



# Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

## PART 5

### SUPPLEMENTARY AND GENERAL

#### 84 Guidance

- (1) Ministers must issue guidance on such matters relating to the operation of Parts 1 and 2 of this Act as they think appropriate.
- (2) Ministers may revoke or vary guidance issued under subsection (1) at any time.

#### Commencement Information

II S. 84 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

#### [<sup>F1</sup>84A Guidance for chief constable

- (1) The Scottish Ministers must issue guidance to the chief constable about the exercise of the chief constable's functions under Parts 1 and 2 of this Act.
- (2) The Scottish Ministers may from time to time issue revised guidance, and references in this section to guidance include revised guidance.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult the chief constable.
- (4) The chief constable must have regard to guidance issued under this section in exercising functions under Part 1 or 2 of this Act.
- (5) This section does not affect the generality of section 84.]

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### Textual Amendments

- F1** S. 84A inserted (10.12.2021 for specified purposes, 1.4.2023 in so far as not already in force) by Disclosure (Scotland) Act 2020 (asp 13), ss. 89, 97 (with s. 96); S.S.I. 2021/380, reg. 2, sch.; S.S.I. 2023/79, reg. 2

## 85 Annual report

- (1) Ministers must, in respect of each reporting year, prepare a report on the performance of their vetting, barring and disclosure functions during that year.
- (2) Ministers must lay a copy of each such report before the Scottish Parliament as soon as practicable after the end of the reporting year to which it relates.
- (3) A reporting year is—
  - (a) the period beginning with the day on which this section comes into force and ending on 31 March, and
  - (b) each successive year ending on that date.

### Commencement Information

- I2** S. 85 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

## 86 Transfer of Disclosure Scotland staff etc.

- (1) Ministers may by order (a “staff transfer order”) make provision for persons employed by virtue of section 9 of the Police (Scotland) Act 1967 (c. 77) (employees other than constables) by the Strathclyde Joint Police Board (the “Police Board”) to transfer to, and become members of the staff of, the Scottish Administration.
- (2) A staff transfer order may specify particular persons, or types of person, to whom the order applies.
- (3) Subsections (4) to (9) apply where—
  - (a) a person is to be transferred by virtue of a staff transfer order, and
  - (b) immediately before the day on which the staff transfer order comes into force in relation to the person (the “transfer day”), the person has a contract of employment with the Police Board.
- (4) On and after the transfer day the contract of employment has effect as if originally made between the person and Ministers on behalf of the Crown.
- (5) On the transfer day, the rights, powers, duties and liabilities of the Police Board under or in connection with the contract of employment are transferred to Ministers.
- (6) Anything done before the transfer day by or in relation to the Police Board in respect of the contract of employment or the person is to be treated on and after that day as having been done by or in relation to Ministers.
- (7) If, before the transfer day, the person gives notice to Ministers or the Police Board that the person objects to becoming a member of staff of the Scottish Administration—

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- (a) the contract of employment with the Police Board is, on the day immediately preceding the day that would, but for the objection, have been the transfer day, terminated, and
  - (b) the person is not to be treated (whether for the purpose of any enactment or otherwise) as having been dismissed by virtue of the giving of such notice.
- (8) Nothing in this section prejudices any right of the person to terminate the contract of employment if a substantial detrimental change in the person's working conditions is made.
- (9) Where—
- (a) the identity of the person's employer changes by virtue of the making of a staff transfer order, and
  - (b) it is shown that, in all the circumstances, the change is significant and detrimental to the person,
- the person has the right to terminate the contract of employment.
- (10) A staff transfer order may make such further provision about such transfers as Ministers think fit.

#### Commencement Information

**I3** S. 86 in force at 1.9.2007 by S.S.I. 2007/385, art. 2, Sch.

### **87 Power to give effect to corresponding legislation in England, Wales and Northern Ireland**

- (1) Ministers may by order make such provision as they consider appropriate in consequence of, or for the purposes of giving full effect to, any provision made by virtue of the Safeguarding Vulnerable Groups Act 2006 (c. 47).
- (2) Ministers may by order make such provision as they consider appropriate in consequence of, or for the purposes of giving full effect to, any legislation which forms part of the law of Northern Ireland which in Ministers' opinion—
  - (a) corresponds to provision made by virtue of this Act, or
  - (b) affects the operation of any provision made by virtue of this Act.
- (3) An order under subsection (1) or (2) may modify any enactment, instrument or document.

#### Commencement Information

**I4** S. 87 in force at 11.1.2008 by S.S.I. 2007/564, art. 2, Sch.

### **88 Modification of enactments**

Schedule 4 contains minor amendments and amendments and repeals consequential on the provisions of this Act.

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#### Commencement Information

- I5** S. 88 in force at 1.9.2007 for specified purposes by S.S.I. 2007/385, art. 2, Sch.  
**I6** S. 88 in force at 11.1.2008 for specified purposes by S.S.I. 2007/564, art. 2, Sch.  
**I7** S. 88 in force at 18.4.2010 for specified purposes by S.S.I. 2010/133, art. 2, Sch.  
**I8** S. 88 in force at 28.2.2011 in so far as not already in force by S.S.I. 2011/157, art. 2(a)

## 89 Offences by bodies corporate etc.

### (1) Where—

- (a) an offence under this Act has been committed by—
- (i) a body corporate,
  - (ii) a Scottish partnership, or
  - (iii) an unincorporated association other than a Scottish partnership, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
- (i) a relevant individual, or
  - (ii) an individual purporting to act in the capacity of a relevant individual, that individual as well as the body corporate, partnership or, as the case may be, unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.

### (2) In subsection (1), “relevant individual” means—

- (a) in relation to a body corporate other than a council—
- (i) a director, manager, secretary or other similar officer of the body,
  - (ii) where the affairs of the body are managed by its members, the members,
- (b) in relation to a council, an officer or member of the council,
- (c) in relation to a Scottish partnership, a partner, and
- (d) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

- (3) Any penalty imposed on a body corporate, Scottish partnership or unincorporated association on conviction of an offence under this Act is to be recovered by civil diligence in accordance with section 221 of the 1995 Act.

#### Commencement Information

- I9** S. 89 in force at 28.2.2011 by S.S.I. 2011/157, art. 2(a)

## 90 Crown application

- (1) This Act binds the Crown.
- (2) But subordinate legislation made under this Act need not bind the Crown.
- (3) No contravention by the Crown of a provision made by or under this Act makes the Crown criminally liable.

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- (4) But the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (5) Despite subsection (3), the provisions made by and under this Act apply to persons in the public service of the Crown as they apply to other persons.

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**Commencement Information**

**I10** [S. 90](#) 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\(3\)](#)