

PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

OVERVIEW

Part 1 – the Lists

Section 8. Reference by certain other persons

25. **Section 8** gives the professional regulatory bodies a power to make a referral. It is expected that any incident or behaviour which should trigger a referral will result in the employer, or employing organisation, making the referral. However, there are circumstances in which a proper referral might not be made, for example a negligent employer failing to refer or where an individual has a number of employers and no individual employer is in a position to make a referral. For example, if several education authorities raise concerns with the General Teaching Council for Scotland (GTCS) about a locum teacher, the GTCS may make a referral on the basis of the aggregate information available. Section 8 is therefore designed to enable relevant professional bodies operating in Scotland or on a UK-wide basis to make a referral where the employer(s) could not, or negligently did not, make a referral in respect of a registered professional.
26. Note that vetting information from regulatory bodies can be prescribed under section 49(1)(d) and regulatory bodies placed under a duty to provide this information by section 49(2). Such regulations, to the extent that they overlap with the power at section 8 in respect of scheme members, would supervene that power. But the power at section 8 is not restricted to scheme members.