Draft Order laid before Parliament under section 61(3) of the Safeguarding Vulnerable Groups Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

PROTECTION OF VULNERABLE ADULTS, ENGLAND AND WALES

The Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 59(11) and 64(1), (2) and (3) of, and paragraphs 6 and 9 of Schedule 4 to, the Safeguarding Vulnerable Groups Act 2006(**a**).

In accordance with section 56(3)(n) and (o) of that Act, the Secretary of State has consulted the Welsh Ministers.

A draft of this Order was laid before Parliament in accordance with section 61(3) of that Act and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 and shall come into force 21days after the day on which it is made.

(2) In this Order "the Act" means the Safeguarding Vulnerable Groups Act 2006.

Amendment of the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009

2. The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009(**b**) is amended as follows.

3. Articles 2 and 4 are revoked.

(**a**) 2006 c. 47.
(**b**) S.I. 2009/1797.

4. In article 3—

(a) omit paragraph (1);

(b) in paragraph (2)(a) for "included in the children's barred list" substitute "barred from engaging in regulated activity relating to children";

(c) in paragraph 2(d)(ii) for "included in the children's barred list" substitute "barred from engaging in regulated activity relating to children".

Amendment of the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009

5.—(1) The Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009(**a**) is amended as follows.

(2) In article 1(2) omit the definitions of "the 1999 Act", "the 2000 Act", "the 2002 Act", "relevant person", "relevant day", "the first transitional period", "the second transitional period" and "the third transitional period".

(3) Articles 4 to 22 are revoked.

Transitional provisions

6. Articles 7 to 9 apply for the period beginning on the day on which this Order comes into force and ending on the day on which section 72(1) of the Protection of Freedoms Act 2012(**b**) is brought into force for the purposes of inserting section 30A into the Act.

7.—(1) The Independent Safeguarding Authority may, at the request of a person (X) who meets the requirement specified in paragraph (3), inform that person whether a person (Y) falls within paragraph (2).

(2) Y falls within this paragraph if Y is —

(a) included in the list kept under section 1 of the Protection of Children Act 1999(**c**);

(b) included in the list kept under section 81 of the Care Standards Act 2000(**d**);

(c) subject to a direction under section 142 of the Education Act 2002(**e**); or

(d) barred from regulated activity.

(3) The requirement is that X satisfies the Independent Safeguarding Authority that X has a legitimate interest in knowing whether Y falls within paragraph (2).

8.—(1) Section 113E(**f**) of the Police Act 1997 has effect subject to the following modifications.

(2) In subsection (3)—

(a) the words "113A(**g**) or" must be ignored;

(b) for paragraph (a) substitute "it is made in a case prescribed under section 113BB(1)(**h**)".

(3) In subsection (5) the definitions of "children's suitability statement", "specified children's direction", "specified children's list", "adults' suitability statement" and "specified adults' list" must be ignored.

(**a**) S.I. 2009/2610.
(**b**) 2012 c. 9.
(**c**) 1999 c. 14.
(**d**) 2000 c. 14.
(**e**) 2002 c. 32.
(**f**) Section 113E of the Police Act 1997 (c. 50) was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15).
(**g**) Section 113A of the Police Act 1997 was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and was amended by section 63(1) of, and paragraph 14(1) and (2) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50(1) and (3) of the Criminal Justice and Immigration Act 2008 (c. 4), S.I.2009/203 and S.I. 2010/1146.
(**h**) Section 113BB of the Police Act 1997 was inserted by section 63(1) of, and paragraph 14(1) and (4) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 and amended by section 116(5)(a) of the Policing and Crime Act 2009 (c. 26).

(4) After subsection (5) insert—

"(6) For the purposes of this section each of the following is a specified adults' list—

(a) the list kept under section 81 of the Care Standards Act 2000;

(b) the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006;

(c) the adults' barred list maintained under Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**a**).".

9.—(1) Section 116 of the Police Act 1997 has effect subject to the following modifications.

(2) For subsection (3) substitute—

"(3) Section 113B(3) to (11)(**b**) and sections 113BA(**c**), 113BB and 113E, as modified by the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012, shall apply in relation to this section with any necessary further modifications.".

Home Office
Date

Name
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009 ("the 2009 Order") by revoking the provisions in the 2009 Order which provided that certain people should not be treated as vulnerable adults or as providing regulated activity to children or to vulnerable adults, in light of the changes the definitions of vulnerable adults and regulated activity relating to children and regulated activity relating to vulnerable adults in sections 64, 65 and 66 of the Protection of Freedoms Act 2012 (c. 9) ("the 2012 Act").

This Order also amends the Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5) Order 2009 ("the 2009 Commencement Order") in light of the changes made to the Safeguarding Vulnerable Groups Act 2006 ("the 2006" Act) by Chapter 1 of Part 5 of the 2012 Act. The 2009 Commencement Order is mainly based around three transitional periods, which were dependent on the phased implementation of section 24 of the 2006 Act. Section 69 of the 2012 Act repeals section 24 of the 2006 Act and therefore the transitional periods in the 2009 Commencement Order can no longer operate. This Order therefore repeals all of the provisions in the 2009 Commencement Order which were dependent on those transitional periods.

(**a**) S.I. 2007/1351 (N.I. 11).

(**b**) Section 113B of the Police Act was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and amended by section 63(1) of, and paragraph 14(1) and (3) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, S.I. 2009/203 and S.I. 2010/1146.

(**c**) Section 113BA of the Police Act was inserted by section 63(1) of, and paragraph 14(1) and (4) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 and amended by section 116(5)(h) of the Policing and Crime Act 2009, section 170(2) of the Education and Inspections Act 2006 (c. 40) and section 169 of, and paragraph 12(a) and (b) of Schedule 1 to, the Education and Skills Act 2008 (c. 25).

This Order makes two new transitional provisions. Article 7 (which is based on article 21 of the 2009 Commencement Order) enables the Independent Safeguarding Authority to provide information to a person, who has a legitimate interest in knowing the information, as to whether a particular person is barred from engaging in regulated activity relating to children or vulnerable adults, on the list kept under section 1 of the Protection of Children Act 1999 or section 81 of the Care Standards Act 2000, or is subject to a direction under section 142 of the Education Act 2002. This provision will have effect until section 72 of the 2012 Act, insofar as it inserts the barred list check under section 30A into the 2006 Act, is brought into force. Articles 8 and 9 (which are based on articles 14 and 15 of the 2009 Commencement Order) ensures that the "ISA Adult First" system, which operates under section 113E of the Police Act 1997, and allows certain employers of people seeking to work with vulnerable adults to request barred list checks before receiving enhanced criminal record certificates, continues until the barred list check under section 30A of the 2006 Act is introduced.

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