

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT DISCLOSURE (SCOTLAND) ACT 2020
(CONSEQUENTIAL PROVISIONS AND
MODIFICATIONS) ORDER 2025

Wednesday 19 March 2025

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The Committee consisted of the following Members:

Chair: SIR JOHN HAYES

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| † Akehurst, Luke (<i>North Durham</i>) (Lab) | † Murrison, Dr Andrew (<i>South West Wiltshire</i>) (Con) |
| † Bishop, Matt (<i>Forest of Dean</i>) (Lab) | † Owatemi, Taiwo (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| † Blake, Rachel (<i>Cities of London and Westminster</i>) (Lab/Co-op) | † Ribeiro-Addy, Bell (<i>Clapham and Brixton Hill</i>) (Lab) |
| Chamberlain, Wendy (<i>North East Fife</i>) (LD) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>) (Con) |
| † Cooper, John (<i>Dumfries and Galloway</i>) (Con) | † Ward, Melanie (<i>Cowdenbeath and Kirkcaldy</i>) (Lab) |
| † Cross, Harriet (<i>Gordon and Buchan</i>) (Con) | † Webb, Chris (<i>Blackpool South</i>) (Lab) |
| † Fenton-Glynn, Josh (<i>Calder Valley</i>) (Lab) | Noorjehan Piperdy, <i>Committee Clerk</i> |
| † Jardine, Christine (<i>Edinburgh West</i>) (LD) | |
| † Jones, Louise (<i>North East Derbyshire</i>) (Lab) | |
| † McCluskey, Martin (<i>Inverclyde and Renfrewshire West</i>) (Lab) | |
| † Midgley, Anneliese (<i>Knowsley</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Wednesday 19 March 2025

[SIR JOHN HAYES *in the Chair*]

Draft Disclosure (Scotland) Act 2020 (Consequential Provisions and Modifications) Order 2025

2.30 pm

Martin McCluskey (Inverclyde and Renfrewshire West) (Lab): I beg to move,

That the Committee has considered the draft Disclosure (Scotland) Act 2020 (Consequential Provisions and Modifications) Order 2025.

The draft order was laid on 11 February, and I am grateful for the opportunity to debate it. As with all the Scotland Act 1998 orders we have considered since the start of this Parliament, the draft order is the result of collaborative working between the UK and Scottish Governments. Like many others, it is made under section 104 of the Scotland Act, which, following an Act of the Scottish Parliament, provides the power for consequential provision to be made to the law relating to reserved matters or laws elsewhere in the UK. Scotland Act orders are a demonstration of devolution in action, and I am pleased that this Government have made seven such orders since we came into office in 2024.

The draft order makes provision in consequence of the changes that the Disclosure (Scotland) Act 2020 made to the disclosure regime in Scotland. The Disclosure (Scotland) Act, with which I know many hon. Members may not be familiar, concerns the regime for disclosures made by Scottish Ministers about a person's criminal history and other information held about them by police and law enforcement agencies, such as fingerprint records. This crucial piece of legislation, which received support from all parties when it was passed by the Scottish Parliament, simplifies the system for disclosure in Scotland. Most people will come across the disclosure system when they apply for a PVG—protecting vulnerable groups—certificate from Disclosure Scotland, often so they may work or volunteer with children or vulnerable people.

The order ensures the continued provision of information from UK law enforcement bodies to Scottish Ministers for the purposes of the disclosure regime. This includes conviction information, cautions, relevant police information and fingerprint records. This cross-border information transfer is necessary to ensure that Scottish Ministers can exercise their vetting and barring functions efficiently and effectively. Importantly, it ensures that the public are protected.

I shall speak briefly to some of the individual provisions. Part 2 places duties on the chief officers of UK law enforcement bodies in relation to disclosure information that are equivalent to the duties that the Disclosure (Scotland) Act places on the chief constable of Police Scotland. That will ensure that the chief officer must provide information to Scottish Ministers in the same way that the chief constable is required to do in Scotland. The law enforcement bodies to which this duty applies are outlined in part 1.

Part 2 provides provisions for a statutory review process of other relevant information before it is disclosed to a third party. This is a central provision of the Disclosure (Scotland) Act, and is intended to enhance the proportionality of the disclosure regime. Finally, part 3 places further duties on law enforcement agencies to make other information, such as central records, personal data to verify identity, and fingerprint records available to Scottish Ministers.

If passed, the order will come into force on 1 April; guidance will be provided to UK law enforcement bodies before that date. The order is about keeping our communities and constituents in Scotland safe. Without it, there would be significant consequences for safeguarding across the UK, because the cross-border disclosure and information-sharing arrangements that are already in place under the Police Act 1997 would no longer operate. That would put our communities at risk and undermine a system that has operated effectively across the UK for many years.

2.33 pm

Harriet Cross (Gordon and Buchan) (Con): I am grateful for the Minister's remarks. Disclosure functions are, of course, important and sensitive, and clearly they must work efficiently for the protection of those who are vulnerable, as well as for those subject to disclosure requirements, whether individuals or organisations. As we understand it, the overarching aim of the draft order is to allow for the continuation of the disclosure and safeguarding regime in Scotland and to operationalise the policy intentions of the primary legislation underpinning this statutory instrument, the Disclosure (Scotland) Act.

The order appears for the most part to be technical in nature, but it is concerning that we are having to consider legislation to avert a situation in which ineligible people or even small businesses would have been criminalised before the scheme even became a legal requirement. Clearly, we would not want people being criminalised due to an uneven legal framework.

I shall be grateful if the Minister responds to the following questions. What conversations has he had with the Scottish National party Government about both the problem and the proposed solution, and what steps are the Scottish Government taking? Secondly, is he confident that the right people have been consulted and engaged with on rectification of the problem and that the concerns have genuinely been listened to? What statistics can be offered on the information campaign about these impending changes in terms of the people reached and whether this has resulted in a shift in the level of engagement?

Does the Minister believe that the secondary legislation that the Scottish Government plan to bring forward will be properly calibrated with this draft order? Finally, given the complexities, can we be sure that the guidance due to be published will be genuinely clear and easily understood, to smooth what has not been the most straightforward transition so far?

2.35 pm

Martin McCluskey: I will try to pick up on all those questions, but if I miss any, I will make sure that I write to the hon. Lady afterwards. I am not entirely sure I understand her point about criminalisation. The Disclosure (Scotland) Act was put forward by the Scottish

Government and passed by the Scottish Parliament to simplify the quite complex landscape of disclosure. It has been well received by stakeholders and others, and as I mentioned, it was passed unanimously on a cross-party basis in the Scottish Parliament by all parties represented in this room. It is an important part of Scottish Ministers being able to carry out those vetting and barring functions.

In terms of the consultation, Disclosure Scotland has worked alongside officials in the Ministry of Justice, the Home Office, the Ministry of Housing, Communities and Local Government, the Department of Justice in Northern Ireland and the Welsh Government on the policy for and drafting of this order. In advance of the Disclosure (Scotland) Act 2020 being introduced in the Scottish Parliament in 2019, there was extensive consultation with anyone affected, including businesses, volunteer organisations and others who make extensive use of the system.

As I understand it, Disclosure Scotland has been running the information campaign for 18 months. I do not have statistics to hand on how it has operated; that would be a question for the Scottish Government and probably specifically for Disclosure Scotland, rather than for the UK Government. However, I know from discussions I have had that the campaign has been extensive, especially with stakeholders who make use of this system. They are waiting for this measure to come into force, and most people who have an interest in it are well prepared for it to come into force on 1 April.

Guidance will be available before 1 April for the public bodies and law enforcement agencies that are affected by the order. The guidance for how the PVG system will work has already been provided to stakeholders, and as I said, they are expecting that to be implemented on 1 April. The guidance I mentioned in my remarks is specifically the guidance that will be offered to law enforcement agencies in the rest of the UK outside Scotland on how they implement the measures and respond to the duties placed upon them.

The hon. Lady mentioned secondary legislation consequential to the Disclosure (Scotland) Act. We are discussing this order today, and the House of Lords will consider it next week. Secondary legislation that the Scottish Government might put through the Scottish Parliament is probably a question for them, rather than us. Through this order, we are discharging our responsibilities to deal with the consequential provisions that cannot be dealt with by the Scottish Parliament because of reserved legislation, in order that the system can carry on working effectively and operate after 1 April.

I hope that answers all the hon. Lady's questions. If it does not, I am happy for her to intervene again or to write to her on anything I have not covered.

Question put and agreed to.

2.40 pm

Committee rose.

