
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 14(3) and (4), 98(1) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Act”).

Section 14(1) and (2) of the Act requires the Scottish Ministers to list in the children’s list and the adults’ list individuals who meet the specified criteria for inclusion in either or both lists. Sections 14(3) and (4) empower the Scottish Ministers to specify what those criteria are to be. The effect of “listing” is to bar the individual from regulated work with children or adults in accordance with section 92 of the Act.

Article 3 specifies that the criteria which will result in listing in the children’s list are being convicted on indictment of any of the offences in Schedule 1 (Scottish offences); being charged on indictment with an offence listed in paragraphs 1 to 11 of Schedule 1, followed by acquittal of the charge on the ground of insanity, or a finding under section 55(2) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), and an order under section 57(2)(a) to (d) of the 1995 Act in relation to the acquittal or finding; and, in the case of existing scheme members, being convicted on indictment of any of the offences in Schedule 3 (non-Scottish offences).

Article 4 specifies that the criteria which will result in listing in the adults’ list are being convicted on indictment of any of the offences in Schedule 2 (Scottish offences); being charged on indictment with an offence listed in paragraphs 1 to 11 of Schedule 2, followed by acquittal of the charge on the ground of insanity, or a finding under section 55(2) of the 1995 Act, and an order under section 57(2)(a) to (d) of the 1995 Act in relation to the acquittal or finding; and, in the case of existing scheme members, being convicted on indictment of any of the offences in Schedule 4 (non-Scottish offences).

Article 5(1) provides that where a court convicts an individual of an offence listed in Schedule 1 or 2 (Scottish offences), it must give Ministers a statement of the offence, including a copy of the indictment and any other information which Ministers require for the purpose of determining whether the offence falls within Schedule 1 or 2.

Article 5(2) provides that where a court acquits an individual on the ground of insanity of an offence listed in paragraphs 1 to 11 of Schedule 1 or 2 (Scottish offences) or makes a finding under section 55(2) of the 1995 Act, and makes an order mentioned in section 57(2)(a) to (d) of the 1995 Act in relation to the acquittal or finding, it must give Ministers a statement of the charge of which the individual has been acquitted, including a copy of the indictment; a copy of the acquittal or finding under section 55(2) of the 1995 Act; a copy of any order mentioned in section 57(2)(a) to (d) of the 1995 Act; and any other information which Ministers require for the purpose of determining whether the offence falls within Schedule 1 or 2.