



# Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

## PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

### PART 1

#### THE LISTS

##### *Duty to keep lists*

- 1 Duty of Scottish Ministers to keep lists

##### *Referrals*

- 2 Referral ground
- 3 Reference following disciplinary action etc.
- 4 Reference by employment agency
- 5 Reference by employment business
- 6 Reference relating to matters occurring before provisions come into force
- 7 Reference by court
- 8 Reference by certain other persons
- 9 Failure to refer: offence

##### *Consideration whether to list*

- 10 Consideration whether to list: organisational referrals etc.
- 11 Consideration whether to list: court referrals
- 12 Consideration whether to list: vetting information etc.
- 13 Consideration whether to list: inquiries

##### *Inclusion in list*

- 14 Automatic listing
- 15 Inclusion in children's list after consideration
- 16 Inclusion in adults' list after consideration

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*Information relevant to listing decisions*

- 17 Information relevant to listing decisions
- 18 Police information etc.
- 19 Information held by public bodies etc.
- 20 Information held by regulated work providers

*Appeals against listing*

- 21 Appeals against inclusion in children's list
- 22 Appeals against inclusion in adults' list
- 23 Further appeals in relation to inclusion in either list
- 24 Appeals in relation to listing: supplementary

*Removal from list*

- 25 Application for removal from list
- 26 Determination of application for removal from list
- 27 Appeals against refusal to remove individual from list
- 28 Late representations
- 29 Removal from list

*Appeals and removals: information powers*

- 29A Appeals and removals: application of sections 18 to 20

*Listing: supplementary*

- 30 Notice of listing etc.
- 30A Notification of health regulatory bodies etc.
- 31 Relevant inquiries
- 32 Relevant offences etc.
- 33 Duty to notify certain changes

*Offences relating to regulated work*

- 34 Barred individuals not to do regulated work
- 35 Organisations not to use barred individuals for regulated work
- 36 Personnel suppliers not to supply barred individuals for regulated work
- 37 Penalties for offences relating to regulated work
- 37A Offences outside Scotland

*General and supplementary*

- 38 Police access to lists
- 39 Restrictions on listing in children's list
- 40 Restrictions on listing in adults' list
- 41 Protection from actions for damages
- 42 Power to regulate procedure etc.
- 43 Transfer from 2003 Act list

**PART 2**

VETTING AND DISCLOSURE

*The Scheme*

- 44 The Scheme

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- 45 Participation in Scheme
- 46 Statement of scheme membership

*Vetting information*

- 47 Enquiries about scheme members
- 48 Scheme record
- 49 Vetting information
- 50 Duty to notify certain changes
- 51 Correction of inaccurate scheme record
- 52ZA Procedure following correction of inaccurate scheme record

*Disclosure*

- 52 Disclosure of scheme records
- 52A Review of vetting information in scheme record
- 53 Disclosure of short scheme records
- 54 Disclosure of scheme membership
- 55 Disclosure conditions
- 56 Crown work
- 57 Disclosure restrictions
- 57A Meaning of “conviction” and “protected conviction”

*Removal from scheme*

- 58 Removal from scheme
- 59 Withdrawal from scheme
- 59A Withdrawal from Scheme when under consideration for listing
- 60 Notice of removal
- 61 Retention of scheme records after removal

*Evidence of identity*

- 62 Evidence of identity
- 63 Power to use fingerprints to check applicant's identity
- 64 Power to use personal data to check applicant's identity

*Offences relating to vetting information*

- 65 Falsification of scheme records etc.
- 66 Unlawful disclosure of scheme records etc.
- 67 Unlawful requests for scheme records etc.
- 68 Unlawful disclosure etc.: supplementary
- 69 Penalties for offences relating to vetting information

*Fees, forms and other procedures*

- 70 Fees
- 71 Forms
- 72 Procedure

*Supplementary*

- 73 Consideration of suitability
- 74 Delegation of vetting and disclosure functions
- 75 Sources of information

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- 76 Police access to scheme information
- 77 Statements of scheme membership: disclosure of whether individual under consideration for listing

### **PART 3**

#### AMENDMENT OF PART 5 OF THE POLICE ACT 1997

- 78 Information in criminal conviction and record certificates
- 79 Form of Part 5 applications
- 80 Payment of fee for information from certain police forces
- 81 Regulations about registration

### **PART 4**

#### SCHOOL CARE ACCOMMODATION SERVICES

- 82 Meaning of “school care accommodation service”
- 83 Application of fire safety rules to school care accommodation service

### **PART 5**

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- 84 Guidance
- 84A Guidance for chief constable
- 85 Annual report
- 86 Transfer of Disclosure Scotland staff etc.
- 87 Power to give effect to corresponding legislation in England, Wales and Northern Ireland
- 88 Modification of enactments
- 89 Offences by bodies corporate etc.
- 90 Crown application

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- 91 Regulated work
- 92 Individuals barred from regulated work
- 93 Meaning of “harm”
- 94 Meaning of “protected adult”
- 95 Meaning of “work”
- 96 Fostering
- 97 General interpretation

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- 99 Saving: disclosure of information
- 100 Orders and regulations
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## SCHEDULE 1 — Relevant offences

- 1 An offence falls within this paragraph if it is—
- 2 An individual falls within this paragraph if the individual—

## SCHEDULE 2 — Regulated work with children

### Part 1 — PRELIMINARY

#### *Regulated work with children*

- 1 Regulated work with children is work done in Scotland in—...
- 1A Definitions in relation to unsupervised contact with children
- 2A Application of sections 35 and 36 to host parenting

#### *Exceptions relating to children's employment and work*

- 2 Work which would be regulated work with children by virtue...

### Part 2 — ACTIVITIES

#### *Caring for children*

- 3 Caring for children (except caring for children which is merely...

#### *Teaching, instructing, training or supervising children*

- 4 Teaching, instructing, training or supervising children (except teaching, instructing, or...

#### *Being in sole charge of children*

- 5 Being in sole charge of children.

#### *Unsupervised contact with children*

- 6 Unsupervised contact with children under arrangements made by a responsible...

#### *Providing advice or guidance to children*

- 7 Providing advice or guidance to a child or to particular...

#### *Moderating certain interactive communication services*

- 8 Moderating a public electronic interactive communication service which is intended...

#### *Provision of care home services*

- 9 Providing, or working for an organisation which provides, a care...

#### *Provision of independent health care services*

- 10 Providing, or working for an organisation which provides, an independent...

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*Work on day care premises*

- 11 Work on any part of day care premises at times...  
11A Being a host parent  
Part 3 — ESTABLISHMENTS

*Children's detention institution*

- 12 An institution which is exclusively or mainly for the detention...

*Children's hospital*

- 13 A hospital which is exclusively or mainly for the reception...

*Educational institutions etc.*

- 14 A school.  
15 A further education institution. "Further education institution" means a body listed...  
16 A hostel used mainly by pupils attending a school or...

*Children's home*

- 17 A home which is exclusively or mainly for children and...  
Part 4 — POSITIONS

*Manager of educational institutions etc.*

- 18 Manager, or member of a governing body, body of trustees...

*Member of council committee*

- 19 Member of— (a) a committee (including joint committee) of a...

*Member of children's panel etc.*

- 20 Member of— (a) the Children's Panel, (b) the Safeguarders Panel,...  
20A National Convener of Children's Hearings Scotland.  
20B Principal Reporter.

*Chief social work officer*

- 21 Chief social work officer of a council.

*Chief education officer*

- 22 Chief education officer (however called) of a council.

*Commissioner for Children and Young People in Scotland*

- 23 Commissioner for Children and Young People in Scotland.  
24 Member of that Commissioner's staff.

*Registrar of Independent Schools in Scotland*

- 25 Registrar of Independent Schools in Scotland.

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### *Fostering*

26 Foster carer.

#### *Charity trustee of a children's charity.*

27 “Children’s charity” means a charity whose— (a) main purpose is...  
Part 5 — GENERAL

#### *Power to amend schedule*

28 Ministers may by order modify this schedule as they think...

29 An order under paragraph 28 may disapply or otherwise modify...

### SCHEDULE 3 — Regulated work with adults

#### Part 1 — PRELIMINARY

#### *Regulated work with adults*

1 Regulated work with adults is work done in Scotland in—...  
Part 2 — ACTIVITIES

#### *Caring for adults*

2 Caring for protected adults (except caring for protected adults under...

#### *Teaching, instructing, training and supervising adults*

3 Teaching, instructing, training or supervising protected adults (except teaching, instructing,...

#### *Being in sole charge of adults*

4 Being in sole charge of protected adults (except being in...

#### *Providing assistance, advice or guidance to adults*

5 Providing assistance, advice or guidance to a protected adult or...

#### *Provision of care home services*

6 Providing, or working for an organisation which provides, a care...

#### *Inspecting care services on behalf of the Social Care and Social Work Improvement Scotland and Healthcare Improvement Scotland*

7 Inspecting adult care services (including inspecting any premises used for...

#### Part 3 — ESTABLISHMENTS

#### *Care home*

8 A care home. “Care home” means accommodation occupied mainly or exclusively...

#### *Residential establishment or accommodation*

9 A residential establishment or accommodation occupied exclusively or mainly by...

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## Part 4 — POSITIONS

### *Member of council committee*

- 10 Member of a committee (including joint committee) of a council...

### *Chief social work officer*

- 11 Chief social work officer of a council.

### *Charity trustee*

- 12 Charity trustee of a charity whose— (a) main purpose is...

## Part 5 — GENERAL

### *Power to amend schedule*

- 13 Ministers may by order modify this schedule as they think...  
14 An order under paragraph 13 may disapply or otherwise modify...

## SCHEDULE 4 — Minor and consequential amendments and repeals

### *Teaching Council (Scotland) Act 1965 (c. 19)*

- 1 The Teaching Council (Scotland) Act 1965 is amended as follows....  
2 In section 6— (a) in subsection (2C), for the words...  
3 In section 10B(1)(b)— (a) paragraphs (i) to (iii), and  
4 In section 11(8), for the words from “such” to “but”...

### *Education (Scotland) Act 1980 (c. 44)*

- 5 The Education (Scotland) Act 1980 is amended as follows.  
6 In section 98A— (a) in subsection (5)(a)(ii), for “disqualified from...  
7 In section 99(1A)— (a) in paragraph (g)(ii), for “disqualified from...  
8 In section 135(1)— (a) after the definition of “attendance order”...

### *Foster Children (Scotland) Act 1984 (c. 56)*

- 9 The Foster Children (Scotland) Act 1984 is amended as follows....  
10 In section 7, after subsection (2) insert—  
11 In section 15, after subsection (2) insert—  
12 In section 21, before the definition of “care home service”...

### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 13 The 1995 Act is amended as follows.  
14 In section 106(1)— (a) paragraphs (db) and (dc) are repealed,...  
15 In section 110(1)(a), the words “, the proposal to make...  
16 Section 111(3) is repealed.  
17 In section 116, for subsection (2) substitute—  
18 In section 118— (a) in subsection (4), for the words...  
19 In section 121A(1), the words “(other than an appeal under...  
20 In section 173(2), the words “or (cb)” are repealed.  
21 In section 175— (a) in subsection (2)—  
22 Section 181(4) is repealed.  
23 In section 186— (a) the words “or (cb)”, where they...  
24 In section 187(1), the words “or (cb)” are repealed.



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- 25 In section 189— (a) subsection (2A) is repealed,  
26 In section 193A(1), the words “(other than by way of...

*Police Act 1997 (c. 50)*

- 27 Part 5 of the 1997 Act is amended as follows....  
28 In section 113A, after subsection (5) insert—  
29 After section 113B insert— Suitability information relating to children  
(1) In such cases as are prescribed, an enhanced criminal...  
30 Sections 113C to 113F are repealed.  
31 In section 114— (a) in subsection (2), for “a Minister...  
32 In section 116— (a) in subsection (2), for “a Minister...  
33 In section 117, after subsection (2) insert—  
34 In section 118— (a) in subsection (2A)(a), for “United Kingdom...  
35 In section 119A(2), the words from “; and” to the...  
36 In section 120(5)(b) for the words from “countersign” to “113B”...  
37 In section 120A— (a) in subsection (3)(b), for “included in...  
38 Section 121 is repealed.  
39 In section 122— (a) in subsection (3)—  
40 Before section 123 insert— Delegation of functions of Scottish  
Ministers...  
41 In section 126(1), after the definition of “Minister of the...

*Protection of Children (Scotland) Act 2003 (asp 5)*

- 42 The whole Act (other than sections 13 and 16) is...

*Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5)*

- 43 Section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act  
2004...

*Charities and Trustee Investment (Scotland) Act 2005 (asp 10)*

- 44 Paragraph 15 of schedule 4 to the Charities and Trustee...

*Inquiries Act 2005 (c. 12)*

- 45 Part 2 of Schedule 2 to the Inquiries Act 2005...

*Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)*

- 46 The following provisions of the Police, Public Order and Criminal...

SCHEDULE 5 — Index

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