



Protection of Children (Scotland) Act 2003

2003 asp 5

Removal from list and appeals

14 Applications for removal from list

- (1) An individual who is included in the list kept under section 1(1) above may, with the leave of the sheriff, apply to the sheriff for a determination as to whether or not the individual should continue to be included in the list.
- (2) On an application under subsection (1) above, the sheriff, if satisfied that the individual is not unsuitable to work with children, shall by order direct the removal of the individual from the list; otherwise the sheriff shall dismiss the application.
- (3) An application for leave to make an application under subsection (1) above may not be made unless—
 - (a) subject to subsection (7)(a) below, the condition set out in subsection (4) below is fulfilled; and
 - (b) the individual has made no other such application for leave—
 - (i) in the period of ten (or, in the case of an individual who was a child at the relevant time, five) years ending with the date on which the individual makes the application for leave; or, as the case may be
 - (ii) in any other period specified in an order made under section 15(8) below.
- (4) That condition is—
 - (a) in the case of an individual included in the list under section 10(7) above, that—
 - (i) at least ten (or, in the case of an individual who was a child at the relevant time, five) years have elapsed since the day on which the individual was so included; and
 - (ii) in the case of an individual—
 - (A) whose sentence is a term of imprisonment or a term of detention; or
 - (B) detained in a hospital pursuant to an order of the court, the individual has been released or, as the case may be, ceases to be liable to be detained in the hospital; and

- (b) in the case of any other individual, that the individual has been included (otherwise than provisionally) in the list for a continuous period of at least ten (or, in the case of an individual who was a child at the relevant time, five) years.
- (5) For the purposes of subsections (3) and (4) above, the “relevant time” is—
- (a) the time at which the offence in relation to which the individual was referred, under section 10(1) above, to the Scottish Ministers was committed; or, as the case may be
 - (b) the time at which the individual is considered by the person—
 - (i) who referred the individual, under section 2(1) or 4(1) above, to the Scottish Ministers; or, as the case may be
 - (ii) who held the inquiry in respect of which the individual was included, under section 6 above, in the list,to have harmed a child or placed a child at risk of harm.
- (6) Where—
- (a) an individual is released on licence under Part I (detention, transfer and release of prisoners) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9); or
 - (b) a supervised release order is, in relation to the release of an individual, granted under section 209 (supervised release orders) of the Criminal Procedure (Scotland) Act 1995 (c. 46),
- the individual is, for the purposes of subsection (4)(a)(ii) above, to be treated as being released on the day on which the licence expires (otherwise than by being revoked) or, as the case may be, the order expires.
- (7) The sheriff may—
- (a) on being satisfied as to the matters set out in subsection (8) below, consider an application for leave to make an application under subsection (1) above despite the fact that it does not fulfil one or both of the conditions set out in subsection (3) above;
 - (b) grant such an application for leave only if the sheriff is satisfied as to those matters.
- (8) Those matters are—
- (a) that the individual’s circumstances have changed since the individual was included (otherwise than provisionally) in the list, or, as the case may be, since the individual last made such an application for leave; and
 - (b) that the change is such that the application should be considered or, as the case may be, leave should be granted.