

2014 No. 33

CHILDREN AND YOUNG PERSONS

**The Protection of Vulnerable Groups (Scotland) Act 2007
(Miscellaneous Provisions) Amendment Order 2014**

Made - - - - *4th February 2014*
Laid before the Scottish Parliament *6th February 2014*
Coming into force - - *16th March 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Amendment Order 2014 and comes into force on 16th March 2014.

Provision of information to the United Kingdom Central Authority

2. After article 16 of the Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Order 2010(b) insert—

“**16A.**—(1) Where the United Kingdom Central Authority requests the information specified in paragraph (2) in relation to any individual, Scottish Ministers must provide that information to the United Kingdom Central Authority if they hold that information by virtue of performing their functions under Part 1 of the 2007 Act.

(2) The information specified is the fact that an individual is included in the children’s list (kept by Scottish Ministers under section 1(1)(a) of the 2007 Act) as a result of a conviction for any of the offences referred to in Articles 3 to 7 of the Directive.

(3) In this article—

(a) “the Directive” means Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA(c); and

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2010/446.

(c) OJ L 335, 17.12.2011, p.1, as read with the Corrigendum to Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 18, 21.1.2012, p.7).

- (b) “United Kingdom Central Authority” means the person designated as the United Kingdom Central Authority under Article 3 of Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States^(a).”

St Andrew’s House,
Edinburgh
4th February 2014

AILEEN CAMPBELL
Authorised to sign by the Scottish Ministers

(a) O.J. L 93, 7.4.2009, p.23.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Protection of Vulnerable Groups (Scotland) Act 2007 (Miscellaneous Provisions) Order 2010 (“the 2010 Order”) to require the provision of information held by Scottish Ministers to the UK Central Authority which is designated for the purposes of article 3 of Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States. The UK Central Authority can receive requests from other Member States under Article 10(3) of Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (as read with the Corrigendum) (“the Directive”) for information concerning the existence of any disqualification of an individual from exercising activities involving direct and regular contacts with children arising from a conviction for any of the offences referred to in Articles 3 to 7 of the Directive (which detail various sexual offences in relation to children). In certain circumstances the UK Central Authority, in order to comply with a request made under the Directive, will require information which is held by Scottish Ministers by virtue of performing their functions under Part 1 of the Protection of Vulnerable Groups (Scotland) Act 2007. That information is whether the individual is included in the children’s list as a result of a conviction for any of the offences referred to in Articles 3 to 7 of the Directive. The new article 16A inserted into the 2010 Order by article 2 of this Order requires Scottish Ministers to disclose such information held by them to the UK Central Authority when they receive a request.

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