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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 337**

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

The Protection of Vulnerable Groups (Scotland) Act  
2007 (Transitory Provisions in Consequence of the  
Safeguarding Vulnerable Groups Act 2006) (No. 2) Order 2009

<i>Made</i>	- - - -	<i>2nd October 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th October 2009</i>
<i>Coming into force</i>	- -	<i>12th October 2009</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 87(1) and (3) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1.—(1) This Order may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) (No. 2) Order 2009.

(2) This Order comes into force on 12th October 2009.

**Effect of the Order**

2. This Order has effect until the commencement, for all purposes, of paragraph 30 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007.

**Modification of the Police Act 1997**

3.—(1) For the purpose of this Order section 113C(3) (criminal record certificates: suitability relating to children) of the Police Act 1997<sup>(2)</sup> has effect as if it had been modified by inserting after paragraph (a)—

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(1) 2007 asp 14.  
(2) 1997 c.50.

“(aa) the children’s barred list maintained under section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006(3);”.

(2) For the purpose of this Order section 113D(3) (criminal record certificates: suitability relating to adults) of the Police Act 1997 has effect as if it had been modified by inserting after paragraph (a)

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“(aa) the adults’ barred list maintained under section 2(1)(b) of the Safeguarding Vulnerable Groups Act 2006;”.

### **Modification of the Protection of Children (Scotland) Act 2003**

4.—(1) For the purpose of this Order section 17(1) (meaning of “disqualified from working with children”) of the Protection of Children (Scotland) Act 2003(4) has effect as if it had been modified by inserting after paragraph (b)—

“(ba) included in the list maintained under section 2(1)(a) (the children’s barred list) of the Safeguarding Vulnerable Groups Act 2006(5);”.

### **Amendment to the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006**

5.—(1) Regulation 13 (children’s suitability statement – specified children’s lists and directions) of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006(6) is amended by inserting after paragraph (1)(a)—

“(aa) in the children’s barred list maintained under section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006, the details are whether any appeal against inclusion in the list is pending;”.

(2) Regulation 14 (adults’ suitability statement – specified adults’ list) of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 is amended as follows:—

- (a) at the end of paragraph (a) omit “and”; and
- (b) after paragraph (a) insert—

“(aa) in the adults’ barred list maintained under section 2(1)(b) of the Safeguarding Vulnerable Groups Act 2006, the details are whether any appeal against inclusion in the list is pending; and”.

### **Revocation**

6. The Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) Order 2009(7) is revoked.

St Andrew’s House,  
Edinburgh  
2nd October 2009

*ADAM INGRAM*  
Authorised to sign by the Scottish Ministers

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(3) 2006 c.47.  
(4) 2003 asp 5.  
(5) 2006 c.47.  
(6) S.S.I. 2006/96 amended by S.S.I. 2006/521, S.S.I. 2007/112, S.S.I. 2008/6 and S.S.I. 2009/40, and 216.  
(7) S.S.I. 2009/4.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The purpose of this Order is to make transitory provision in consequence of the Safeguarding Vulnerable Groups Act (Commencement No. 6, Transitional Provisions and Savings) Order 2009 (S.I. 2009/2611).

S.I. 2009/2611 appoints 12th October 2009 as the day for the coming fully into force of various provisions of the Safeguarding Vulnerable Groups Act 2006 (“the 2006 Act”) including section 2 (barred lists). Under that section the Independent Barring Board (established under section 1 of the 2006 Act) is required to establish and maintain lists of those barred from working in regulated activity with children or adults. These lists will replace, in England and Wales, the existing lists under section 1 of the Protection of Children Act 1999 and section 81 of the Care Standards Act 2002. During a transitional period those on the existing lists will be transferred from those lists onto the new lists under the 2006 Act.

This Order, which has effect until the repeal of section 113C to 113F of the Police Act 1997 (by paragraph 30 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007), provides at articles 3 and 4 that the Police Act 1997 and the Protection of Children (Scotland) Act 2003 are to have effect as if they had been modified to include references to these new lists where appropriate. In relation to the Police Act 1997 this will mean that during this period enhanced disclosure certificates issued under the Police Act 1997 may include details of all 4 of the English and Welsh lists (the children’s barred list under section 2(1)(a) of the 2006 Act, the adults’ barred list under section 2(1)(b) of the 2006 Act, the list under section 1 of the Protection of Children Act 1999 and the list under section 81 of the Care Standards Act 2000). In relation to the Protection of Children (Scotland) Act 2003 those disqualified from working with children in Scotland will include those listed on either the children’s barred list under section 2(1)(a) the 2006 Act or the list under section 1 of the Protection of Children Act 1999.

Article 5 amends the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 to enable enhanced disclosure certificates to also provide details, where relevant, of any appeal against inclusion in the children’s barred list maintained under section 2(1)(a) of the 2006 Act or against inclusion in the adults’ barred list maintained under section 2(1)(b) of that Act as the case may be. The 2006 Act does not provide for “provisional” listing.

Article 6 revokes the Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups Act 2006) Order 2009.