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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 180**

**The Protection of Vulnerable Groups (Scotland) Act  
2007 (Savings and Transitional Provisions) Order 2010**

**Transitional provision relating to provisional listings under the 2003 Act following a reference under section 2(1) or 4(1) of the 2003 Act**

4.—(1) Where Ministers, having considered a reference under section 2(1) or 4(1) of the 2003 Act, have provisionally listed an individual under section 7(1) (provisional inclusion in list) of the 2003 Act but, prior to the relevant date, have not made a determination under section 5(4) of the 2003 Act—

- (a) Ministers are deemed to be satisfied as to the matters specified in section 10(1)(b) and (2) of the Act; and
- (b) the provisional listing is to be treated as if it were a decision by Ministers under section 10(2) of the Act to consider the individual for listing and Ministers must comply with the requirement in section 30(2)(b) of the Act.

(2) For the avoidance of doubt, where paragraph (1) applies Ministers must proceed to consider whether to list the individual in the children's list in accordance with the Act and the 2010 Regulations.

(3) Without prejudice to paragraph (2), anything done under the 2003 Act or the 2004 Regulations in relation to the reference under the 2003 Act is to be treated as having been done under the Act or the 2010 Regulations, as the case may be.

(4) Where, prior to the relevant date, Ministers are required under section 5(4)(a) of the 2003 Act to amend the list to indicate that the individual's inclusion in the list is no longer provisional or to restore the individual to the list, but by the relevant date have not provided the notices referred to in section 5(6) of the 2003 Act, section 30 of the Act and the 2010 Regulations apply as if the individual had been listed under section 15 of the Act.

(5) Where, prior to the relevant date, Ministers have determined under section 5(4)(b) of the 2003 Act to remove the individual from the list but by the relevant date have not notified that fact to the individual or any organisation for which the Ministers know the individual is working in a child care position, Ministers must notify the individual and that organisation (or those organisations if more than one).