



Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

PART 1

THE LISTS

Removal from list

25 Application for removal from list

- (1) A listed individual may apply to Ministers for removal from—
 - (a) the children's list, or
 - (b) the adults' list.
- (2) References in this section to “the list” are to be read as references to the list from which the individual has applied for removal.
- (3) An application for removal from the list is competent only if—
 - (a) it is made after the end of such period as may be prescribed (beginning on such date as may be prescribed), or
 - [^{F1}(b) Ministers are satisfied that there has been a relevant change in the applicant's circumstances since the applicant—
 - (i) was listed, or
 - (ii) last made an application for removal from the list under this section.]
- (4) A period may not be prescribed under subsection (3)(a) in relation to a particular individual.

[^{F2}(4A) For the purposes of subsection (3)(b), a change in the applicant's circumstances is relevant if it is relevant to the question whether the applicant is no longer unsuitable to carry out regulated roles with children or, as the case may be, regulated roles with adults.]

^{F3}(5)

^{F3}(6)

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Textual Amendments

- F1** S. 25(3)(b) substituted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), **ss. 83(2)**, 97 (with s. 96); S.S.I. 2021/380, **reg. 2**, sch.
- F2** S. 25(4A) inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), **ss. 83(3)**, 97 (with s. 96); S.S.I. 2021/380, **reg. 2**, sch. (with **reg. 4**)
- F3** S. 25(5)(6) repealed (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), **ss. 83(4)**, 97 (with s. 96); S.S.I. 2021/380, **reg. 2**, sch.

Commencement Information

- I1** S. 25(1)(2)(3)(b)s. 25(4)-(6) in force at 28.2.2011 by S.S.I. 2011/157, **art. 2(a)**
- I2** S. 25(3)(a) in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, **art. 2**, **Sch.**
- I3** S. 25(3)(a) in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, **art. 2(a)**

26 Determination of application for removal from list

- (1) Ministers must determine a competent application for removal from the children's list—
 - (a) where they are satisfied that the applicant is no longer unsuitable to work with children, by removing the individual from the list, or
 - (b) where they are not so satisfied, by refusing the application.
- (2) Ministers must determine a competent application for removal from the adults' list—
 - (a) where they are satisfied that the applicant is no longer unsuitable to work with protected adults, by removing the individual from the list, or
 - (b) where they are not so satisfied, by refusing the application.
- ^{F4}(3)

Textual Amendments

- F4** S. 26(3) repealed (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), **ss. 85(2)**, 97 (with s. 96); S.S.I. 2021/380, **reg. 2**, sch.

Commencement Information

- I4** S. 26 in force at 28.2.2011 by S.S.I. 2011/157, **art. 2(a)**

27 Appeals against refusal to remove individual from list

- (1) An individual may appeal to the sheriff against Ministers' decision to refuse an application for removal from the list under section 26.
- (2) The sheriff must determine an appeal under subsection (1) in relation to removal from the children's list—
 - (a) where the sheriff is satisfied that the applicant is no longer unsuitable to work with children, by directing Ministers to remove the individual from the list, or
 - (b) where the sheriff is not so satisfied, by refusing the application.
- (3) The sheriff must determine an appeal under subsection (1) in relation to removal from the adults' list—

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- (a) where the sheriff is satisfied that the applicant is no longer unsuitable to work with protected adults, by directing Ministers to remove the individual from the list, or
 - (b) where the sheriff is not so satisfied, by refusing the application.
- (4) The sheriff's determination may be appealed to the sheriff principal by—
- (a) the individual, or
 - (b) Ministers.
- (5) The sheriff principal's determination of an appeal under subsection (4) may, with the leave of the sheriff principal, be appealed to the Inner House of the Court of Session on a point of law by—
- (a) the individual, or
 - (b) Ministers.
- (6) The Inner House may, in determining an appeal under subsection (5), by order modify the period prescribed for the purposes of section 25(3) in so far as that period is to apply to any further application by the individual concerned for removal from the children's list or, as the case may be, the adults' list.
- (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 is final.
- (8) Any court proceedings under this section may take place in private if the court considers it appropriate in all the circumstances.

Commencement Information

I5 S. 27 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

28 Late representations

- (1) This section applies where an individual listed under section 15 or 16—
- (a) was not, because of section 17(6), given an opportunity to make representations as to why the individual should not be listed, and
 - (b) subsequently makes representations to Ministers as to why the individual should not have been listed.

[^{F5}(1A) This section also applies where an individual listed under section 15 or 16 (other than one mentioned in subsection (1))—

- (a) seeks to make representations to Ministers as to why the individual should not have been listed, and
 - (b) Ministers consider that it is appropriate in all the circumstances to allow the representations to be made.]
- (2) Where this section applies, Ministers must—
- (a) consider the individual's representations, and
 - (b) if satisfied that the individual should not have been listed, remove the individual from the list.

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Textual Amendments

F5 S. 28(1A) inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), ss. 84(2), 97 (with s. 96); S.S.I. 2021/380, reg. 2, sch.

Commencement Information

I6 S. 28 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

29 Removal from list

(1) Ministers—

- (a) must remove an individual from the children's list or adults' list—
 - (i) if directed to do so by the court, or
 - (ii) where section 26 or 28 requires them to do so, and
- (b) may, at any other time, remove an individual from the children's list or adults' list if.
 - [^{F6}(i)] they are satisfied that the individual should not have been listed^{F7}, or
 - (ii) they are otherwise satisfied that the individual is no longer unsuitable to carry out regulated roles with children or, as the case may be, regulated roles with adults.]

- (2) Where Ministers appeal against a direction to remove an individual from the children's list or adults' list, the duty imposed by subsection (1)(a) does not apply until that appeal is finally determined.

Textual Amendments

F6 Words in s. 29(1)(b)(i) in s. 29(1)(b) renumbered (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), ss. 84(3)(a), 97 (with s. 96); S.S.I. 2021/380, reg. 2, sch. (with reg. 4)

F7 S. 29(1)(b)(ii) and word inserted (10.12.2021) by Disclosure (Scotland) Act 2020 (asp 13), ss. 84(3)(b), 97 (with s. 96); S.S.I. 2021/380, reg. 2, sch. (with reg. 4)

Commencement Information

I7 S. 29 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by [2020 asp 13 s. 80\(2\)](#)
- s. 8(3)(za) inserted by [2020 asp 13 s. 82\(3\)](#)
- s. 10(1)(aa) inserted by [2020 asp 13 s. 80\(3\)](#)
- s. 13A-13C inserted by [2020 asp 13 s. 76\(2\)](#)
- s. 18(5) inserted by [2020 asp 13 sch. 5 para. 5\(2\)\(b\)](#)
- s. 30(3A)-(3C) inserted by [2020 asp 13 s. 77\(3\)](#)
- s. 45A inserted by [2020 asp 13 s. 71](#)
- s. 45B inserted by [2020 asp 13 s. 72](#)
- s. 45C-45G inserted by [2020 asp 13 s. 73\(2\)](#)
- s. 45H inserted by [2020 asp 13 s. 88\(3\)](#)
- s. 46A inserted by [2020 asp 13 s. 79](#)
- s. 49(3) inserted by [2020 asp 13 sch. 5 para. 5\(3\)\(c\)](#)
- s. 70(2)(d) inserted by [2020 asp 13 sch. 5 para. 10\(41\)\(b\)](#)
- s. 77(1A) inserted by [2020 asp 13 sch. 5 para. 10\(46\)\(b\)](#)
- s. 94(2A)(2B) inserted by [2020 asp 13 s. 75\(3\)](#)