



Protection of Vulnerable Groups (Scotland) Act 2007

2007 asp 14

PART 1

THE LISTS

General and supplementary

40 Restrictions on listing in adults' list

- (1) Ministers need not list an individual (nor consider an individual for listing) in the adults' list if the individual is already barred from regulated work with adults^{F1}...
- (2) Ministers need not consider an individual for listing in the adults' list if—
 - (a) they consider that it would be more appropriate for the individual's case to be [F2dealt with] by the [F3Disclosure and Barring Service (“DBS”)], or
 - (b) subsection (3) applies.
- (3) This subsection applies where—
 - [F4(a) the individual's case has been dealt with in pursuance of relevant corresponding legislation, and]
 - (b) Ministers are satisfied that all information relating to the individual which they consider relevant to their decision whether to consider to list the individual was considered [F5before, or when, the individual's case was last dealt with in pursuance of the relevant corresponding legislation].
- (4) Where—
 - (a) in pursuance of subsection (2)(a), Ministers do not consider an individual for listing in the adults' list, and
 - (b) [F6DBS][F7deals with] the individual's case,section 30 applies (with any necessary modifications) as if Ministers are considering to list the individual in the adults' list.

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007, Section 40 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) Ministers need not list an individual in the adults' list under section 14 if ^{F8}they consider that it would be more appropriate for the individual's case to be dealt with by ^{F9}[DBS].]

^{F10}(a)

^{F10}(b)

^{F11}(6) Where—

(a) in pursuance of subsection (5), Ministers do not list an individual in the adults' list under section 14, and

(b) ^{F12}[DBS] deals with the individual's case, section 30 applies (with any necessary modifications) as if Ministers had listed the individual in the adults' list under section 14.

(7) In this section “relevant corresponding legislation” means—

(a) Part 7 of the Care Standards Act 2000 (c.14) ,

(b) the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003,

(c) the Safeguarding Vulnerable Groups Act 2006 (c.47) ,

(d) the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.]

Textual Amendments

F1 Words in s. 40(1) repealed (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(2)**

F2 Words in s. 40(2)(a) substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(3)**

F3 Words in s. 40(2)(a) substituted (10.12.2021) by [Disclosure \(Scotland\) Act 2020 \(asp 13\)](#), s. 97, **sch. 5 para. 12(7)(a)** (with s. 96); S.S.I. 2021/380, reg. 2, sch.

F4 S. 40(3)(a) substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(4)(a)**

F5 Words in s. 40(3)(b) substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(4)(b)**

F6 Word in s. 40(4)(b) substituted (10.12.2021) by [Disclosure \(Scotland\) Act 2020 \(asp 13\)](#), s. 97, **sch. 5 para. 12(7)(b)** (with s. 96); S.S.I. 2021/380, reg. 2, sch.

F7 Words in s. 40(4)(b) substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(5)**

F8 Words in s. 40(5) inserted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(6)(a)**

F9 Word in s. 40(5) substituted (10.12.2021) by [Disclosure \(Scotland\) Act 2020 \(asp 13\)](#), s. 97, **sch. 5 para. 12(7)(b)** (with s. 96); S.S.I. 2021/380, reg. 2, sch.

F10 S. 40(5)(a)(b) repealed (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), **8(6)(b)**

Changes to legislation: Protection of Vulnerable Groups (Scotland) Act 2007, Section 40 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- F11** S. 40(6)(7) inserted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), [8\(7\)](#)
- F12** Word in s. 40(6)(b) substituted (10.12.2021) by [Disclosure \(Scotland\) Act 2020 \(asp 13\)](#), s. 97, [sch. 5 para. 12\(7\)\(b\)](#) (with s. 96); [S.S.I. 2021/380](#), reg. 2, sch.

Commencement Information

- I1** S. 40 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

Changes to legislation:

Protection of Vulnerable Groups (Scotland) Act 2007, Section 40 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 40(1) word substituted by [2020 asp 13 sch. 5 para. 10\(27\)](#)

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\(3\)](#)