

PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

4. The Act follows the extensive review of child protection procedures in England and Wales carried out by Sir Michael Bichard and published as the Bichard Inquiry Report on 22 June 2004. Since that report was published, the Scottish Ministers and UK Government have accepted all the recommendations and have been working to implement them. This Act substantially implements the proposals set out in the Scottish Executive's consultation paper, *Protecting Vulnerable Groups: Scottish Vetting and Barring Scheme*, published on 8 February 2006. The Act also makes provision to amend the definition of school care accommodation services.
5. It makes provision for the following matters concerning the protection of vulnerable groups:
 - establishing a list of individuals unsuitable to work with children and consequently repealing PoCSA (which established the DWCL), and establishing a separate list of individuals unsuitable to work with protected adults;
 - replacing enhanced criminal record certificates with new disclosure records for those working with vulnerable groups, whether paid or unpaid;
 - establishing a scheme for those working with vulnerable groups, membership of which enables the ongoing collection of vetting information and assessment for unsuitability to work with those groups;
 - amendments to the Police Act to ensure consistency with the provisions in this Act and to make a number of technical changes to facilitate vetting and disclosure;
 - transferring the staff of Disclosure Scotland to the Scottish Administration; and
 - amending the definition of school care accommodation.
6. The Act requires amendments to orders made under ROA so that employers can ask for and receive information about spent convictions in respect of regulated work (this is called asking the "exempted question" under that Act). The Act also requires cross-border information sharing for the scheme to operate effectively and additional provision will be sought at Westminster (through a section 104 order under the Scotland Act or other means) to put this in place.

Safeguarding Vulnerable Groups Act 2006

7. The Safeguarding Vulnerable Groups Act 2006 received Royal Assent on 8 November 2006. The legislation establishes a vetting and barring scheme for England, Wales and Northern Ireland similar to the scheme established by this Act for Scotland. This Act makes provision to: complement the 2006 Act; ensure that both schemes are properly connected; and avoid cross-border loopholes. In addition, section 87 of the Act provides

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

a power to make further devolved provision by order for the purpose of giving full effect to the SVG Act or to any future distinct Northern Ireland legislation.

Functions of the Scottish Ministers in the Act

8. Many of the functions allocated to the Scottish Ministers will be undertaken on behalf of them by civil servants in an executive agency. The agency will be divided, administratively, into two separate elements: a Vetting and Disclosure Unit and a Central Barring Unit. The Central Barring Unit will exercise most of the functions allocated to the Scottish Ministers in Part 1 and the Vetting and Disclosure Unit will exercise most of the functions in Part 2 as well as the criminal record checks and other functions allocated from the Police Act. For the sake of clarity, these notes refer to the Central Barring Unit and the Vetting and Disclosure Unit, where appropriate, instead of the Scottish Ministers.