

# **PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **OVERVIEW**

#### **Part 2: Vetting and Disclosure**

##### ***Section 77. Statements of scheme membership: disclosure of whether individual under consideration for listing***

136. **Section 77** places a six month limit on the disclosure of the fact that an individual is under consideration for listing. This six month period runs from either the date of the decision to consider for listing under section 10, 11, 12 or 13, or where the individual is subject to legal or disciplinary proceedings, the conclusion of those proceedings.
137. A statement of scheme membership (defined at section 46) normally includes whether the individual is subject to consideration for listing in respect of the type of regulated work to which the disclosure request relates.
138. PoCSA (section 7) required the Scottish Ministers to apply to the sheriff for an extension of a period of provisional listing beyond 6 months but did not limit the time taken to reach a decision. If the period expired without extension, the individual was removed from the list and the individual's enhanced disclosure would no longer state that he or she was provisionally listed. In practice, this had the effect of ensuring that cases were determined within this period.
139. **Section 77** therefore has a similar effect to section 7 of PoCSA in relation to the disclosure of whether an individual is being considered for listing. But subsections (4) to (8) ensure that more than one extension can be granted and that an application for extension can be made right up to the expiry of the relevant period, and this is sufficient for the relevant period to be treated as not having expired until the application is determined.