STATUTORY INSTRUMENTS

2009 No. 1797

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

PROTECTION OF VULNERABLE ADULTS, ENGLAND AND WALES

The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009

Made - - - -	*3rd July 2009*
Laid before Parliament	*10th July 2009*
Coming into force - -	*12th October 2009*

The Secretary of State for Children, Schools and Families, in exercise of the powers conferred by sections 3(2)(b) and (3)(b), 45(9) and 59(11) of, and paragraphs 6 and 9 of Schedule 4 to, the Safeguarding Vulnerable Groups Act 2006(**a**), makes the following Order:

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

In accordance with section 56(2)(a) of that Act, the Secretary of State has obtained the consent of the Welsh Ministers:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009 and comes into force on 12th October 2009.

(2) In this Order—

"the Act" means the Safeguarding Vulnerable Groups Act 2006;

"relative" has the same meaning as in section 105(1) of the Children Act 1989(**b**).

Vulnerable adults

2.—(1) A person (P) who falls within section 59(9)(b) of the Act is not to be treated as a vulnerable adult for the purposes of section 59(1)(h) of the Act where—

(a) P has one or more of the disabilities mentioned in paragraph (2),

(b) P has no other form of disability, and

(**a**) 2006 c. 47.
(**b**) 1989 c. 41. The definition of "relative" was amended by the Civil Partnership Act 2004 (c. 33).

(c) P receives a service or participates in an activity provided specifically for persons with a disability mentioned in paragraph (2).

(2) The disabilities referred to in paragraph (1) are—

(a) dyslexia;

(b) dyscalculia;

(c) dyspraxia;

(d) Irlen syndrome;

(e) alexia;

(f) auditory processing disorder;

(g) dysgraphia.

Exceptions - regulated activity relating to children

3.—(1) The provision of any form of treatment for a child is not to be treated as a regulated activity relating to children where—

(a) a person (P) who is engaged in any activity,

(b) provides treatment to a child, and

(c) the provision of treatment is not one of the main purposes of the activity in which P is engaged.

(2) The fostering of a child (C) is not to be treated as a regulated activity where—

(a) a person (F) is included in the children's barred list,

(b) C is being looked after by a local authority within the meaning of section 22 of the Children Act 1989,

(c) the local authority that looks after C is satisfied that C's welfare requires that C is fostered by F, and

(d) either—

(i) F or a member of F's household is a relative of C, or

(ii) C was being fostered by F immediately before F was included in the children's barred list.

Exception – regulated activity relating to vulnerable adults

4. The provision of any form of treatment for a vulnerable adult is not to be treated as a regulated activity relating to vulnerable adults where—

(a) a person (P) who is engaged in any activity,

(b) provides treatment to a vulnerable adult, and

(c) the provision of treatment is not one of the main purposes of the activity in which P is engaged.

Barred Lists

5. For the purposes of—

(a) section 3(2)(b) of the Act, the list maintained under Article 6(1)(a) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**a**) is specified as a list corresponding with the children's barred list;

(b) section 3(3)(b) of the Act, the list maintained under Article 6(1)(b) of that Order is specified as a list corresponding with the adults' barred list.

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

Welsh Ministers - functions under the Children Act 1989

6. In section 45(7)(**a**) of the Act, after paragraph (e) insert—

"(ea) the Welsh Ministers in the exercise of their functions under Part 10A, Part 11 or Part 12 of the Children Act 1989;".

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

3rd July 2009

(**a**) Section 45(7) of the Act has been amended by the Health and Social Care Act 2008 (c. 14) but the amendments were not in force on the making of this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out a number of provisions made under the Safeguarding Vulnerable Groups Act 2006 ("the Act").Article 2 provides that a person who has one or more of the learning difficulties specified in paragraph (2), and who has no other form of disability, who receives a service or participates in an activity that is provided specifically for adults with the specified learning difficulties, will not be treated as a vulnerable adult for the purposes of section 59(1)(h) of the Act.

Article 3 sets out two sets of circumstances in which an activity that is a regulated activity relating to children is not to be treated as a regulated activity. The first exception relates to treatment given to a child by a person where the provision of that treatment is not one of the main purposes of the work or other activity in which that person is engaged. An example of such treatment might be an assistant in a shop, who is also the shop's health and safety representative, giving first aid to a child who is taken ill or injured while in the shop.

The second exception relates to circumstances where a person fosters a child. The aim of this exception is to ensure that where a child's welfare requires it, a child who is being looked after by a local authority can be placed with a local authority foster parent even if that person is included in the children's barred list. The circumstances are where F was fostering the child immediately before F was included in the children's barred list or where F (or any member of F's household) is a relative of the child.Article 4 sets out an exception to regulated activity relating to vulnerable adults which mirrors the exception in article 3 relating to treatment provided to children.

Article 5 specifies the barred lists in Northern Ireland that correspond with the barred lists under the Act. The purpose of this is to bar persons from engaging in regulated activity in England and Wales where they are also barred from such activity in Northern Ireland because they are on one of the corresponding Northern Ireland lists.

Article 6 adds the Welsh Ministers (in relation to the exercise of some of their functions under the Children Act 1989) to the list of supervisory authorities under section 45(7) of the Act.

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