

Order made by the Scottish Ministers, laid before the Scottish Parliament under section 14(5)(b) of the Convention Rights (Compliance) (Scotland) Act 2001 for approval by resolution of the Scottish Parliament within 120 days beginning with 9th September 2015, being the date on which the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015 was made, not taking into account periods of dissolution or recess for more than 4 days.

SCOTTISH STATUTORY INSTRUMENTS

2015 No. 423

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

The Police Act 1997 and the Protection of Vulnerable
Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015

Made - - - - 10th December 2015

Coming into force - - 8th February 2016

The Scottish Ministers make the following remedial Order in exercise of the powers conferred by section 12(1) and (3) and 14(5)(a) of the Convention Rights (Compliance) (Scotland) Act 2001⁽¹⁾ (“the 2001 Act”) and all other powers enabling them to do so.

The Scottish Ministers consider the provision made by this Order to be necessary or expedient in consequence of the provisions in the Police Act 1997⁽²⁾ and the Protection of Vulnerable Groups (Scotland) Act 2007⁽³⁾ in relation to disclosure of spent criminal convictions and other related matters which may be incompatible with Convention rights⁽⁴⁾.

In accordance with section 12(2) of the 2001 Act the Scottish Ministers are of the opinion that there are compelling reasons for making a remedial order as distinct from taking any other action.

In accordance with section 14(2) of the 2001 Act the Scottish Ministers gave such public notice as they considered appropriate of the contents of the Police Act 1997 and the Protection of Vulnerable

(1) 2001 asp 7.

(2) 1997 c.50. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(3) 2007 asp 14.

(4) The “Convention rights” has the meaning given by section 1 of the Human Rights Act 1998 (c.42). In the case of *R (on the application of T and another) v Secretary of State for the Home Department and another* [2014] UKSC 35 (judgment of 18th June 2014), the Supreme Court made a declaration of incompatibility under section 4 of the Human Rights Act 1998 that the provisions of sections 113A and 113B of the Police Act 1997 (as applicable in England and Wales) were incompatible with article 8 of the Convention because the requirements in relation to blanket disclosure of all spent convictions were not in accordance with the law. Similar provisions in sections 113A and 113B of the Police Act 1997 (as applicable in Scotland) may be incompatible with article 8 of the Convention. Section 49(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007 relies on section 113A(3)(a) of the Police Act 1997 and may also be incompatible with article 8 of the Convention.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Groups (Scotland) Act 2007 Remedial Order 2015 and invited persons wishing to make observations on the Order to do so.

In accordance with section 14(4) of the 2001 Act as soon as practicable after the end of the period mentioned in section 14(2)(a) of the 2001 Act, they laid before the Scottish Parliament a statement summarising all the observations to which they had had regard under section 14(3) of the 2001 Act and specifying the modifications which they consider it appropriate to make to the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015.