EXPLANATORY MEMORANDUM TO

THE SAFEGUARDING VULNERABLE GROUPS ACT 2006 (APPROPRIATE OFFICER AND SCHEDULE 7 PRESCRIBED PERSONS) (REVOCATION) REGULATIONS 2010

2010 No. 1707

AND

THE SAFEGUARDING VULNERABLE GROUPS ACT 2006 (SUPERVISORY AUTHORITY AND DEVOLUTION ALIGNMENT) (AMENDMENT) ORDER 2010

2010 No. 1710

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The instruments covered by this Memorandum revoke provisions which are due to come into force on 26th July 2010 but which are no longer needed. The Safeguarding Vulnerable Groups Act 2006 (Appropriate Officer and Schedule 7 Prescribed Persons) (Revocation) Regulations 2010 revoke the Safeguarding Vulnerable Groups Act 2006 (Appropriate Officer and Schedule 7 Prescribed Persons) Regulations 2010 ("the principal Regulations"). The Safeguarding Vulnerable Groups Act 2006 (Supervisory Authority and Devolution Alignment) (Amendment) Order 2010 revokes article 3 of the Safeguarding Vulnerable Groups Act 2006 (Supervisory Authority and Devolution Alignment) Order 2010 ("the principal Order"). The principal Regulations, and article 3 of the principal Order, will be revoked before they come into force.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Safeguarding Vulnerable Groups Act 2006 ("the Act") which created a new vetting and barring scheme ("the VBS") has been implemented in stages. The first main stage of implementation (which brought provisions relating to individuals who are barred from engaging in "regulated activity" relating to children or vulnerable adults into force) was completed on 12th October 2009.

4.2 The next stage of implementation was due to be completed on 26th July 2010. This related to the monitoring provisions of the Act. The Act provides for individuals to apply to be "subject to monitoring" under section 24, which involves continuous monitoring by the Criminal Records Bureau and referral to the Independent Safeguarding Authority ("ISA") for a decision on whether they should be barred if certain offences are committed or there is evidence that the individual is unsuitable to work with children or vulnerable adults. This monitoring is commonly referred to as "ISA-registration". The intention was that from 26th July 2010 an individual could voluntarily register with ISA, and that certain prescribed persons could carry out a check to see whether or not another person was ISA-registered.

4.3 The intention was that from 1st November 2010, various requirements and offences relating to being ISA-registration and carrying out checks on whether a person was ISA-registered would be brought into force, thereby introducing compulsory elements to the VBS for some people.

4.4 The principal Regulations and Order made provision relating to the ability of individuals to register with ISA, (in other words, in relation to the second stage of implementation planned for 26th July 2010). The principal Regulations prescribed persons (the "appropriate officer" in relation to members of a school governing body, and other persons in relation to various office-holders and other roles) for the purposes of the table in Schedule 7 to the Act. The Schedule 7 table sets out who can carry out checks under section 30 of the Act in relation to whether a person is subject to monitoring, and who can register under section 32 of the Act to be notified if a person's monitoring status changes.

4.5 The effect of Article 3 of the principal Order is that a person who is subject to monitoring under the Northern Ireland scheme (established under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, S.I 2007/1351 (N.I 11)) is to be treated as being subject to monitoring under the Act, to save an individual needing to apply to be monitored under both schemes.

4.6 For further detail on the provision made by the principal Regulations and Order, see the explanatory memoranda to those instruments which were laid with them.

4.7 For the reasons explained below (under 'policy background') the principal Regulations and article 3 of the principal Order are now being revoked.

5. Territorial Extent and Application

5.1 These instruments apply to England and Wales.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 As discussed above, the implementation of the Act has been proceeding in stages. A Commencement Order was planned to bring further provisions of the Act into force on 26th July 2010 to enable individuals to become subject to monitoring. The Regulations and Order were made and due to come into force on 26th July 2010 based on that proposal.

7.2 Since the general election on May 6th, there has been a change of policy in relation to the next stages of implementation of the Act. The Home Secretary announced on 15th June 2010 that the implementation stage planned for 26th July will not go ahead. Instead there will be a review of the VBS, which will be remodelled. The scope of that review will be announced shortly. The Home Office press release can be viewed at http://www.homeoffice.gov.uk/media-centre/press-releases/Vetting-barring-scheme.

7.3 Given this announcement, and the likelihood that the monitoring provisions of the Act may be remodelled, the Secretary of State for Education has decided that it is appropriate to revoke the principal Regulations and article 3 of the principal Order before they come into force on 26th July 2010. Without the relevant provisions of the Act being commenced on that date, they would have no legal effect, but it may be confusing for readers if they are in force. It is also possible that if they were left to come into force on 26th July, they would need to be amended or revoked in due course when decisions have been made about the future of the VBS.

- Consolidation

7.2 These instruments are revoking other provisions before they have come into force. Therefore the issue of consolidation does not arise.

8. Consultation outcome

8.1 No consultation has been carried out on the proposal to revoke the instruments. These revocations are a result of the Government's decision to postpone implementation of the remaining parts of the VBS. A review of the VBS will now be carried out.

9. Guidance

9.1 Guidance based on existing and planned amendments to legislation was issued in March 2010. This guidance will be subject to change following the review of the Scheme. The version of the guidance issued in May can be viewed at http://www.isa-gov.org.uk/PDF/VBS_guidance_ed1_2010.pdf

10. Impact

10.1 The impact on business, charities or voluntary bodies is none, since the provisions being revoked had not yet come into force.

10.2 The impact on the public sector is none, since the provisions being revoked had not yet come into force.

10.3 Any effects of the review of the Scheme on businesses, charities, voluntary bodies, or the public sector will be announced following the completion of that exercise.

10.4 An Impact Assessment has not been prepared for these instruments.

11. Regulating small business

11.1 The legislation which is being revoked would have had minimal impact on small business while the monitoring aspects of the Scheme were to be voluntary only (although greater impact if they had been made compulsory as planned from 1st November 2010). Since the instruments are being revoked, there is no impact on small business.

12. Monitoring & review

12.1 As discussed at paragraph 7.2 above, there will be a review of the VBS, and decisions as to future implementation will then be taken.

13. Contact

Nicholas Smith at the Department for Education Tel: 020 7783 8474 or email: Nicholas.SMITH@Education.gsi.gov.uk can answer any queries regarding the instrument.