

2010 No. 182

CHILDREN AND YOUNG PERSONS

PROTECTION OF VULNERABLE ADULTS

**The Protection of Vulnerable Groups (Scotland) Act 2007
(Referrals by Courts) (Prescribed Information) Regulations 2010**

Made - - - - 5th May 2010

Laid before the Scottish Parliament 6th May 2010

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(1) and (3) and 97(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007(b) and all other powers enabling them to do so.

Citation, commencement and interpretation

1. These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Referrals by Courts) (Prescribed Information) Regulations 2010 and come into force on the same day as section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007.

2. In these Regulations—

“the Act” means the Protection of Vulnerable Groups (Scotland) Act 2007; and

“referral” means the prescribed information given to Ministers under section 7 of the Act and

“making the referral” is to be construed accordingly.

Referrals by courts: Prescribed information for the purposes of section 7 of the Act

3. The information in the Schedule is prescribed information for the purposes of section 7(1) and (3) of the Act.

ADAM INGRAM

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
5th May 2010

(a) See section 97(1) for the definition of “prescribed”.

(b) 2007 asp 14.

SCHEDULE

Regulation 3

Prescribed information for the purposes of section 7(1) and (3) of the Act

1. Name and address of the court making the referral to Ministers and contact details of an authorised contact at that court.
2. Identity details relating to the convicted individual who is the subject of the referral, including—
 - (a) the individual's full name and any other names by which the individual is known, or has been known;
 - (b) the most recent address for the individual;
 - (c) any other addresses at which the individual is or has been resident in the 10 years preceding the date of the referral;
 - (d) the individual's date of birth; and
 - (e) the individual's gender.
3. Where section 7(3) of the Act applies, a statement that the court is satisfied that it may be appropriate for the individual to be listed in the children's list or in the adults' list (or in both lists).
4. Evidence that the individual does, has done or is likely to do regulated work with children, or regulated work with adults, or both.
5. Details of the offence of which the individual has been convicted, including—
 - (a) a copy of the complaint or indictment;
 - (b) extracts of the minutes of the proceedings of the court in which the individual was convicted recording details of the conviction;
 - (c) details of the sentence or other disposal by the court of the individual's case;
 - (d) details of any order made by the court and any special conditions imposed.
6. A copy of any report submitted to the court in connection with consideration of the appropriate sentence or other disposal of the individual's case.
7. Details of any appeal lodged, the final outcome of the appeal and a copy of any report relevant to the appeal.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 7(1) and (3) and 97(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Act”) and set out the prescribed information for the purposes of section 7(1) and (3) of the Act.

A court making a referral to the Scottish Ministers under section 7(1) must provide in that referral any of the prescribed information set out in the Schedule that it holds in relation to the convicted individual. A court making a referral to the Scottish Ministers under section 7(3) may provide in that referral any of the prescribed information set out in the Schedule that it holds in relation to the convicted individual. A court can only provide the prescribed information that it holds (section 7(1) and (3)) and is not obliged to make enquiries to ascertain any information prescribed under these Regulations.

Where an individual has been convicted of a relevant offence (defined in section 32 of the Act) and prescribed information has been given to the Scottish Ministers under section 7(1) of the Act, the Scottish Ministers must consider listing the individual in the children’s list (section 11(2) of the Act). Where prescribed information has been given to the Scottish Ministers in relation to convictions for other offences, the Scottish Ministers must consider listing the individual in the children’s list, or adults’ list, as the case may be, where the Scottish Ministers are satisfied that the information indicates that it may be appropriate for the individual to be included in the relevant list or lists and the individual does, has done or is likely to do regulated work with children or regulated work with adults (the terms “regulated work with children” and “regulated work with adults” are defined in section 91(2) and (3) of the Act). The procedure to be followed by the Scottish Ministers in conducting this consideration for listing is set out in the Protection of Vulnerable Groups (Scotland) Act 2007 (Consideration for Listing) Regulations 2010 (S.S.I. 2010/183).

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