

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

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## **EXPLANATORY NOTES**

### **OVERVIEW**

#### **Part 3: Amendment of Part 5 of the Police Act 1997**

##### ***Section 78. Information in criminal conviction and record certificates***

140. **Section 78** requires the Vetting and Disclosure Unit to state on certificates that are issued under Part 5 of the Police Act whether or not a person is subject to the notification requirements under Part 2 of the Sexual Offences Act 2003. Under the existing provision, this information can only be included as additional information on enhanced certificates at the discretion of the Chief Constable. Under this provision, there will be no discretion and this information will always be included on the face of a disclosure certificate whilst the notification requirements remain live.
141. In addition, the Scottish Ministers are given a power to prescribe civil orders that should be included routinely on standard and enhanced certificates. It is expected that this will be used for Sexual Offences Prevention Orders and Risk of Sexual Harm Orders in the first instance. Chief Constables will retain the discretion to disclose information about other civil orders on enhanced certificates (which will continue to be available for purposes other than regulated work).

##### ***Section 79. Form of Part 5 applications***

142. **Section 79** allows the Scottish Ministers to determine the application form for disclosures under Part 5 administratively. This brings procedures into line with those for disclosure records under Part 2 of the Act. It also allows standard and enhanced disclosure certificates (which require a countersignature) to be processed electronically which is in line with the wider policy for e-Government.

##### ***Section 80. Payment of fee for information from certain police forces***

143. **Section 80** amends Part 5 of the Police Act to make it clear that when the Vetting and Disclosure Unit make requests under subsection 113B(4) or (5) to: the States of Jersey Police Force; the salaried police force of the Island of Guernsey; the Isle of Man Constabulary; or a body outside the British Islands who are a police force and whom the Scottish Ministers prescribed for the purposes of Part 5, that the Vetting and Disclosure Unit must pay a fee in respect of information received.

##### ***Section 81. Regulations about registration***

144. **Section 81** makes further amendments to Part 5 of the Police Act in relation to the conditions that apply to the register held under section 120 of the Police Act. Firstly, the Vetting and Disclosure Unit can refuse to include a person on the register if they believe that that person is likely to countersign less than a minimum number of applications

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

each year. Secondly, the Vetting and Disclosure Unit can remove a person who is already on the register if he or she countersigns less than a minimum number of applications each year. The figure for each circumstance would need to be prescribed in regulations.