

2010 No. 167

CHILDREN AND YOUNG PERSONS

PROTECTION OF VULNERABLE ADULTS

**The Protection of Vulnerable Groups (Scotland) Act 2007 (Fees
for Scheme Membership and Disclosure Requests) Regulations
2010**

Made - - - - 28th April 2010

Laid before the Scottish Parliament 29th April 2010

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 70(1) and (2) and 97(1) of the Protection of Vulnerable Groups (Scotland) Act 2007(a) and all other powers enabling them to do so.

In accordance with section 70(3) of that Act they have had regard to the circumstances in which the fees are payable, and the desirability of maintaining an appropriate balance among the quality of the performance of their vetting, barring and disclosure functions, the cost of that performance and the fees paid to them in respect of that performance.

Citation and commencement

1. These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees for Scheme Membership and Disclosure Requests) Regulations 2010 and come into force on the same day as section 44 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; and

“registered person” has the same meaning as in Part 5 of the Police Act 1997(b).

(a) 2007 asp 14.

(b) 1997 c. 50.

Prescribed fees

3.—(1) The fee prescribed in respect of applications to join the Scheme under section 45(1)(a), (b) or (c) (participation in Scheme) of the Act is £59.

(2) For the avoidance of doubt, where an existing scheme member, who participates in the Scheme in relation to only regulated work with children, or only regulated work with adults, subsequently applies to join the Scheme in relation to the other type of regulated work, the fee prescribed in respect of that subsequent application to join the Scheme under section 45(1)(a) or (b) is £59.

(3) The fee prescribed in respect of a request for the disclosure of the scheme member's scheme record under section 52 (disclosure of scheme records) of the Act is £59.

(4) The fee prescribed in respect of a request for the disclosure of the scheme member's short scheme record under section 53 (disclosure of short scheme record) of the Act is £18.

(5) The fee prescribed in respect of a request for the disclosure of the scheme member's statement of scheme membership under section 54 (disclosure of statement of scheme membership) of the Act is £18.

Fee for disclosure of scheme record where short scheme record previously supplied

4.—(1) Where an individual makes a disclosure request under section 52 of the Act in the circumstances specified in paragraph (2), the fee prescribed is £41.

(2) The circumstances are that—

- (a) the individual makes the disclosure request under section 52 of the Act within 30 days of the date of issue recorded on the short scheme record issued to the individual under section 53 of the Act; and
- (b) the individual's scheme record is to be disclosed to the same registered person who received the disclosure of the short scheme record under section 53 of the Act.

Waiver of fees for disclosure requests under sections 52 or 54 when requested at same time as applying to join the Scheme

5.—(1) The fee prescribed by regulation 3(3) is waived, in relation to one request for the disclosure of a scheme record, where the individual applies to join the Scheme under section 45 of the Act and at the same time makes a disclosure request under section 52 of the Act.

(2) The fee prescribed by regulation 3(5) is waived, in relation to one request for the disclosure of a statement of scheme membership, where the individual applies to join the Scheme under section 45 of the Act and at the same time makes a disclosure request under section 54 of the Act.

Waiver of fees for disclosure requests under section 52 to regulatory bodies in certain circumstances

6.—(1) The fee prescribed by regulation 3(3) is waived where at the same time as the individual applies to join the Scheme under section 45 of the Act, the individual—

- (a) provides details of the individual's registration with a regulatory body; and
- (b) makes disclosure requests under section 52 of the Act—
 - (i) for a scheme record to be disclosed to a person for the purpose of enabling or assisting that person (or any person for whom that person acts) to consider the individual's suitability, within the meaning of section 73(a) or (b) of the Act; and

- (ii) for a scheme record to be disclosed to a regulatory body for the purposes of enabling or assisting the regulatory body to consider the individual's suitability within the meaning of section 73(c) or (e).

(2) In this regulation "regulatory body" means—

- (a) the General Teaching Council for Scotland;
- (b) the Scottish Social Services Council.

Waiver of fees for those working in a voluntary and unpaid capacity for a qualifying voluntary organisation

7.—(1) The fees prescribed in regulations 3 and 4 are waived in relation to any application to join the Scheme under section 45 of the Act, or any disclosure request, where—

- (a) the application or disclosure request is accompanied by a statement from a registered person that the application or disclosure request is in connection with regulated work for a qualifying voluntary organisation;
- (b) the application or disclosure request is made by an individual in relation to regulated work in a voluntary and unpaid capacity for that qualifying voluntary organisation; and
- (c) the application or disclosure request is made solely in respect of that work.

(2) In this regulation—

"qualifying voluntary organisation" means an organisation which is not—

- (a) a further education institution, a school, a public or local authority, or under the management of a public or local authority; and
- (b) conducted primarily for profit, and any profit generated is used to further the objectives of the organisation and not distributed to its members; and

"Further education institution" has the same meaning as in paragraph 15 of schedule 2 to the Act.

ADAM INGRAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
28th April 2010

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under sections 70(1) and (2) and 97(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Act”), set out the prescribed fees in relation to applications to join the scheme under section 45(1)(a)(b) or (c) and disclosure requests made under sections 52 to 54 of the Act (regulation 3).

Regulation 4 provides that where an individual has requested a disclosure of their short scheme record under section 53 of the Act and subsequently makes a disclosure request under section 52 of the Act (disclosure of scheme records) the fee to be paid is the difference between the price of a disclosure request under section 52 of the Act less the price of a disclosure request under section 53 of the Act. The resulting effect is that the individual pays no more than they would have done had they requested only a disclosure under section 52 of the Act.

Section 46 of the Act provides that Ministers must disclose a statement of scheme membership to each scheme member unless the individual makes a disclosure request at the same time as the individual applies to join the Scheme and Ministers make the requested disclosure. Regulation 5(1) makes provision for the waiver of the fee for one disclosure of a scheme record requested under section 52 of the Act at the same time as the individual applies to join the Scheme so the individual is charged only in relation to the application to join the scheme. Regulation 5(2) makes provision for the waiver of the fee for the disclosure of one statement of scheme membership requested by the individual under section 54 of the Act at the same time as the individual applies to join the scheme so the individual is again charged only in relation to the application to join the scheme.

Regulation 6 makes provision for the waiver of the fee for disclosure of a scheme record to a regulatory body where at the same time as applying to join the Scheme the individual provides details of the individual’s registration with the regulatory body, requests a scheme record under section 52 for the purpose of enabling a person to consider, within the meaning of section 73(a) or (b), the individual’s suitability to do, or to be offered or supplied for regulated work and makes a disclosure request of a scheme record to a regulatory body to enable or assist the regulatory body to assess the individual’s suitability within the meaning of section 73 (c), (d) or (e) of the Act.

Regulation 7 makes provision for the waiver of the fees for applications to join the Scheme and all disclosure requests for those doing regulated work in a voluntary and unpaid capacity for a qualifying voluntary organisation (defined in regulation 7).

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