



Protection of Children (Scotland) Act 2003

2003 asp 5

Duty to keep list

F1 **Duty of Scottish Ministers to keep list**

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

Referrals

F12 **Reference following disciplinary action etc.**

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F13 **Reference by employment agency etc.**

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F14 Reference by certain other persons

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

Inclusion in list

F15 Inclusion in list following referral under section 2(1) or 4(1)

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F16 Individuals named in the findings of certain inquiries

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 Provisional inclusion in list

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F18 Determination under section 5 or 6: power to regulate procedure

.....

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F19 Protection from actions of defamation

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F110 Individuals convicted of an offence against a child

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

Effect of inclusion in list

F111 Offences relating to work in a child care position

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F212 Searches of lists: amendment of Police Act 1997

.....

Textual Amendments

- F2** S. 12 repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.S.I. 2006/166, art. 2(1)(d)(ii)

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

13 Amendment of Teaching Council (Scotland) Act 1965

In section 6 (register of teachers) of the Teaching Council (Scotland) Act 1965 (c. 19), after subsection (2B) there is inserted—

“(2C) A person shall not be entitled to be registered if he is included (otherwise than provisionally) in the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003 (asp 5).

(2D) Any person who is registered and is, at any time after being registered, included (otherwise than provisionally) in that list shall be removed from the register.”.

Commencement Information

II S. 13 in force at 10.1.2005 by [S.S.I. 2004/522](#), **art. 2(1)**

Removal from list and appeals

^{F1}14 Applications for removal from list

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); [S.S.I. 2011/157](#), art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by [S.S.I. 2010/180](#), arts. 1, 3-12)

^{F1}15 Appeals: inclusion in list under section 5 or 6 etc.

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); [S.S.I. 2011/157](#), art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by [S.S.I. 2010/180](#), arts. 1, 3-12)

16 Appeals: inclusion in list following conviction of offence against a child

(1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.

(2) In section 106(1) (right of appeal in solemn proceedings)—

(a) after paragraph (da), there is inserted—

“(db) against any reference proposed under section 10(1) of the Protection of Children (Scotland) Act 2003 (asp 5) in respect of the conviction;

(dc) against such reference and, subject to subsection (2) below, such sentence, disposal or order or any order deferring sentence;”;

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in paragraph (f), the words after “against” become sub-paragraph (i); and
 - (c) at the end of that paragraph there is inserted—
 - “(ii) both such a conviction and such a reference; or
 - (iii) such a conviction, such a reference and, subject to subsection (2) below, such sentence, disposal or order.”.
- (3) In section 116 (abandonment of appeal in solemn proceedings), for subsection (2) there is substituted—
- “(2) A person who has appealed under section 116(1)(dc) or (f) of this Act may abandon the appeal in so far as it is against conviction, reference or sentence, decision, disposal or order and may proceed with it against—
- (a) both reference and sentence, decision, disposal or order; or
 - (b) reference alone; or, as the case may be
 - (c) sentence, decision, disposal or order alone.”.
- (4) In section 118 (disposal of appeals in solemn proceedings)—
- (a) after subsection (4), there is inserted—

“(4AA) The High Court may dispose of an appeal against a reference proposed under subsection (1) of section 10 of the Protection of Children (Scotland) Act 2003 (asp 5)—

 - (a) by dismissing the appeal and affirming such reference; or
 - (b) if it thinks—
 - (i) in a case to which subsection (3) of that section applies, that the court which is proposing to make the reference should not have been satisfied as to the condition mentioned in that subsection;
 - (ii) in a case to which subsection (4) of that section applies, that the court which is proposing to make the reference should have been satisfied as to the condition mentioned in that subsection,by directing the court not to make the reference.”;
 - (b) in subsection (7), the words after “on” become paragraph (a); and
 - (c) at the end of that subsection there is inserted “; or, as the case may be,
 - (b) whether a reference is appropriate in any similar case.”.
- (5) In section 121A(1) (suspension of certain sentences pending appeal), after “(e)” there is inserted “ (other than an appeal under section 106(1)(db) or (dc)) ”.
- (6) In section 173(2) (quorum of High Court for appeals in summary proceedings), after “(c)” there is inserted “ or (cb) ”.
- (7) In section 175 (right of appeal in summary proceedings)—
- (a) the word “or” which precedes paragraph (ca) of subsection (2) is repealed;
 - (b) after that paragraph, there is inserted—

“(cb) against any reference proposed under section 10(1) of the Protection of Children (Scotland) Act 2003 (asp 5) in respect of the conviction or, as the case may be, against such reference and such sentence, disposal or order; or”;

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) in paragraph (d) of that subsection, the words after “against” become sub-paragraph (i);
 - (d) at the end of that paragraph there is inserted—
 - “(ii) both such a conviction and such a reference; or
 - (iii) such a conviction, such a reference and such sentence, disposal or order.”;
 - (e) in subsection (8), for the words from “against”, where first occurring, to “alone,” there is substituted “under subsection (2)(cb) or (d) above may abandon the appeal in so far as it is against conviction, reference or sentence and may proceed with it against—
 - (a) both reference and sentence; or
 - (b) reference alone; or, as the case may be
 - (c) sentence alone.”; and
 - (f) in subsection (9), after “(c)” there is inserted “ or (cb) ”.
- (8) In section 186 (appeals against sentence in summary proceedings), after “(c)”, where it appears in subsections (1), (2), (9) and (10), there is in each case inserted “ or (cb) ”.
- (9) In section 187(1) (leave to appeal in summary proceedings), after “(c)” there is inserted “ or (cb) ”.
- (10) In section 189 (disposal of appeals in summary proceedings)—
- (a) after subsection (2), there is inserted—
 - “(2A) The High Court may dispose of an appeal against a reference proposed under subsection (1) of section 10 of the Protection of Children (Scotland) Act 2003 (asp 5) by—
 - (a) dismissing the appeal and affirming such reference; or
 - (b) if it thinks—
 - (i) in a case to which subsection (3) of that section applies, that the court which is proposing to make the reference should not have been satisfied as to the condition mentioned in that subsection;
 - (ii) in a case to which subsection (4) of that section applies, that the court which is proposing to make the reference should have been satisfied as to the condition mentioned in that subsection,
 - by directing the court not to make the reference.”;
 - (b) in subsection (7), the words after “on” become paragraph (a); and
 - (c) at the end of that subsection there is inserted “; or, as the case may be,
 - (b) whether a reference is appropriate in any similar case.”.
- (11) In section 193A(1) (suspension of certain sentences pending appeal), after “Act” there is inserted “ (other than by way of an appeal under section 175(2)(cb) of this Act against a reference only) ”.

Commencement Information

I2 S. 16 in force at 10.1.2005 by **S.S.I. 2004/522, art. 2(1)**

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Interpretation and general

F1 17 Meaning of “disqualified from working with children”

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 18 Interpretation

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 19 Notices

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 20 Offences by bodies corporate etc.

.....

Textual Amendments

- F1** Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\), s. 101\(2\), Sch. 4 para. 42](#) (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 21 Orders and regulations

.....

Status: Point in time view as at 28/02/2011.

Changes to legislation: Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

F1 22 Short title and commencement

.....

Textual Amendments

F1 Act (with the exception of ss. 13, 16) repealed (28.2.2011) by [Protection of Vulnerable Groups \(Scotland\) Act 2007 \(asp 14\)](#), s. 101(2), **Sch. 4 para. 42** (with ss. 90, 99); S.S.I. 2011/157, art. 2(a) (with savings for effects of 2007 asp 14, Sch. 4 para. 42 by S.S.I. 2010/180, arts. 1, 3-12)

Status:

Point in time view as at 28/02/2011.

Changes to legislation:

Protection of Children (Scotland) Act 2003 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.