

2010 No. 190

POLICE

**The Police Act 1997 (Alteration of the Meaning of Suitability
Information relating to Children and Protected Adults)
(Scotland) Order 2010**

Made - - - - - *12th May 2010*

Laid before the Scottish Parliament *13th May 2010*

Coming into force in accordance with article 1(1)

The Scottish Ministers make the following Order in exercise of the powers conferred by section 113CC(1)(a) and (b) of the Police Act 1997^(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Police Act 1997 (Alteration of the Meaning of Suitability Information relating to Children and Protected Adults) (Scotland) Order 2010 and comes into force on the same day as section 78 of the Protection of Vulnerable Groups (Scotland) Act 2007^(b).

Alteration of the meaning of suitability information relating to children

2. In section 113CA (suitability information relating to children) of the Police Act 1997, after subsection (2)(d) insert—

- “(e) if a notification order, made under section 97(5) of the Sexual Offences Act 2003^(c), is in effect in respect of the applicant—
 - (i) the date of that order; and
 - (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;
- (f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the date of that order; and
 - (ii) the period for which that order has effect by virtue of section 100(4) of that Act;

(a) 1997 c.50 (“the 1997 Act”). Sections 113CA, 113CB and 113CC were inserted into the 1997 Act by paragraph 29 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).

(b) 2007 asp 14.

(c) 2003 c.42.

- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 107(1)(b) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions specified in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 117(1) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 123(5)(b) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and

- (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.”.

Alteration of the meaning of suitability information relating to protected adults

3. In section 113CB (suitability information relating to protected adults) of the Police Act 1997, after subsection (2)(d) insert—

- “(e) if a notification order, made under section 97(5) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the date of that order; and
 - (ii) the notification period applying to the applicant by virtue of section 98(1)(b) of that Act;
- (f) if an interim notification order, made under section 100(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the date of that order; and
 - (ii) the period for which that order has effect by virtue of section 100(4) of that Act;
- (g) if a sexual offences prevention order, made under section 104(1) or 105(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 107(1)(b) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 108(4) of that Act;
- (h) if an interim sexual offences prevention order, made under section 109(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 109(4) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 109(6) of that Act;
- (i) if a foreign travel order, made under section 114(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions specified in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect virtue of section 117(1) of that Act; and

- (iv) details as to whether that order has been varied or renewed under section 118(3) of that Act;
- (j) if a risk of sexual harm order, made under section 123(4) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 123(5)(b) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 125(3) of that Act;
- (k) if an interim risk of sexual harm order, made under section 126(3) of the Sexual Offences Act 2003, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 126(4) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 126(5) of that Act;
- (l) if a risk of sexual harm order, made under section 2(6) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 2(7)(b) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 4(3) of that Act;
- (m) if an interim risk of sexual harm order, made under section 5(3) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, is in effect in respect of the applicant—
 - (i) the prohibitions described in that order;
 - (ii) the date of that order;
 - (iii) the period for which that order has effect by virtue of section 5(5) of that Act; and
 - (iv) details as to whether that order has been varied or renewed under section 5(6) of that Act.”.

ADAM INGRAM

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
12th May 2010

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends sections 113CA and 113CB of the Police Act 1997 (“the Act”). These sections provide that in such cases as may be prescribed an enhanced criminal record certificate issued under Part 5 of the Act must also include suitability information relating to children (section 113CA) or protected adults (section 113CB).

Sections 113CA(2) and 113CB(2) specify what suitability information relating to children and protected adults is. Articles 2 and 3 of this order directly amend sections 113CA(2) and 113CB(2) respectively to expand the meaning of suitability information relating to children and protected adults.

Suitability information will now include whether an applicant for an enhanced criminal record certificate is subject to:

- a sexual offences prevention order or an interim sexual offences prevention order made under the Sexual Offences Act 2003 (c.42) (“the 2003 Act”).
- a foreign travel order made under the 2003 Act.
- a risk of sexual harm order or an interim risk of sexual harm order made under the 2003 Act.
- a notification order or interim notification order made under the 2003 Act.
- a risk of sexual harm order or an interim risk of sexual harm order made under the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9).

In addition to whether an individual is subject to these orders, the suitability information will also include certain details of the orders, the date the order was made and the period for which the order has effect, as well as details of whether the orders have been varied or renewed by a further court order.

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