

# **SAFEGUARDING VULNERABLE GROUPS ACT 2006**

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## **EXPLANATORY NOTES**

### **RESTRICTIONS ON PARTICIPATING IN REGULATED ACTIVITY**

#### ***Section 8: Person not to engage in regulated activity unless subject to monitoring***

57. Subsection (1) makes it an offence for a person to engage in regulated activity with the permission of a regulated activity provider unless he is subject to monitoring. (A person may apply to become subject to monitoring under section 24.)
58. Subsection (2) ensures that childminders who are required to be registered under the provisions of the Childcare Act 2006 or who would be required to be registered but for the fact that they do not provide childcare for a child below the age of eight will be required to be subject to monitoring. This applies even where the childminder is engaged in providing services to a person who is not a regulated activity provider (see note on section 6 for definition of regulated activity provider). This requirement also applies to childminders in Wales in similar circumstances.
59. Subsection (3) makes it an offence for a person to act as a member of a governing body of an educational establishment whilst not subject to monitoring. A “member of a governing body” can include not only a person traditionally described as a “governor” but also one who is a member of a body which “governs” an educational establishment, for example, a director or trustee if the board of directors or trustees is the “governing body” of the relevant educational institution.
60. Subsection (6) ensures that this offence does not apply if the individual who engages in the activity is under 16 years old. This will ensure that young people can, for example, undertake work experience in a nursery without being subject to monitoring.
61. Subsections (7) and (11) ensure that those already in post before it becomes an offence for an individual not to be subject to monitoring will not initially be criminalised if they are not subject to monitoring. The implementation of the scheme will be phased and the intention is that, to start with, only new appointments will be subject to its requirements. After a prescribed date however (subsections (9) and (12)) those already in post at the commencement of section 8 will need also to be subject to monitoring.
62. Subsection (8) extends the scope of subsection (7) in certain cases involving NHS employment. It deals with the situation where a person is engaged in relevant NHS employment when the section comes into force and he then engages in another form of relevant NHS employment. In this case, the first NHS employment is caught by subsection (7). The second NHS employment is not caught by subsection (7) as the permission to engage in that activity does not pre-date commencement of the section. Subsection (8) ensures that in this situation the person does not need to apply to be subject to monitoring in respect of the second NHS employment until he needs to apply to be subject to monitoring in respect of the first NHS employment.

*These notes refer to the Safeguarding Vulnerable Groups Act  
2006 (c.47) which received Royal Assent on 8 November 2006*

63. Subsection (10) ensures that a person does not commit an offence if he engages in regulated activity mentioned in section 16 and that activity is regulated activity relating to vulnerable adults. Section 16 contains miscellaneous exceptions for persons such as prison officers.
64. Subsection (14) will require courts to consider the extent to which guidance issued by the Secretary of State on the definition of “frequently” has been followed when setting the penalty for the commission of the offence in the section. This is intended to protect those individuals who have followed the Secretary of State’s guidance in the event that a court takes a different view to the Secretary of State on the interpretation of frequently.