

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019

EXPLANATORY NOTES

PART 3: VICTIM INFORMATION

Pre-existing law

71. Section 53 of the Criminal Justice (Scotland) Act 2003 (the “2003 Act”) permitted the Principal Reporter to disclose certain information about cases involving children to victims (and certain other persons) on request. Such disclosure depended on it appearing to the Principal Reporter that an offence had been committed (so, for example, persons harmed by the behaviour of a child aged under eight, which is never an offence, were unable to request information under section 53). The Principal Reporter also had to be satisfied that the provision of information to the person making the request would not be detrimental to the best interests of any child, and that it was appropriate in the circumstances of the case to provide the information. The information permitted to be provided if these conditions were satisfied was information about the action taken by the Principal Reporter in relation to the offence and about how the case was disposed of.
72. Section 68(3) of the 2011 Act deals with the provision of information to certain persons where, following consideration of a case, the Principal Reporter considers either that no section 67 ground applies or that a ground does apply but it is not necessary for a compulsory supervision order to be made in respect of the child. In these circumstances, no referral to a children’s hearing is made, but the Principal Reporter is obliged by section 68(3)(a) of the 2011 Act to inform certain people of the decision (and the fact that, as a consequence, the case will not proceed to a children’s hearing). The people to be informed are listed in section 68(4) – they include the child, each relevant person in relation to the child¹ and the person who originally referred the case to the Principal Reporter. In addition, the Principal Reporter has power under section 68(3)(b) to inform other people of the decision, provided that the Principal Reporter considers the disclosure to be appropriate.²

¹ “Relevant person” is defined in section 200 of the 2011 Act.

² Disclosures under section 68(3)(a) and (b) of the 2011 Act must also be made in compliance with data protection law.