

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 5: Safeguarding vulnerable groups, criminal records etc.

Chapter 1: Safeguarding of vulnerable groups

Section 73: Duty to check whether person barred

301. This section inserts new section 34ZA into the SVGA. New section 34ZA(1) places a duty on a 'regulated activity provider' to ascertain whether a person is barred before permitting that person to engage in regulated activity.
302. New section 34ZA(2) places a similar duty on a personnel supplier who provides persons to work in regulated activity (for example, a provider of agency teachers or care home workers) to ensure that any personnel they provide, knowing that they will be engaging in regulated activity, are not barred.
303. New sections 34ZA(3) to (6) provide that the duties to check are met in particular where the provider has obtained information under new section 30A; obtained an enhanced criminal record certificate (under Part 5 of the Police Act 1997) in respect of regulated activity (which will indicate whether the person is barred); or checked such a certificate and received up-date information in relation to that certificate as provided for under section 83.
304. New section 34ZA(7) enables the Secretary of State by regulations (subject to the negative resolution procedure) to disapply the duties in subsections (1) and (2) in respect of persons of a prescribed description.