

PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

OVERVIEW

Part 1 – the Lists

Section 7. Reference by court

22. **Section 7(1)** requires that, where a court convicts an individual of a relevant offence (as defined by schedule 1), the court must provide any information, as prescribed by the Scottish Ministers, that relates to the convicted individual. Section 11(2) requires that Ministers must consider an individual for listing in the children’s list where that individual has been referred by a court, following a conviction for a relevant offence (relevant offences are only applicable to the children’s list and not the adults’ list). The prescribed information provided by the court will be used for the purposes of these considerations.
23. **Section 7(2)** gives the courts a power to refer an individual for consideration for listing where that individual commits any offence other than a relevant offence. The court is required to be satisfied that it may be appropriate for the individual to be listed on one or other or both lists. The Scottish Ministers, as the Central Barring Unit, will consider the court referral (under section 11) as they would any other referral. Note that section 7(2) of this Act only requires the court to be satisfied that it may be appropriate for the individual to be listed; there is no re-offending test and the court is not expected to reach any definitive conclusion.
24. In all cases of a court referral, the individual can only be listed following a consideration: very serious offences leading to automatic listing are those prescribed by order under section 14. So court referrals will always allow the full circumstances of the case to be considered by the Central Barring Unit before making a determination.