
STATUTORY INSTRUMENTS

2020 No. 358

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES**

**The Protection of Freedoms Act 2012
(Transitory Provision) Order 2020**

Made - - - - 26th March 2020

The Secretary of State makes the following Order in exercise of the power conferred by section 116(1) of the Protection of Freedoms Act 2012⁽¹⁾.

Citation, commencement and extent

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Transitory Provision) Order 2020 and comes into force on the day on which section 163(2) of the Serious Organised Crime and Police Act 2005⁽²⁾, insofar as it inserts section 113E(1) and (2) into the Police Act 1997⁽³⁾, is commenced for any purpose.

(2) This Order extends to England and Wales.

Transitory provision

2.—(1) This article applies 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 (information about barring decisions) is brought into force for the purpose of inserting section 30A (provision of barring information on request) into the Safeguarding Vulnerable Groups Act 2006⁽⁴⁾.

(2) Section 113E of the Police Act 1997 (criminal record certificates: specified children’s and adults’ lists: urgent cases) has effect subject to the following modifications—

(a) subsection (1) is to be read as if for paragraph (a) there were substituted “it is made in a case prescribed under section 113BA(1)⁽⁵⁾”;

(1) 2012 c. 9.
(2) 2005 c.15. Section 163(2) has been partially commenced by S.I. 2006/378, S.I. 2006/2182, S.I. 2007/3064, S.I. 2008/306 and S.I. 2015/188.
(3) 1997 c.50. Section 113E is inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15), amended by S.I. 2012/3006 and modified by S.I. 2012/2157.
(4) 2006 c. 47.
(5) Section 113BA was inserted by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47) and amended by paragraphs 35 and 38 of Schedule 9 to the Protection of Freedoms Act 2012 (c.9), section 170(2) of the Education and Inspections Act 2006 (c.40) and paragraph 12 of Schedule 1 to the Education and Skills Act 2008 (c.25).

- (b) subsection (2) is to be read as if—
 - (i) after “person” there were inserted “either”;
 - (ii) in paragraph (a) —
 - (aa) for “if” there were substituted “that”;
 - (bb) “, of that fact” were omitted;
 - (iii) after paragraph (a) there were inserted “or”;
 - (iv) for paragraphs (b) to (d) there were substituted—
 - “(b) that an enhanced criminal record certificate will be issued in due course.”;
- (c) at the end of the section there were inserted—
 - “(7) For the purposes of this section, each of the following is a specified children’s list—
 - (a) the children’s barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006;
 - (b) the children’s barred list maintained under Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.”.

26th March 2020

Victoria Atkins
Parliamentary Under Secretary of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitory provision in connection with the coming into force of section 72(1) of the Protection of Freedoms Act 2012 (c. 9) (“the 2012 Act”). When section 72 of the 2012 Act is brought into force, it will supersede the operation of section 113E(1) and (2) of the Police Act 1997 (c. 50) (“the 1997 Act”) (as inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15)). This Order makes transitory provision in relation to the operation of section 113E pending the commencement of section 72 of the 2012 Act.

Where an application is made under the 1997 Act for an enhanced criminal record certificate which is eligible for a check of the children’s and/or adults’ barred lists, section 113E of that Act provides for checks of those lists in urgent cases. A person included in a barred list is barred from engaging in regulated activity with the relevant group. Section 72(1) of the 2012 Act inserts a replacement regime into the Safeguarding Vulnerable Groups Act 2006 (c. 47) (“the 2006 Act”) for the provision of barring information.

Article 2 of this Order ensures that when section 113E(1) and (2) of the 1997 Act is in operation, certain employers of people seeking to work with children in urgent cases will be able to request barred list checks before receiving enhanced criminal record certificates. This provision will have effect until section 72(1) of the 2012 Act, insofar as it inserts the replacement regime under section 30A of the 2006 Act, is brought into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.