

PROTECTION OF CHILDREN (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT

Section 2 – Reference following disciplinary action etc.

7. This section places a duty on organisations to refer individuals working in child care positions to the list.
8. Subsection (1) specifies that referrals can be made only when certain circumstances (listed in subsections (3) and (4)) have arisen. Subsection (2) sets out the criminal sanction which applies in relation to an organisation which fails to make a referral to the list when those circumstances have arisen.
9. Referrals can be made only when an individual is considered to have harmed a child or put a child at risk of harm and has, as a consequence, been dismissed, transferred, resigned, retired or made redundant or his or her contract has expired. No referral can be made unless the organisation has (or would, but for a resignation, retiral, redundancy or contract expiry, have) taken steps to remove the individual from his or her present position. Subsection (5) allows for referrals based on events which occurred before the commencement of the Act but provides that organisations are not under a duty to make referrals in relation to such events.