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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 446**

**The Protection of Vulnerable Groups (Scotland)  
Act 2007 (Miscellaneous Provisions) Order 2010**

**PART 2**

**Amendment of the 2007 Act**

**Amendment of the 2007 Act**

3. The 2007 Act is amended in accordance with articles 4 to 13.

**Amendment of section 10 (organisational referrals etc.) of the 2007 Act**

- 4.—(1) Section 10 (organisational referrals etc.) of the 2007 Act is amended as follows.
- (2) In subsection (1)—
- (a) the words from “where” to the end of the subsection become paragraph (a) (with existing paragraphs (a) and (b) being re-numbered as sub-paragraphs (i) and (ii)); and
  - (b) at the end of the subsection insert—
    - “, or
    - (b) where information relating to an individual has been given to Ministers by the Independent Safeguarding Authority”.
- (3) In subsection (4) after “work” insert “(if any)”.

**Amendment of section 18 (police information etc.) of the 2007 Act**

- 5.—(1) Section 18 (police information etc.) of the 2007 Act is amended as follows.
- (2) In subsection (1) after “force”, and after “constable” where it appears for the second time, insert “or the Scottish Crime and Drug Enforcement Agency”.
- (3) In subsection (2) “for chief constable” where it appears each time substitute “person”.
- (4) In subsection (3) after the word “authority” insert “or the Scottish Police Services Authority”.

**Amendment of section 38 (police access to lists) of the 2007 Act**

- 6.—(1) Section 38 (police access to lists) is amended as follows.
- (2) In subsection (1) after “forces” insert “, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency”.
- (3) In subsection (2) after “forces” insert “, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency”.

### **Amendment of section 39 (restrictions on listing in children’s list) of the 2007 Act**

- 7.—(1) Section 39 (restrictions on listing in children’s list) of the 2007 Act is amended as follows.
- (2) In subsection (1), the words from “by” to the end of the subsection are repealed.
- (3) In subsection (2)(a), for “considered” substitute “dealt with”.
- (4) In subsection (3)—
- (a) for paragraph (a) substitute—
- “(a) the individual’s case has been dealt with in pursuance of relevant corresponding legislation, and”;
- (b) in paragraph (b), for “by ISA before it made its decision” substitute “before, or when, the individual’s case was last dealt with in pursuance of the relevant corresponding legislation”.
- (5) In subsection (4)(b), for “considers” substitute “deals with”.
- (6) In subsection (5)—
- (a) after “if” insert “they consider that it would be more appropriate for the individual’s case to be dealt with by ISA.”; and
- (b) paragraphs (a) and (b) are repealed.
- (7) After subsection (5) insert—
- “(6) Where—
- (a) in pursuance of subsection (5), Ministers do not list an individual in the children’s list under section 14, and
- (b) ISA deals with the individual’s case,
- section 30 applies (with any necessary modifications) as if Ministers had listed the individual in the children’s list under section 14.
- (7) In this section “relevant corresponding legislation” means—
- (a) the Protection of Children Act 1999 (c.14),
- (b) the Criminal Justice and Court Services Act 2000 (c.43),
- (c) sections 142 to 144 of the Education Act 2002 (c.32),
- (d) the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003,
- (e) the Safeguarding Vulnerable Groups Act 2006 (c.47),
- (f) regulations made under Article 70(1) and (2)(e) or 88A(1) and (2)(b) of the Education and Libraries (Northern Ireland) Order 1986,
- (g) the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.”.

### **Amendment of section 40 (restrictions on listing in adults’ list) of the 2007 Act**

- 8.—(1) Section 40 (restrictions on listing in adults’ list) of the 2007 Act is amended as follows.
- (2) In subsection (1), the words from “by” to the end of the subsection are repealed.
- (3) In subsection (2)(a), for “considered” substitute “dealt with”.
- (4) In subsection (3)—
- (a) for paragraph (a) substitute—
- “(a) the individual’s case has been dealt with in pursuance of relevant corresponding legislation, and”;

- (b) in paragraph (b), for “by ISA before it made its decision” substitute “before, or when, the individual’s case was last dealt with in pursuance of the relevant corresponding legislation”.
- (5) In subsection (4)(b), for “considers” substitute “deals with”.
- (6) In subsection (5)—
  - (a) after “if” insert “they consider that it would be more appropriate for the individual’s case to be dealt with by ISA.”; and
  - (b) paragraphs (a) and (b) are repealed.
- (7) After subsection (5) insert—
  - “(6) Where—
    - (a) in pursuance of subsection (5), Ministers do not list an individual in the adults’ list under section 14, and
    - (b) ISA 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.”.

#### **Amendment of section 41 (proceedings from actions for damages) of the 2007 Act**

**9.** In section 41(1)(c) and (2)(b) of the 2007 Act, after the words “18 to 20” insert in each place “(or of any other power or duty to provide information to Ministers in relation to their functions under this Part)”.

#### **Amendment of section 75 (sources of information) of the 2007 Act**

- 10.**—(1) Section 75 (sources of information) of the 2007 Act is amended as follows.
- (2) In subsection (2) after “chief constable” insert “or the Scottish Crime and Drug Enforcement Agency”.
  - (3) In subsection (3) for “chief constable” where it appears each time substitute “person”.
  - (4) In subsection (4) after “authority” insert “or the Scottish Police Services Authority”.
  - (5) In subsection (5) after “63(4)” insert “(or in pursuance of any other power or duty to provide information to Ministers in relation to their functions under this Part)”.

#### **Amendment of section 76 (police access to scheme information) of the 2007 Act**

- 11.**—(1) Section 76 (police access to scheme information) is amended as follows.
- (2) In subsection (1) for “and the Scottish Police Services Authority” where it appears first substitute “, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency”;
  - (3) In subsection (1)(c) for “ or the Scottish Police Services Authority” substitute “, the Scottish Police Services Authority or the Scottish Crime and Drug Enforcement Agency”; and

(4) In subsection (2) for “and the Scottish Police Services Authority” substitute “, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency”.

**Modification of schedule 2 (regulated work with children) to the 2007 Act**

**12.** In paragraph 1 of schedule 2 (regulated work with children) to the 2007 Act for “work” where it appears for the second time substitute “work done in Scotland”.

**Modification of schedule 3 (regulated work with adults) to the 2007 Act**

**13.** In paragraph 1 of schedule 3 (regulated work with adults) to the 2007 Act for “work” where it appears for the second time substitute “work done in Scotland”.