

*These notes relate to the Protection of Vulnerable Groups (Scotland)
Act 2007 (asp 14) which received Royal Assent on 18 April 2007*

PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

OVERVIEW

Part 1 – the Lists

Section 9. Failure to refer: offence

27. Organisations, employment agencies, nurse agencies and employment businesses commit an offence if they fail to discharge their duty to refer within 3 months from the date that the duty arose. This offence attracts a penalty of up to 12 months imprisonment and /or a fine not exceeding the statutory maximum on summary conviction. On conviction on indictment, the penalty is up to 5 years imprisonment and / or an unlimited fine. The severity of the penalty reflects the fact that this offence has potentially very serious consequences: a failure to refer means that an individual, who might have been barred had their case been considered, can continue to undertake regulated work with children and/or protected adults.
28. Section 89 of the Act makes provision for particular individuals to be held accountable where an offence is committed by an organisation.