disclosure Act.
12. A draft policy note to accompany the regulations can be accessed [here](#).
13. The Delegated Powers and Law Reform Committee considered the regulations at its meeting on 21 January 2025. That Committee published its [report](#) on 21 January 2025 and agreed that no points arose.
14. At its meeting on 19 February 2025, the Committee took evidence on the regulations from Natalie Don-Innes MSP, Minister for Children, Young People and The Promise.
15. Natalie Don-Innes MSP, Minister for Children, Young People and The Promise moved motion S6M-16125— That the Education, Children and Young People Committee recommends that the Disclosure (Scotland) Act 2020 (List A and B Offences) Amendment Regulations 2025 [draft] be approved.

Conclusion

The Committee agreed SM6-16125 unanimously.

The Regulated Roles with Children and Adults (Scotland) Amendment Regulations 2025 [draft]

16. [The Regulated Roles with Children and Adults \(Scotland\) Amendment Regulations 2025 \[draft\]](#) were laid before Parliament on 14 January 2025.
17. The purpose of the instrument is as follows:
 - These Regulations modify schedules 2 and 3 of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”), as substituted by schedules 3 and 4 of the Disclosure (Scotland) Act 2020 (“the Disclosure Act”).
 - Schedule 2 defines regulated roles with children and schedule 3 defines regulated roles with protected adults.
 - These modifications:
 - substitute and expand the definition of ‘contact’ with children and protected adults to include visual communication and to make the definition clearer
 - insert new activities (including further healthcare professions) which mean that individuals carrying out those activities will be carrying out a regulated role with children or protected adults if the conditions in paragraph 1(2) of each of the schedules are met
 - make minor textual amendments to certain activities in each of the schedules to include additional establishments and activities
 - re-introduce the concept of unsupervised contact with protected adults into schedule 3 in connection with the carrying out of specific activities
18. A draft policy note to accompany the regulations can be accessed [here](#).
19. The Delegated Powers and Law Reform Committee considered the regulations at its meeting on 21 January 2025. That Committee published its [report](#) on 21 January 2025 and agreed that no points arose.
20. At its meeting on 19 February 2025, the Committee took evidence on the regulations from Natalie Don-Innes MSP, Minister for Children, Young People and The Promise.
21. Natalie Don- Innes MSP, Minister for Children, Young People and The Promise moved motion S6M-16126— That the Education, Children and Young People Committee recommends that the Regulated Roles with Children and Adults (Scotland) Amendment Regulations 2025 [draft] be approved.

Conclusion

The Committee agreed SM6-16126 unanimously.

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No. 2) Order 2025 [draft]

22. [The Rehabilitation of Offenders Act 1974 \(Exclusions and Exceptions\) \(Scotland\) Amendment \(No. 2\) Order 2025 \[draft\]](#) was laid before Parliament on 14 January 2025.
23. The purpose of the instrument is as follows:
 - This Amendment Order makes amendments to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (“the 2013 Order”), and makes provision to update and replace references to outdated terminology no longer used in the Disclosure Act, for the purposes of the 2013 Order - these amendments reflect the changes made to the disclosure system by the Disclosure (Scotland) Act 2020 (“the Disclosure Act”), ensuring that both the state and self-disclosure regimes in Scotland continue to work as intended.
 - adds new provisions to the 2013 Order, specifically in relation to articles 2A, 4 and 5 of the 2013 Order. These add the concept of non-disclosable children’s hearing outcomes to the provisions about the exclusions and exceptions.
 - amends and updates the lists of offences in schedules A1 and B1 of the 2013 Order.
 - omits circumstances from schedule 3 of the 2013 Order which are now regulated roles under the Disclosure Act and for which PVG Scheme membership will be required.
 - inserts new provision into schedule 3 of the 2013 Order to so that questions can be asked of individuals over the age of 16 who are:
 - residing in the same household as a person whose suitability is being assessed, investigated, reviewed or confirmed to be a shared lives carer within the meaning of paragraphs 16 and 24 of schedule 2 of the Protection of Vulnerable Groups (Scotland) Act 2007 or to be in charge of or caring for children, within the meaning of paragraph 12 of schedule 2 of that Act, and
 - residing in residential accommodation where a school care accommodation service is being provided to a pupil, but are not the pupil, employed by the school or the person being assessed as to their suitability to carry out a regulated role with children.
24. A draft policy note published to accompany the regulations can be accessed [here](#).
25. The Delegated Powers and Law Reform Committee considered the regulations at its meeting on 21 January 2025. That Committee published its [report](#) on 21 January 2025 and agreed that no points arose.
26. At its meeting on 19 February 2025, the Committee took evidence on the

regulations from Natalie Don-Innes MSP, Minister for Children, Young People and The Promise.

27. Natalie Don-Innes, Minister for Children, Young People and The Promise, moved motion S6M-16127—That the Education, Children and Young People Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment (No. 2) Order 2025 [draft] be approved.

Conclusion

The Committee agreed SM6-16127 unanimously.

Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2025 [draft]

28. [The Provision of Early Learning and Childcare \(Specified Children\) \(Scotland\) Amendment Order 2025 \[draft\]](#) was laid before Parliament on 28 January 2025.
29. The purpose of the instrument is as follows:
 - The purpose of the instrument is to amend the Provision of Early Learning and Childcare (Specified Children) Order 2014 ('the 2014 Order') to protect eligibility for two-year-old children who qualify for access to funded early learning and childcare (ELC) due to their parents' receipt of certain qualifying benefits.
30. A draft policy note published to accompany the regulations can be accessed [here](#).
31. The Delegated Powers and Law Reform Committee considered the amendment order at its meeting on 4 February 2025. That Committee published its [report](#) on 4 February 2025 and agreed that no points arose.
32. At its meeting on 19 February 2025, the Committee took evidence on the regulations from Natalie Don-Innes MSP, Minister for Children, Young People and The Promise and Joanna Mackenzie, Team Leader, Targeted Children and Family Wellbeing, Scottish Government.
33. Natalie Don-Innes, Minister for Children, Young People and The Promise, moved S6M-16276— That the Education, Children and Young People Committee recommends that the Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2025 [draft] be approved.

Conclusion

The Committee agreed SM6-16276 unanimously

