

# **PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **OVERVIEW**

#### **Part 2: Vetting and Disclosure**

##### *Sections 52 – 55. Disclosure records*

97. The mechanism for disclosure of scheme records and short scheme records is designed to operate in much the same way as the disclosure of enhanced criminal record certificates under the Police Act. Organisational employers are to be able to request either a scheme record disclosure or a short scheme record disclosure provided that all the disclosure conditions (A-D) set out at section 55 are met. Personal employers are to be able to ask for a disclosure of scheme membership as at section 54. This is a new provision which is not provided for in the Police Act.
98. In all three cases (disclosure of scheme record, short scheme record and scheme membership), the scheme member must authorise the disclosure (condition A). In all cases, there is an employer who will receive a copy of the disclosure. Condition A prevents unauthorised disclosure (i.e. a request by an employer without the permission of the scheme member).
99. The scheme member must participate in the scheme in relation to the type of regulated work to which the disclosure request relates (condition B). For example, a scheme member cannot obtain a disclosure in respect of the children's workforce if she is only a scheme member in respect of the adults' workforce (unless she applies to join the scheme in respect of working with children).
100. The employer must declare that the disclosure is for employment in the relevant workforce (condition C). The involvement of the employer in the process is a deterrent to employers outside the regulated workforce coercing an individual to join the scheme. They would be making a false declaration and committing an offence under section 67. Amendments will be required to the [Exclusions and Exceptions Order \(S.S.I. 2003/231\)](#) made under the ROA to ensure that all posts within the definition of regulated work are exempted from the provisions of that Act.
101. Condition D applies only to scheme record disclosures and short scheme record disclosures because only they contain or make reference to vetting information. Condition D is rather like the requirement to countersign an application for an enhanced criminal record certificate.
102. It is expected that those individuals working for organisational employers (e.g. a teacher working for an education authority) will apply for scheme membership and a scheme record disclosure simultaneously. For any subsequent employment with any organisation, that individual can request a short scheme record disclosure which will identify whether there is any new information since the scheme record was disclosed. If that individual also wanted to do private work for personal employers (e.g. one-to-one

*These notes relate to the Protection of Vulnerable Groups (Scotland)  
Act 2007 (asp 14) which received Royal Assent on 18 April 2007*

language classes in the evenings), that individual could request disclosure of scheme membership for that purpose.

103. The only form of disclosure available to a personal employer is a disclosure of scheme membership. Although organisational employers are entitled to ask for a scheme record disclosure, they may ask for a disclosure of scheme membership instead and this would be sufficient to ensure they are not employing a barred individual (which is an offence under section 35).