



Protection of Children (Scotland) Act 2003

2003 asp 5

Removal from list and appeals

15 Appeals: inclusion in list under section 5 or 6 etc.

- (1) An individual who is included (otherwise than provisionally) in the list kept under section 1(1) above may appeal to the sheriff against a determination, under section 5 or 6 above, of the Scottish Ministers to include the individual in the list.
- (2) An appeal under subsection (1) above may not be lodged later than three months after the date on which the Scottish Ministers made the determination or decision being appealed unless the sheriff, on cause shown, so allows.
- (3) The sheriff, unless satisfied—
 - (a) that the individual has harmed a child or placed a child at risk of harm; and
 - (b) that the individual is unsuitable to work with children,shall allow an appeal under subsection (1) above and direct the removal of the individual from the list; otherwise the sheriff shall dismiss the appeal.
- (4) A party to an appeal under subsection (1) above may appeal to the sheriff principal against any decision of the sheriff to allow or dismiss the appeal.
- (5) An appeal may be made by—
 - (a) an individual who has made an application under section 14(1) above; or
 - (b) the Scottish Ministers,to the sheriff principal against the decision of the sheriff on the application.
- (6) An appeal may, with the leave of the sheriff principal, be made by—
 - (a) the individual who is included in the list kept under section 1(1) above; or
 - (b) the Scottish Ministers,to the Inner House of the Court of Session against any decision of the sheriff principal to allow or dismiss an appeal under subsection (4) or (5) above.
- (7) The decision of—
 - (a) the sheriff principal; or
 - (b) if leave is granted to appeal to the Inner House, that House,on any appeal shall be final.

Status: This is the original version (as it was originally enacted).

- (8) In allowing or dismissing an appeal, under subsection (6) above, of the decision of a sheriff principal on an appeal under subsection (5) above, the Inner House may by order specify a period other than the period specified in section 14(3)(b) above as the period during which the individual may not make an application to the sheriff for leave to make a further application for an order under section 14(2) above.
- (9) Where an individual has been convicted of an offence involving conduct (whether or not in the course of the individual's work) which harmed a child or placed a child at risk of harm, no finding of fact on which the conviction is based may be challenged on an appeal under subsection (1) or (4) above.