
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 52

**POLICE
CHILDREN AND YOUNG PERSONS
PROTECTION OF VULNERABLE ADULTS**

The Police Act 1997 and the Protection of Vulnerable
Groups (Scotland) Act 2007 Remedial Order 2018

Made - - - - 8th February 2018

Coming into force - - 17th February 2018

The Scottish Ministers make the following remedial Order in exercise of the powers conferred by section 12(1) and (3) of the Convention Rights (Compliance) (Scotland) Act 2001(1) (“the 2001 Act”) and all other powers enabling them to do so.

The Scottish Ministers consider the provision made by this Order to be necessary or expedient in consequence of provisions in the Police Act 1997(2) and the Protection of Vulnerable Groups (Scotland) Act 2007(3), insofar as they require automatic disclosure of certain convictions, being incompatible with Convention rights(4).

In accordance with section 12(2) of the 2001 Act the Scottish Ministers are of the opinion that there are compelling reasons for making a remedial order as distinct from taking any other action.

In accordance with section 13(3) of the 2001 Act the Scottish Ministers laid before the Scottish Parliament a copy of the proposed draft Order, together with a statement of their reasons for proposing to make the Order, gave such public notice of the contents of the proposed draft Order as they considered appropriate, invited observations on it and had regard to written observations submitted.

In accordance with section 13(4) of the 2001 Act the Scottish Ministers laid before the Scottish Parliament a statement summarising all the observations to which they had regard under

(1) 2001 asp 7.

(2) 1997 c.50. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(3) 2007 asp 14.

(4) The term “Convention rights” has the meaning given by section 1 of the Human Rights Act 1998 (c.42). In the case of *P v Scottish Ministers* [2017] CSOH 33, the court declared that, insofar as they require automatic disclosure of the disposal of the petitioner’s case before the Children’s Hearing on 14 October 1987, the provisions contained in the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order (S.S.I. 2015/423) (“the legislation”) unlawfully and unjustifiably interfered with the petitioner’s rights under and in terms of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and that the Scottish Ministers did not, to that extent, have power to make the provisions. The court made an order in terms of section 102(2)(b) of the Scotland Act 1998, suspending the effect of the declarator, except in relation to the petitioner, for a period of nine months or such shorter period as may be required for the defect in the legislation to be corrected and for that correction to take effect. The legislation amended both the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007.

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section 13(3)(c) and specifying the changes which they made in the draft Order and the reasons for them.

In accordance with section 13(2) of the 2001 Act a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.