

**2010 No. 192**

**CHILDREN AND YOUNG PERSONS**

**PROTECTION OF VULNERABLE ADULTS**

**The Protection of Vulnerable Groups (Scotland) Act 2007  
(Prescribed Manner and Place for the Taking of Fingerprints and  
Prescribed Personal Data Holders) Regulations 2010**

*Made* - - - - *12th May 2010*

*Laid before the Scottish Parliament* *13th May 2010*

*Coming into force in accordance with regulation 1(1)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 63(1), 64(2), 72(1), 72(2)(a) and (d), 97(1)(a) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007<sup>(b)</sup> and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Manner and Place for the Taking of Fingerprints and Prescribed Personal Data Holders) Regulations 2010 and come into force on the same day as section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007.

(2) These Regulations extend to Scotland and, in so far as regulations 3 and 4 extend beyond Scotland, they do so only as a matter of Scots law.

2. In these Regulations—

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

“an individual” means an applicant to join the Scheme, or a scheme member required by Ministers to have their fingerprints taken under section 63 of the Act; and

“nominated police station” means the police station in the United Kingdom at which the individual proposes to attend for the purpose of having their fingerprints taken.

**Prescribed manner and place for taking of fingerprints**

3.—(1) All police stations in the United Kingdom are prescribed as places at which fingerprints may be taken for the purposes of section 63(1) of the Act.

(2) Where Ministers require an individual under section 63(1) of the Act to have fingerprints taken they must notify the individual of that requirement and of the procedures set out in

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

(b) 2007 asp 14.

paragraphs (3) to (6) which are prescribed as the manner in which fingerprints are to be taken for the purposes of section 63(1) of the Act.

(3) An individual in receipt of notification in accordance with paragraph (2) who wishes to proceed to have fingerprints taken must inform Ministers within 28 days of receipt of that notification—

- (a) where the individual is—
  - (i) aged 16 years or over, that the individual consents to the taking of their fingerprints; or
  - (ii) under the age of 16 years, that the individual and the responsible person consent to the taking of the individual's fingerprints; and
- (b) of the nominated police station.

(4) Failure by an individual to comply with paragraph (3) may be treated as a failure to comply with a requirement under section 63 of the Act for the purposes of section 62(2)(a) of the Act.

(5) Ministers may, in such circumstances as they consider appropriate, specify another police station (“the specified police station”) in place of the nominated police station.

(6) Any constable of the nominated police station, or of the specified police station, may take the individual's fingerprints at the nominated police station, or at the specified police station, on such reasonable date and time notified to the individual.

(7) In this regulation “responsible person” means—

- (a) a person having, in relation to the individual, parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995(a)) or parental rights (within the meaning of section 2(4) of that Act);
- (b) in England and Wales the individual's parent, guardian or other person having parental responsibility for the individual within the meaning of section 3 of the Children Act 1989(b); or
- (c) in Northern Ireland, a person having, in relation to the applicant, parental responsibilities within the meaning of article 6 of the Children (Northern Ireland) Order 1995(c).

#### **Prescribed personal data holders**

4. The following persons are prescribed as personal data holders for the purposes of section 64 of the Act:—

- (a) the General Register Office for Scotland;
- (b) the UK Border Agency; and
- (c) Driver and Vehicle Licensing Northern Ireland.

*ADAM INGRAM*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
12th May 2010

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(a) 1995 c.36.  
(b) 1989 c.41.  
(c) S.I. 1995/755 (N.I. 2).

## EXPLANATORY NOTE

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

These Regulations are made under sections 63(1), 64(2), 72(1), 72(2)(a) and (d), 97(1) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Act”).

Regulation 3 prescribes the manner and place for the taking of fingerprints under section 63 of the Act. In terms of the manner and place prescribed by regulation 3—

- individuals must, within 28 days of being notified of the requirement to have fingerprints taken, notify Scottish Ministers whether they consent to the taking of their fingerprints (special provision is made for the obtaining of consent of those aged under 16 years) and if so, which police station they wish to attend to have their fingerprints taken. Failure to do so may be regarded as failure to comply with a requirement under section 63 of the Act (failure to comply with a requirement under section 63 means that the Scottish Ministers need not consider the application or request made by the individual);
- the Scottish Ministers may require the individual to attend an alternative police station to the station nominated by the individual in such circumstances as they consider appropriate (specified police station); and
- fingerprints may be taken by any constable of the nominated police station (or specified police station) at a date and time notified to the individual.

Regulation 4 prescribes the General Register Office for Scotland, the UK Border Agency and Driver and Vehicle Licensing Northern Ireland as personal data holders. Scottish Ministers may use information given to them by the General Register Office for Scotland, the UK Border Agency and Driver and Vehicle Licensing Northern Ireland to check evidence of identity given to them for the purposes of section 62 of the Act (evidence of identity given by an individual making an application to join, or be removed from, the scheme, a request to correct a scheme record, or a disclosure request).

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