

2012 No. 320

SAFEGUARDING VULNERABLE GROUPS

**The Safeguarding Vulnerable Groups (Miscellaneous
Amendments) Order (Northern Ireland) 2012**

<i>Made</i> - - - -	<i>14th August 2012</i>
<i>Laid before Parliament</i>	<i>17th August 2012</i>
<i>Coming into operation</i> -	<i>10th September 2012</i>

The Secretary of State makes the following Order in exercise of the powers conferred by Articles 3(11) and 61(1), (2) and (3) of, and paragraphs 6 and 9 of Schedule 2 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007^(a).

Citation and commencement

1. This Order may be cited as the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order (Northern Ireland) 2012 and comes into operation on 10th September 2012.

Interpretation

2. In this Order—

“the 2007 Order” means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

Amendment of the Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2009

3.—(1) The Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2009^(b) is amended in accordance with paragraphs (2) and (3).

(2) Articles 3 and 5 are revoked.

(3) In Article 4 (Exceptions – regulated activity relating to children)—

- (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”.

(a) S.I. 2007/1351 (N.I. 11).
(b) S.R. 2009 No.305.

Amendment of the Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009

4.—(1) The Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009(a) is amended in accordance with paragraphs (2) and (3).

(2) In Article 2(1) 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 5 to 21 are revoked.

Transitional provisions

5. Articles 6 and 7 apply for the period beginning on the day on which this Order comes into operation and ending on the day on which paragraph 9(1) of Schedule 7 to the Protection of Freedoms Act 2012(b) is brought into force for the purposes of inserting Article 32A (Information about barring decisions) into the 2007 Order.

6.—(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 Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(c);
- (b) included in the list kept under Article 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
- (c) included in the list kept under regulation 8 of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007(d); 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).

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

(2) For subsection (3) substitute—

“(3) Section 113B(3) to (11)(f) and sections 113BA(g) and 113BB shall apply in relation to this section with any necessary further modifications.”

Home Office
14th August 2012

James Brokenshire
Parliamentary Under-Secretary of State

(a) S.R. 2009 No. 304.

(b) 2012 c. 9.

(c) S.I. 2003/417 (N.I. 4).

(d) S.R. 2007 No. 288.

(e) 1997 c. 50.

(f) Section 113B of the Police Act 1997 was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14(1) and (3) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c.47).

(g) 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 (c. 26), 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).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 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 to the definitions of vulnerable adult, regulated activity relating to children and regulated activity relating to vulnerable adults in Schedule 7 to the Protection of Freedoms Act 2012 (“the 2012 Act”).

This Order also amends the Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (the “2009 Commencement Order”) in light of the changes made to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (the “2007 Order”) by Schedule 7 of the 2012 Act. The 2009 Commencement Order is mainly based around three transitional periods, which were dependent on the phased implementation of Article 28 of the 2007 Order. Paragraph 6 of Schedule 7 to the 2012 Act repeals Article 28 of the 2007 Order 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.

This Order makes two new transitional provisions. Article 6 (which is based on Article 19 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 Articles 3 and 35 respectively of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 or the list kept under regulation 8 of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007.

This provision will have effect until paragraph 9(1) of Schedule 7 to the 2012 Act, insofar as it inserts the barred list check under Article 32A into the 2007 Order, is brought into force.

Article 7 (which is based on article 15 of the 2009 Commencement Order) modifies section 116(3) (Enhanced criminal record certificates: judicial appointments and Crown employment) of the Police Act 1997.

An impact assessment has not been produced for this rule as no impact on the private, voluntary or public sector is foreseen.

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