

2010 No. 181

CHILDREN AND YOUNG PERSONS

PROTECTION OF VULNERABLE ADULTS

**The Protection of Vulnerable Groups (Scotland) Act 2007
(Referrals by Organisations and Other Bodies) (Prescribed
Information) Regulations 2010**

Made - - - - 5th May 2010

Laid before the Scottish Parliament 6th May 2010

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 3(1) and (2), 4, 5, 6(2), 8(1) and 97(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007(b) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Referrals by Organisations and Other Bodies) (Prescribed Information) Regulations 2010 and come into force on the same day as section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007.

Interpretation

2. In these Regulations—

“the Act” means the Protection of Vulnerable Groups (Scotland) Act 2007;

“making a referral” means giving prescribed information to Ministers under sections 3(1), 3(2), 4, 5, 6(2) or 8(1) of the Act;

“referral” means the prescribed information given to Ministers under sections 3(1), 3(2), 4, 5, 6(2) or 8(1) of the Act;

“referring body” means the organisation or personnel supplier making a referral to Ministers under sections 3(1), 3(2), 4, 5 or 6(2) of the Act;

“referring regulatory body” means the regulatory body making a referral to Ministers under section 8(1) of the Act;

“regulatory body” means a person specified by virtue of section 8(2) of the Act; and

(a) See section 97(1) for the definition of “prescribed”.

(b) 2007 asp 14.

“scheme membership number” means the unique number allocated by Ministers to each scheme member on joining the Scheme.

Referrals: Prescribed information for the purposes of sections 3(1) and (2), 4, 5, 6(2) and 8(1) of the Act

3.—(1) The information detailed in Schedule 1 is prescribed information for the purposes of—

- (a) section 3(1) and (2) of the Act;
- (b) section 4 of the Act;
- (c) section 5 of the Act;
- (d) section 6(2) of the Act.

(2) The information detailed in Schedule 2 is prescribed information for the purposes of section 8(1) of the Act.

St Andrew’s House,
Edinburgh
5th May 2010

ADAM INGRAM
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 3(1)

Prescribed information for the purposes of sections 3(1) and (2), 4, 5 and 6(2) of the Act

1. Identity details relating to the individual including—
 - (a) the individual's full name and any other names by which the individual is known, or has been known;
 - (b) the most recent address for the individual and date of last written contact with the individual at that address;
 - (c) any other addresses at which the individual is or has been resident in the past 10 years preceding the date of the referral;
 - (d) the individual's date and place of birth;
 - (e) the individual's gender; and
 - (f) the individual's National Insurance number.
2. Details of any checks carried out by the referring body to verify the individual's identity.
3. The individual's scheme membership number.
4. Details of the individual's registration with, or reference to, any regulatory body including, where appropriate, the individual's registration number with the regulatory body and whether the regulatory body has been notified of the conduct which is the subject of the referral and the intention to make a referral under sections 3(1) or (2), 4, 5 or 6(2) of the Act.
5. Details as to whether the referral is in relation to an individual who is or has been doing (or has been offered or supplied for) regulated work with children, regulated work with adults, or both.
6. Contact details for the referring body, details of the services provided by the referring body and details of whether the referring body is—
 - (a) a body corporate or unincorporated;
 - (b) an individual who, in the course of a business, employs or otherwise gives work to other persons;
 - (c) the governing body, trustees, or other person or body of persons responsible for the management of a school, a body listed in schedule 2 to the Further and Higher Education (Scotland) Act 2005(a), or a hostel used mainly by pupils attending a school;
 - (d) a charity.
7. Details of the regulated work done by the individual, the position and responsibilities of the individual at the time of the conduct which is the subject of the referral, and the employment history of the individual.
8. Details of any other current or previous regulated work done by the individual with the referring body or any other organisation.

(a) 2005 asp 6.

9. Details of the circumstances in which the referring body considers that a referral ground in section 2(a) or (b) of the Act has been met in relation to the individual, including—

- (a) a description of the conduct including, if engaged in more than once, the frequency of the conduct and period of time during which the conduct took place and how the conduct came to the attention of the referring body;
- (b) details of any previous conduct dealt with by the referring body or any other organisation;
- (c) details of the relationship between the individual and the child or protected adult if any involved in the conduct;
- (d) the age and gender of the child or protected adult if any involved in the conduct;
- (e) details of the impact of the conduct on the child or protected adult involved if any and on any other child or any other protected adult present.

10. Details of any action taken, decisions made or any other circumstances as referred to in sections 3(1), 3(2), 4, 5 or 6(1) of the Act which apply in the instant case.

11. Details of any regulated work code of practice, rules, guidance or standards of the referring body at the time of the conduct giving rise to the referral and at the time of the referral.

12. Any relevant disciplinary policies or practices or conditions of employment of the referring body.

13. Details of any investigation carried out by the referring body or any other organisation, including any documentation relevant to that investigation and the conclusions of that investigation.

14. Details of the involvement of any other organisation or personnel supplier in matters relating to the referral (including any regulatory body, police or court involvement).

15. Details of any associated disciplinary appeal proceedings or legal proceedings, including copies of any decisions reached in those proceedings and—

- (a) if the proceedings are internal to the referring body, details of the current stage, any likely future stages and expected date of conclusion of the proceedings, including any appeal;
- (b) otherwise, details of the organisation involved in the proceedings with contact details.

SCHEDULE 2

Regulation 3(2)

Prescribed information for the purposes of section 8(1) of the Act

1. Identity details relating to the individual including—
 - (a) the individual's full name and any other names by which the individual is known, or has been known;
 - (b) most recent address for the individual and date of last written contact with the individual at that address;
 - (c) any other addresses at which the individual is or has been resident in the past 10 years preceding the date of the referral;
 - (d) the individual's date and place of birth;
 - (e) the individual's gender; and
 - (f) the individual's National Insurance number.
2. Details of any checks carried out by the referring regulatory body to verify the individual's identity.
3. The individual's scheme membership number.
4. Details of the individual's registration with, or reference to, any regulatory body including, where appropriate, the individual's registration number with the regulatory body.
5. Details as to whether the referral is in relation to an individual who is or has been doing (or has been offered or supplied for) regulated work with children, regulated work with adults, or both.
6. Contact details for the referring regulatory body.
7. Details of the regulated work done by the individual, the position and responsibilities of the individual at the time of the conduct which is the subject of the referral, and employment history of the individual.
8. Details of any other current or previous regulated work done by the individual.
9. Details of the circumstances in which the referring regulatory body considers that a referral ground in section 2(a) or (b) of the Act has been met in relation to the individual including—
 - (a) a description of the conduct including, if engaged in more than once, the frequency of the conduct and period of time during which the conduct took place and how the conduct came to the attention of the referring regulatory body;
 - (b) details of any previous conduct dealt with by the referring regulatory body, or the organisation for whom the individual is doing or has done regulated work, or the personnel supplier which offers or supplies the individual for regulated work, or any other organisation;
 - (c) details of the relationship between the individual and the child or protected adult if any involved in the conduct;
 - (d) the age and gender of the child or protected adult if any involved in the conduct;
 - (e) details of the impact of the conduct on the child or protected adult if any involved and on any other child or any other protected adult present.
10. Any relevant disciplinary policies or practices or conditions of registration with the referring regulatory body.
11. Details of any investigation carried out by the referring regulatory body, including any documentation relevant to that investigation and the conclusions of that investigation.

12. Details of the involvement of any other organisation or personnel supplier in matters relating to the referral (including any police or court involvement).

13. The documentation relating to, or the conclusions of, any investigation carried out by—

- (a) any organisation for whom the individual is doing or has done regulated work;
- (b) any personnel supplier which offers or supplies the individual for regulated work;
- (c) any other organisation.

14. Details of any associated disciplinary appeal proceedings or legal proceedings, including copies of any decisions reached in those proceedings and—

- (a) if the proceedings are internal to the referring regulatory body, details of the current stage, any likely future stages and expected date of conclusion of the proceedings, including any appeal;
- (b) otherwise, details of the organisation involved in the proceedings with contact details.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 3(1) and (2), 4, 5, 6(2) and 8(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Act”) and set out the prescribed information for the purposes of sections 3(1) and (2), 4, 5, 6(2) and 8(1) of the Act.

Organisations, personnel suppliers carrying on employment agencies or employment businesses and regulatory bodies making a referral to the Scottish Ministers under any of the relevant sections must provide in that referral any of the prescribed information set out in Schedules 1 and 2, as applicable. Anyone making a referral is only required to provide the prescribed information which it holds (sections 3(1) and (2), 4, 5, 6(2) and 8(1) of the Act) and is not obliged to make enquiries to ascertain any information prescribed under these Regulations.

On receipt of the prescribed information the Scottish Ministers must, under section 10 of the Act, determine whether they are satisfied that the information indicates that it may be appropriate to list the individual in the children’s list, or adults’ list as the case may be. The procedure to be followed by the Scottish Ministers in conducting this consideration is set out in the Protection of Vulnerable Groups (Scotland) Act 2007 (Consideration for Listing) Regulations 2010 (S.S.I. 2010/183).

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