



Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

PART 6

INTERPRETATION

97 General interpretation

(1) In this Act—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995 (c. 46),

“the 1997 Act” means the Police Act 1997 (c. 50),

“the 2001 Act” means the Regulation of Care (Scotland) Act 2001 (asp 8),

[^{F1}“the 2010 Act” means the Public Services Reform (Scotland) Act 2010 (asp 8),]

“care service” has the same meaning as in [^{F2}Part 5 of the 2010 Act],

“charity” means a body entered in the Scottish Charity Register,

“charity trustees” has the meaning given in section 106 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10),

“chief constable” means the chief constable of [^{F3}the Police Service of Scotland],

“child” means an individual under the age of 18,

“conduct” includes neglect and other failures to act,

[^{F4}“conviction” means a conviction within the meaning of the Rehabilitation of Offenders Act 1974; and references to “convicted” (other than in section 14) are to be construed accordingly,]

“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),

“disciplinary proceedings” means proceedings in which the regulatory body for a profession is to decide whether disciplinary action should be taken against an individual carrying on that profession,

[^{F5}“Disclosure and Barring Service” and “DBS” mean the body established by section 87(1) of the Protection of Freedoms Act 2012,]

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“disclosure declaration” means a declaration of the type referred to in disclosure condition C (see section 55) which is made in relation to a disclosure request,

“disclosure record” means a—

- (a) scheme record,
- (b) short scheme record, or
- (c) statement of scheme membership,

disclosed under Part 2,

“disclosure request” means a request for a disclosure under section 52, 53 or 54 of—

- (a) a scheme record,
- (b) a short scheme record, or
- (c) a statement of scheme membership,

“employment” means paid employment, whether under a contract of service or apprenticeship or under a contract for services (and “employee” and related words are to be construed accordingly),

“employment agency” means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding individuals employment with employers or of supplying employers with individuals for employment by them,

“employment business” means the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of supplying individuals in the employment of the person carrying on the business to act for, and under the control of, other persons in any capacity,

“Health Board” means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c. 29),

“Her Majesty's Inspectors of Schools” means the inspectors of schools appointed by Her Majesty under the Education (Scotland) Act 1980 (c. 44),

^{F6} ...

“legal proceedings” means civil or criminal proceedings in or before any court or tribunal,

“Ministers” means the Scottish Ministers,

“organisation” means—

- (a) a body corporate or unincorporated,
- (b) an individual who, in the course of a business, employs or otherwise gives work to other persons,
- (c) the governing body, trustees, or other person or body of persons responsible for the management of any of the following—
 - (i) a school,
 - (ii) a body listed in schedule 2 to the Further and Higher Education (Scotland) Act 2005 (asp 6),
 - (iii) ^{F7} a college of further education which is assigned to a regional strategic body by order made under section 7C(1) of that Act,]
 - (iii) a hostel used mainly by pupils attending a school or body mentioned in paragraph (i) or (ii) respectively,

“personnel supplier” means an organisation which carries on an employment agency or employment business,

^{F8} ...

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[^{F9}“police force” has the same meaning as in section 69 of the Disclosure (Scotland) Act 2020,]

“prescribed” (except where used in sections 18(4)(b) and 49(1)(a)) means prescribed in regulations made by Ministers (and “prescribe” is to be construed accordingly),

“registrar of dentists and dental care professionals” means the registrar appointed under section 14 of the Dentists Act 1984 (c. 24),

“Registrar of health professionals” means the Registrar appointed under Article 4 of the Health Professions Order 2001 (S.I. 2002/254),

“Registrar of nurses and midwives” means the Registrar appointed under Article 4 of the Nursing and Midwifery Order 2001 (S.I. 2002/253),

[^{F10} “registrar of pharmacists” means the registrar appointed under article 18 of the Pharmacy Order 2010,]

“school” has the same meaning as in the Education (Scotland) Act 1980 (c. 44),

^{F11}
...

“Special Health Board” means a board constituted by order under section 2(1) (b) of the National Health Service (Scotland) Act 1978 (c. 29).

- (2) For the purposes of this Act, Ministers must assume that an individual is doing regulated work for an organisation if they—
- (a) have made a disclosure in respect of the individual, in relation to that type of regulated work, under section 52, 53 or 54,
 - (b) know that the disclosure was sought for the purposes of enabling or assisting the organisation to consider the scheme member's suitability to do, that type of regulated work for the organisation (or to be offered such work by the organisation), and
 - (c) have not been satisfied that the individual has not been engaged to do, or has stopped doing, that type of regulated work for the organisation.
- (3) References in this Act to Ministers considering whether to list an individual are to be read as references to Ministers considering whether to list an individual in the children's list, in the adults' list or, as the case may be, in both lists in pursuance of section 10, 11, 12 or 13.
- (4) References in this Act to Ministers' vetting, barring and disclosure functions are references to their functions under Parts 1 and 2 of this Act and Part 5 of the 1997 Act (other than functions relating to the making of regulations and orders).
- (5) References in this Act to relevant police forces, and to the chief officers of those forces, are to be read in the same way as they are read in relation to an application under section 113B of the 1997 Act.
- (6) The words and other expressions listed in schedule 5 are defined or otherwise explained for the purposes of this Act by the provisions indicated in that schedule.

Textual Amendments

- F1** Words in s. 97(1) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 14 para. 34(a)**; [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

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- F2** Words in s. 97(1) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 14 para. 34(b)**; S.S.I. 2010/321, art. 3, **Sch.**; S.S.I. 2011/122, art. 2, **Sch.**
- F3** Words in s. 97(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 36(6)(a)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F4** Words in s. 97(1) inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), **ss. 90(2)**, 97 (with s. 96); S.S.I. 2021/380, reg. 2, **sch.**
- F5** Words in s. 97(1) inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), s. 97, **sch. 5 para. 12(10)(a)** (with s. 96); S.S.I. 2021/380, reg. 2, **sch.**
- F6** Words in s. 97(1) repealed (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), s. 97, **sch. 5 para. 12(10)(b)** (with s. 96); S.S.I. 2021/380, reg. 2, **sch.**
- F7** Words in s. 97(1) inserted (31.3.2015) by The Post-16 Education (Scotland) Act 2013 (Modification of Legislation) Order 2015 (S.S.I. 2015/153), art. 1, **Sch. para. 4**
- F8** Words in s. 97(1) repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 36(6)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F9** Words in s. 97(1) substituted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), s. 97, **sch. 5 para. 12(10)(c)** (with s. 96); S.S.I. 2021/380, reg. 2, **sch.**
- F10** Words in s. 97(1) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), art. 1(5), **Sch. 4 para. 16(c)**; S.I. 2010/1621, art. 2(1), **Sch.**
- F11** Words in s. 97(1) repealed (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 19(b)**

Commencement Information

- I1** S. 97(1) in force at 1.9.2007 by S.S.I. 2007/385, art. 2, **Sch.**
- I2** S. 97(2)-(6) in force at 28.2.2011 by S.S.I. 2011/157, **art. 2(a)**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 97(1) words repealed by [2020 asp 13 sch. 5 para. 5\(13\)\(a\)\(i\)](#)
- s. 97(1) words repealed by [2020 asp 13 sch. 5 para. 5\(13\)\(a\)\(ii\)](#)
- s. 97(2) words substituted by [2020 asp 13 sch. 5 para. 5\(13\)\(b\)](#)
- s. 97(3) words substituted by [2020 asp 13 sch. 5 para. 10\(52\)](#)
- s. 97(4) words substituted by [2020 asp 13 sch. 5 para. 5\(13\)\(c\)](#)
- s. 97(5) words substituted by [2020 asp 13 sch. 5 para. 5\(13\)\(d\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by [2020 asp 13 s. 80\(2\)](#)
- s. 8(3)(za) inserted by [2020 asp 13 s. 82\(3\)](#)
- s. 10(1)(aa) inserted by [2020 asp 13 s. 80\(3\)](#)
- s. 13A-13C inserted by [2020 asp 13 s. 76\(2\)](#)
- s. 18(5) inserted by [2020 asp 13 sch. 5 para. 5\(2\)\(b\)](#)
- s. 30(3A)-(3C) inserted by [2020 asp 13 s. 77\(3\)](#)
- s. 45A inserted by [2020 asp 13 s. 71](#)
- s. 45B inserted by [2020 asp 13 s. 72](#)
- s. 45C-45G inserted by [2020 asp 13 s. 73\(2\)](#)
- s. 45H inserted by [2020 asp 13 s. 88\(3\)](#)
- s. 46A inserted by [2020 asp 13 s. 79](#)
- s. 49(3) inserted by [2020 asp 13 sch. 5 para. 5\(3\)\(c\)](#)
- s. 70(2)(d) inserted by [2020 asp 13 sch. 5 para. 10\(41\)\(b\)](#)
- s. 77(1A) inserted by [2020 asp 13 sch. 5 para. 10\(46\)\(b\)](#)
- s. 94(2A)(2B) inserted by [2020 asp 13 s. 75\(3\)](#)