

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

SAFEGUARDING VULNERABLE GROUPS ACT 2006

EXPLANATORY NOTES

RESTRICTIONS ON PARTICIPATING IN REGULATED ACTIVITY

Section 11: Regulated activity provider: failure to check

73. This section makes it an offence for a regulated activity provider to permit an individual to engage in regulated activity without first ascertaining that they are subject to monitoring in relation to the activity (the offence only applies if the individual actually engages in the activity). The regulated activity provider must ascertain whether the individual is subject to monitoring in accordance with the relevant Part of Schedule 5 (see below). It is also an offence to knowingly or recklessly provide false written confirmation that is required by Schedule 5 (subsection (8)).
74. Subsection (2) defines what it means to check whether a person is subject to monitoring. The various methods of checking whether a person is subject to monitoring are set out in Schedule 5.
75. This section lists defences which apply in specific circumstances. Subsections (3) and (4) exempt certain providers of regulated activity mentioned in sections 16 and 17 (where certain conditions are met), from the requirement to check that an individual is subject to monitoring.
76. Subsection (5) ensures that this offence does not apply if the individual is under 16 years old. This will ensure that, for example, a care home could give work experience to young people without having to check that they are subject to monitoring.
77. Provision equivalent to that in section 8(7) (see above) is made in subsection (6) for regulated activity providers and covers permission to carry out an activity that was given before commencement of section 11.
78. Subsection (10) 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 employers 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”.