

## [Protection of Vulnerable Groups \(Scotland\) Bill](#)

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Bill Number: SP Bill 73  
Introduced on: 25 September 2006  
Introduced by: Peter Peacock  
Passed: 8 March 2007  
Royal Assent: 18 April 2007

[2007 asp 14](#)

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### **Passage of the Bill**

The [Protection of Vulnerable Groups \(Scotland\) Bill](#) [SP Bill 73] was introduced in the Parliament on 25 September 2006. Stage 1 commenced on 24 October 2006 with the Education Committee as the lead committee. The Stage 1 debate took place on [17 January 2007](#). Stage 2 commenced on 13 February 2007 and was completed on 20 February 2007. Stage 3 of the Bill took place on [8 March 2007](#) and the [Bill was passed](#).

### **Purpose and objectives of the Bill**

The Bill is based on recommendation 19 made in the report of the Bichard Inquiry in relation to England and Wales. This Inquiry was set up to look into failures in child protection procedures which were highlighted by the deaths of two schoolgirls in Soham in 2003. Recommendation 19 provided that new arrangements should be introduced requiring those who wish to work with children or vulnerable adults to be registered. Although the recommendations in the Bichard Report were directed at England and Wales, Scottish Ministers were also keen to take forward the recommendations.

### **Provisions of the Bill**

The Bill makes provision for the creation of two lists – a Children’s List (which builds on the foundation laid by an existing list created under the [Protection of Children \(Scotland\) Act 2003](#)) and a new Adults’ List. If an individual is on a list then he or she will be barred from working in the workforce to which the list in question pertains. A key feature of the new lists is that they will be continuously updated on the basis of various sources, including the police.

The Bill also introduces a new system for vetting and disclosure of individuals who work, or wish to work, with vulnerable groups (i.e. children under the age of 18 and ‘protected adults’). For the first time personal employers (e.g. a parent taking his or her child to the local piano teacher) as well as

organisations acting as employers will be able to confirm that an individual is not barred.

The Scottish Executive anticipates that in practice the vetting function (i.e. the assembling of the relevant information) will be carried out by Disclosure Scotland and the barring function (i.e. deciding that an individual is unsuitable to work with vulnerable groups) will be carried out by a new Central Barring Unit (CBU). It is intended that Disclosure Scotland and the CBU will be placed together under the auspices of a new Executive agency.

Part 3 of the Bill (removed at Stage 2 – see below) imposed duties on specified organisations (mainly public sector ones) to share information with councils for child protection purposes and a duty on Scottish Ministers to prepare a Code of Practice relating to information sharing.

### **Parliamentary consideration**

In its Stage 1 Report the Education Committee commented that the consultation on Part 3 of the Bill has been insufficient and stated that it believed that further time for reflection and full consultation should be allowed. The Committee also noted that there is considerable amount of subordinate legislation associated with the Bill. It commented that it is often difficult to reach conclusions on the general principles of bills without at least some awareness of the more detailed operational information.

Accordingly, the Committee recommended to Parliament that it approve the general principles of the Bill, subject to the removal of Part 3 and the production of, and opportunity to comment on, draft regulations, guidance and Codes of Practice on the rest of the Bill prior to Stage 2.

Before Stage 2 began, the Executive published a Pre-Consultation Discussion Paper on key areas of subordinate legislation relating to the Bill. The Education Committee then held an evidence session on the Discussion Paper prior to the commencement of Stage 2.

At Stage 2, Part 3 of the Bill was removed by way of non-Executive amendments supported by the Executive. In its response to the Stage 1 Report the Executive had indicated its intention to prepare a non-statutory Code of Practice dealing with information sharing. Furthermore, the Executive aimed to underpin this Code of Practice with statutory duties at the earliest future legislative opportunity.

Other key non-Executive amendments at Stage 2 covered topics including fees for disclosure checks and the process for determining whether an individual should be barred. The general thrust of these amendments was to try and get more information regarding such areas on the face of the Bill. Although the relevant amendments were not agreed to, they are areas on which the Executive intends to consult further in 2007, and to make further provision by way of secondary legislation. Executive amendments which were agreed to at Stage 2 include ones seeking to provide greater clarity on key

definitions in the Bill, principally those relating to the type of posts that fall within the scope of the new vetting and barring scheme.

Another key issue addressed by non-Executive amendments at Stage 2 was the retrospective checking of existing workers. There were concerns, in the absence of more information on when such checking would have to be carried out, about the ability of some organisations to carry it out. The amendments sought further information. Although the relevant amendments were not agreed to, the Executive undertook to lodge amendments at Stage 3 to ensure that the Parliament is able to scrutinise the introduction of retrospective requirements. During Stage 3, the Deputy Minister for Education and Young People stated that Executive amendments would “mean that retrospective checking cannot begin until Ministers have made regulations that have been approved by the Parliament through the affirmative resolution procedure”. The relevant amendments were agreed to.