

# PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

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## EXPLANATORY NOTES

### OVERVIEW

#### Part 1 – the Lists

#### *Section 32. Relevant offences etc.*

63. [Section 32\(1\)](#) defines "relevant offence" for the purposes of Part 1. A relevant offence is one included in schedule 1. Offences listed in paragraph 1 of the schedule are those where the offence is defined in statute as offences against a child whereas offences listed in paragraph 2 of the schedule are not necessarily against children but are qualified for the purposes of the schedule as having a child victim.
64. Under section 7(1), a court is required to refer to the Scottish Ministers an individual who is convicted of a relevant offence and under section 11(2) the Scottish Ministers are required to consider that individual for listing. (Under section 7(3), the courts also have a power to make a referral in respect of a conviction for any other offence.)
65. [Section 32\(2\)](#) provides the Scottish Ministers with an order-making power to amend schedule 1 so as to modify the list of offences which constitute relevant offences. (Note that some very serious offences may be prescribed by order under section 14 to lead to automatic listing.)
66. [Section 32\(3\)](#) and (4) provides that a court referral should be made even if the court: acquitted the individual on the grounds of insanity; makes a finding under section 55(2) of the Criminal Procedure Act; or makes an order mentioned in section 57(2)(a) to (d) of the Criminal Procedure Act. An order under section 57 would include, for example, compulsion orders made under the Mental Health (Care and Treatment) (Scotland) Act 2003. The individual is to be treated as having been convicted of the offence for the purposes of making representation under section 17 as part of consideration for listing. Furthermore, as with convictions, a finding of fact as part of a court order under section 57(2)(a) to (d) of the Criminal Procedure Act cannot be challenged as part of an appeal against any listing decision (by reference to section 24).