

**2011 No. 157 (C. 13)**

**POLICE**

**CHILDREN AND YOUNG PERSONS**

**PROTECTION OF VULNERABLE ADULTS**

**CRIMINAL LAW**

The Protection of Vulnerable Groups (Scotland) Act 2007  
(Commencement No. 5, Savings, Transitional and Consequential  
Provisions) and the Criminal Justice and Licensing (Scotland)  
Act 2010 (Commencement No. 7, Savings and Transitional  
Provisions) Order 2011

*Made* - - - -

*24th February 2011*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 100(2), 101(2) and (3) of the Protection of Vulnerable Groups (Scotland) Act 2007<sup>(a)</sup> and sections 201(2) and 206(1) of the Criminal Justice and Licensing (Scotland) Act 2010<sup>(b)</sup>.

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Commencement No. 5, Savings, Transitional and Consequential Provisions) and the Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 7, Savings and Transitional Provisions) Order 2011.

(2) In this Order—

“the 2007 Act” means the Protection of Vulnerable Groups (Scotland) Act 2007;

“the 2010 Act” means the Criminal Justice and Licensing (Scotland) Act 2010; and

“the appointed day” means 28th February 2011.

**Provisions coming into force on the appointed day**

**2.** The following provisions come into force on the appointed day—

- (a) the provisions of the 2007 Act, in so far as not already in force, other than section 78(1);  
and

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(a) 2007 asp 14.

(b) 2010 asp 13.

- (b) section 108 (amendments of Part 5 of Police Act 1997(a)) of the 2010 Act, in so far as not already in force.

### **Savings and Transitional Provisions**

3. Despite the coming into force of sections 78(2), (3) and (4) and 91 of, and paragraphs 27 to 32, 35 and 41 of schedule 4 to, the 2007 Act and of section 108(2) of the 2010 Act, any application for a criminal record certificate under section 113A or an enhanced criminal record certificate under section 113B of the Police Act 1997 which has been received by Ministers on or before 27th February 2011 are to continue to be processed by Ministers in accordance with the law in force immediately before the appointed day.

4. Despite the coming into force of sections 44 and 81 of, and paragraphs 36, 37 and 39 of schedule 4 to, the 2007 Act, any applications or any other matters which are being processed under the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2006(b) on 27th February 2011 are to continue to be processed by Ministers in accordance with the law in force immediately before the appointed day.

5.—(1) Despite the coming into force of paragraphs 13 to 26 of schedule 4 to the 2007 Act, sections 106(1), 110(1)(a), 111(3), 116(2), 118, 121A(1), 173(2), 175, 181(4), 186, 187(1), 189 and 193A(1) of the Criminal Procedure (Scotland) Act 1995(c) continue to apply as they had effect immediately before the appointed day so far as necessary for the purposes of the Protection of Vulnerable Groups (Scotland) Act 2007 (Savings and Transitional Provisions) Order 2010(d).

(2) Despite the coming into force of paragraphs 43, 44 and 45 of schedule 4 to the 2007 Act, the provisions of the Protection of Children (Scotland) Act 2003(e) (as amended by section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004(f), by paragraph 15 of schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005(g) and by Part 2 of Schedule 2 to the Inquiries Act 2005(h)) continue to apply as they had effect immediately before the appointed day so far as necessary for the purposes of the Protection of Vulnerable Groups (Scotland) Act 2007 (Savings and Transitional Provisions) Order 2010.

### **Consequential Amendments**

6.—(1) In regulation 1(1) of—

- (a) the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010(i); and  
(b) the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2010(j),

for “section 78” substitute “section 44”.

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(a) 1997 c. 50.

(b) S.S.I. 2006/97.

(c) 1995 c.46. Sections 106(1), 116(2), 118, 121A(1), 173(2), 175, 186, 187(1), 189 and 193A(1) were amended by section 16 of the Protection of Children (Scotland) Act 2003 (asp 5). Sections 110(1)(a), 111(3), 181(4) and 186(2)(a) were amended by section 24(2) to (5) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5).

(d) S.S.I. 2010/180.

(e) 2003 asp 5.

(f) 2004 asp 5. Section 24(1) of the Criminal Procedure (Amendment) (Scotland) Act 2004 amended section 10 of the Protection of Children (Scotland) Act 2003.

(g) 2005 asp 10. Paragraph 15 of schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005 amended paragraph 12 of schedule 2 to the Protection of Children (Scotland) Act 2003.

(h) 2005 c.12. Part 2 of Schedule 2 to the Inquiries Act 2005 amended section 6(6) of the Protection of Children (Scotland) Act 2003.

(i) S.S.I. 2010/168, as amended by S.S.I. 2010/383.

(j) S.S.I. 2010/383.

(2) In article 1 of the Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) Order 2010<sup>(a)</sup>, for “section 78” substitute “section 44”.

*ADAM INGRAM*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
24th February 2011

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<sup>(a)</sup> S.S.I. 2010/190.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force certain provisions of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act”) and the Criminal Justice and Licensing (Scotland) Act 2010 (“the 2010 Act”) on 28th February 2011.

Article 2 brings fully into force all of the remaining provisions of the 2007 Act except for section 78(1). It also brings fully into force section 108 of the 2010 Act.

Articles 3 makes certain transitional and savings provisions in relation to any applications for a criminal record certificate under section 113A (known as standard disclosures) or an enhanced criminal record certificate under section 113B (known as enhanced disclosures) of the Police Act 1997. Article 3 allows Ministers to continue to process such applications (which have been received by Ministers by 27th February 2011) in accordance with the law in force immediately before the appointed day. Article 3 saves the relevant provisions which are amended by sections 78(2), (3) and (4) of, and paragraphs 28, 29, 30, 31, 32, 35 and 41 of schedule 4 to, the 2007 Act and by section 108(2) of the 2010 Act regarding applications for standard and enhanced disclosures. The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2010 (SSI 2010/243) comes into force on the same day as section 91 of the 2007 Act and therefore article 3 also saves the provisions of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2003 (SSI 2003/231 as amended) for the purposes of allowing Ministers to continue to process applications for standard and enhanced disclosures.

Articles 4 makes certain transitional and savings provisions in relation to any applications or other matters being processed under the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2006 (“the 2006 Regulations”). Article 4 allows Ministers to continue to process such applications or matters (which are being processed as at 27th February 2011) in accordance with the law in force immediately before the appointed day. Article 4 saves the relevant provisions which are amended by section 81 of, and paragraphs 36, 37 and 39 of schedule 4 to, the 2007 Act. The Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations (SSI 2010/383) come into force on the same day as section 44 of the 2007 Act and therefore article 4 also saves the provisions of the 2006 Regulations.

Article 5 makes certain transitional and savings provisions in relation to the Protection of Children (Scotland) Act 2003 (“the 2003 Act”). The Protection of Vulnerable Groups (Scotland) Act 2007 (Savings and Transitional Provisions) Order 2010 (SSI 2010/180) already makes savings and transitional provisions in relation to the Protection of Children (Scotland) Act 2003 (asp 5) (“the 2003 Act”). In order for the savings and transitional provisions in that Order to operate it is necessary to make savings provisions in relation to amendments to the Criminal Procedure (Scotland) Act 1995 (c.46) made by the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5), the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) and the Inquiries Act 2005 (c.12) which are being repealed by the 2007 Act.

Article 6 makes consequential amendments to the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 (SSI 2010/168), the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2010 (SSI 2010/383) and the Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) Order 2010 (SSI 2010/190) to provide that those instruments come into force at the same time as section 44 of the 2007 Act. This amendment is appropriate since section 78, which was the trigger for their coming into force, is not fully commenced by this Order.

## NOTES AS TO EARLIER COMMENCEMENT ORDERS

*(These notes are not part of the Order)*

### NOTE AS TO EARLIER COMMENCEMENT ORDERS FOR THE PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

The 2007 Act received Royal Assent on 18th April 2007. Part 7 came into force on that day.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 82, 83, 86 and 88 (partially), 97(1) and schedule 4, paragraphs 1, 3 and 4	1st September 2007	2007/385
Sections 79, 80, 87, 88 (partially) and schedule 4, paragraphs 27, 33, 34, 38, 40 and 46 (partially)	11th January 2008	2007/564
Sections 3(1) and (2), 4, 5, 6(2), 7(1) and (3), 8(1) and (2), 14(3) and (4), 17(5)(d), 25(3)(a), 32(2), 35(2) and (3), 42(1)(c) and 42 (2); 49(1)(d), 63(1), 64(2), 67(3)(b), 70(1), (2) and (3), 72, 73(g), 88 (partially), 92(3), (4), (5) and (6), 94(1)(b) and (d), schedule 2 paragraphs 28 and 29, schedule 3 paragraph 13 and schedule 4, paragraph 29	18th April 2010	2010/133
Sections 8(3)(d), 19(3), 71 and 81(2)	12th October 2010	2010/344

**NOTE AS TO EARLIER COMMENCEMENT ORDERS FOR THE CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010**

The 2010 Act received Royal Assent on 6th August 2010. Sections 201, 202, 204, 205 and 206 came into force on that day.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 178(3)(e) (partially)	16th August 2010	2010/297
Sections 38 and 97	6th October 2010	2010/339
Sections 108(1) and (4) (partially)	12th October 2010	2010/344
Sections 43, 44 and 63	1st December 2010	2010/357
Section 83	5th November 2010	2010/385
Sections 16, 23, 25, 26, 28, 29, 30, 31, 34, 37, 39, 40, 41, 45, 56, 59, 60, 64, 71, 80 (partially), 93, 99, 101, 104, 105, 111, 112, 113, 114, 173, 180, 181, 183, 184 (partially), 185, 187, 188, 192, 193, 194, 195 (partially), 196, 198, 199 and Schedule 4, Schedule 6 (except paragraphs 9 and 10) and paragraphs 4, 5, 13, 49 and 86 of Schedule 7	13th December 2010	2010/413
Sections 94 to 96 and paragraph 48 of Schedule 7	10th January 2011	2010/413
Section 14 (except for the purposes of new section 227ZM), 17, 20, 21 and Schedule 2 (except for paragraph 38)	1st February 2011	2010/413
Sections 178 and 182	28th February 2011	2010/413
Section 14 (for the purposes of new section 227ZM)	1st April 2011	2010/413
Paragraph 38 of Schedule 2	On the same day as section 25(2) of the Welfare Reform Act 2009 (c.24) comes into force	2010/413

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