



Policing and Crime Act 2009

2009 CHAPTER 26

PART 8

MISCELLANEOUS

CHAPTER 1

SAFEGUARDING VULNERABLE GROUPS AND CRIMINAL RECORDS

Renaming of Independent Barring Board

81 Renaming of Independent Barring Board

- (1) The Independent Barring Board is renamed the Independent Safeguarding Authority.
- (2) For the words in the left-hand column of the table, wherever they appear in the enactments mentioned in subsection (3), substitute the corresponding words in the right-hand column of the table.

<i>Existing words</i>	<i>Substitution</i>
“Independent Barring Board”	“Independent Safeguarding Authority”
“Independent Barring Board's”	“Independent Safeguarding Authority's”
“IBB”	“ISA”
“IBB's”	“ISA's”

- (3) The enactments are—
 - (a) Schedule 1 to the Superannuation Act 1972 (c. 11),
 - (b) sections 7 and 11 of the Police Pensions Act 1976 (c. 35),
 - (c) section 35C of the Medical Act 1983 (c. 54),
 - (d) section 13D of the Opticians Act 1989 (c. 44),

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Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Chapter 1. (See end of Document for details)

- (e) section 20 of the Osteopaths Act 1993 (c. 21),
 - (f) section 20 of the Chiropractors Act 1994 (c. 17),
 - (g) section 97 of the Police Act 1996 (c. 16),
 - (h) sections 113BA, 113BB, 113CA and 113CB of the Police Act 1997 (c. 50),
 - (i) sections 56 and 75 of the Data Protection Act 1998 (c. 29),
 - (j) paragraph 1 of Schedule 2 to the Teaching and Higher Education Act 1998 (c. 30),
 - (k) section 167C of the Education Act 2002 (c. 32),
 - (l) section 171 of the Education and Inspections Act 2006 (c. 40),
 - (m) the following enactments in the Safeguarding Vulnerable Groups Act 2006 (c. 47) (including any relevant headings)—
 - (i) sections 1, 2, 4^[F1], 6, 15, 25], 35, 36 to 47 and 50,
 - (ii) paragraphs 1, 3 to 7 and 9 to 16 of Schedule 1,
 - (iii) paragraphs 1 and 2 of Schedule 2,
 - (iv) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 3,
 - (v) ^[F2]paragraphs 4 and 8 of Schedule 4,]
 - (vi) ^[F3]paragraph 2 of Schedule 5, and]
 - (vii) paragraphs 1 to 3 of Schedule 8,
 - (n) sections 39, 40 and 97 of, and Schedule 5 to, the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),
 - (o) the following enactments in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) (including any relevant headings)—
 - (i) Articles 2, 5, 6, 8, 10, 19, 29, 37 to 49 and 52,
 - (ii) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 1,
 - (iii) paragraphs 4 and 8 of Schedule 2,
 - (iv) paragraph 2 of Schedule 3, and
 - (v) paragraphs 1 to 3 of Schedule 6, and
 - (p) sections 130 and 141 of the Education and Skills Act 2008 (c. 25).
- (4) In the following enactments for “the Board” substitute “ the Authority ”
- (a) section 167C of the Education Act 2002 (c. 32) (both as inserted by the Education and Inspections Act 2006 (c. 40) and as substituted by the Education and Skills Act 2008 (c. 25)), and
 - (b) section 130(4) of the Education and Skills Act 2008 (c. 25).
- (5) Any reference (other than those dealt with by subsections (2) to (4) above) to the Independent Barring Board in any enactment or other document passed or made before the commencement of this section is to be read as a reference to the Independent Safeguarding Authority.
- (6) Any reference to the Independent Safeguarding Authority which arises by virtue of this section is to be read, in relation to times before the commencement of this section, as a reference to the Independent Barring Board.
- (7) In this section—
- “enactment” includes an Act of the Scottish Parliament, Northern Ireland legislation and an enactment comprised in subordinate legislation,

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“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30)) and also includes an instrument made under—

- (a) an Act of the Scottish Parliament, or
- (b) Northern Ireland legislation.

Textual Amendments

- F1** Numbers in [s. 81\(3\)\(m\)\(i\)](#) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234, art. 2\(bb\)](#)
- F2** [S. 81\(3\)\(m\)\(v\)](#) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234, art. 2\(bb\)](#)
- F3** [S. 81\(3\)\(m\)\(vi\)](#) repealed (E.W.N.I.) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234, art. 2\(bb\)](#)

Safeguarding vulnerable groups: England and Wales

PROSPECTIVE

^{F4}82 Educational establishments: check on members of governing body

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Textual Amendments

- F4** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234, art. 2\(bb\)](#)

^{F4}83 Monitoring application

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Textual Amendments

- F4** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234, art. 2\(bb\)](#)

^{F4}84 Monitoring: additional fees

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Textual Amendments

F4 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

^{F4}85 Vetting information

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Textual Amendments

F4 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

^{F4}86 Notification of cessation of monitoring

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Textual Amendments

F4 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

^{F4}87 Notification of proposal to include person in barred list

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Textual Amendments

F4 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

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Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Chapter 1. (See end of Document for details)

88 Provision of safeguarding information to the police

After section 50 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) insert—

“Provision of information to the police

50A Provision of information to the police

- (1) ISA may provide any information it has to a chief officer of police for use for any of the following purposes—
 - (a) the prevention, detection and investigation of crime;
 - (b) the apprehension and prosecution of offenders.
- (2) The power conferred by subsection (1) does not limit any other power of ISA to provide information for any purpose or to any person.”

Commencement Information

11 S. 88 in force at 30.11.2009 by [S.I. 2009/3096](#), [art. 2\(a\)](#)

PROSPECTIVE

^{F5}89 Barring process

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Textual Amendments

F5 [S. 89](#) repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [s. 120](#), [Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234](#), [art. 2\(bb\)](#)

Safeguarding vulnerable groups: Northern Ireland

PROSPECTIVE

^{F6}90 Notification of proposal to include person in barred list: Northern Ireland

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Textual Amendments

F6 [S. 90](#) repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), [s. 120](#), [Sch. 10 Pt. 5](#) (with [s. 97](#)); [S.I. 2012/2234](#), [art. 2\(bb\)](#)

Status: Point in time view as at 10/09/2012. This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Chapter 1. (See end of Document for details)

91 Provision of safeguarding information to the police: Northern Ireland

After Article 52 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) insert—

“Provision of information to the police

52A Provision of information to the police

- (1) ISA may provide any information it has to the chief constable of the Police Service of Northern Ireland for use for any of the following purposes—
 - (a) the prevention, detection and investigation of crime;
 - (b) the apprehension and prosecution of offenders.
- (2) The power conferred by paragraph (1) does not limit any other power of ISA to provide information for any purpose or to any person.”

Commencement Information

I2 S. 91 in force at 30.11.2009 by S.I. 2009/3096, art. 2(b)

PROSPECTIVE

F792 Barring process: Northern Ireland

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Textual Amendments

F7 S. 92 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

Criminal records etc

PROSPECTIVE

F893 Criminal conviction certificates to be given to employers

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Textual Amendments

F8 S. 93 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 79\(1\), 120, Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(p)

Status: Point in time view as at 10/09/2012. This version of this chapter contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Chapter 1. (See end of Document for details)

PROSPECTIVE

94 Certificates of criminal records etc: right to work information

In the Police Act 1997 after section 113CC insert—

“113CD Immigration information relevant to employment

- (1) This section applies where—
 - (a) an application for a certificate under section 112, 113A or 113B contains a request for information under this section,
 - (b) in the case of an application for a certificate under section 112, the application contains a statement that the information is sought for the purposes of employment with a person specified in the application, and
 - (c) the applicant pays in the prescribed manner any additional fee prescribed in respect of the application.
- (2) The certificate must state—
 - (a) whether according to records held by the Secretary of State the applicant is subject to immigration control, or
 - (b) that records held by the Secretary of State do not show whether the applicant is subject to immigration control.
- (3) If the records show that the applicant is subject to immigration control, the certificate must state—
 - (a) whether according to the records the applicant has been granted leave to enter or remain in the United Kingdom, or
 - (b) that the records do not show whether the applicant has been granted leave to enter or remain in the United Kingdom.
- (4) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom, the certificate must state—
 - (a) whether according to the records the applicant's leave to enter or remain in the United Kingdom is current, or
 - (b) that the records do not show whether the applicant's leave to enter or remain in the United Kingdom is current.
- (5) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom and that it is current, the certificate must also state any conditions to which the leave to enter or remain is subject and which relate to the applicant's employment.
- (6) A certificate under this section must contain such advice as the Secretary of State thinks appropriate about where to obtain further information about the matters mentioned in subsections (2) to (5).
- (7) For the purposes of this section a person's leave to enter or remain in the United Kingdom is current unless—
 - (a) it is invalid, or
 - (b) it has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise).

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(8) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.”

PROSPECTIVE

95 Criminal conviction certificates: verification of identity

In section 118 of the Police Act 1997 (c. 50) (evidence of identity) after subsection (2) insert—

“(2ZA) By virtue of subsection (1) the Secretary of State may, in particular, refuse to issue a certificate to a person unless the application is supported by prescribed evidence that the person's identity has been verified by a third person determined by the Secretary of State (whether or not the third person charges a fee for such verification).”

96 Registered persons

(1) Section 120A of the Police Act 1997 (refusal and cancellation of registration), as inserted by section 134 of the Criminal Justice and Police Act 2001 (c. 16), is amended as follows.

(2) In subsection (3) (matters to which Secretary of State may have regard in considering suitability of persons likely to have access to information) for paragraph (b) substitute—

“(b) any information relating to the person of a kind specified in subsection (3A);”.

(3) After subsection (3) insert—

“(3A) The information is—

- (a) whether the person is barred from regulated activity;
- (b) if the person is barred from such activity, such details as are prescribed of the circumstances in which the person became barred;
- (c) whether the Independent Safeguarding Authority is considering whether to include the person in a barred list in pursuance of paragraph 3, 5, 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006;
- (d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).

(3B) Subsection (3C) applies if—

- (a) the Secretary of State receives an application for registration, and
- (b) it appears to the Secretary of State that the registration is likely to make it possible for information to become available to an individual who the Independent Safeguarding Authority is considering whether to include in a barred list as mentioned in subsection (3A)(c).

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- (3C) The Secretary of State may postpone consideration of the application until the Authority has decided whether to include the individual in the barred list.
- (3D) Expressions used in subsections (3A) to (3C) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in those subsections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”
- (4) After subsection (6) insert—
- “(7) The Secretary of State may by order made by statutory instrument amend subsection (3A) for the purpose of altering the information specified in that subsection.
- (8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

I3 S. 96 in force at 10.9.2012 for E.W.N.I. by S.I. 2012/2235, art. 2(a)

97 Criminal records: applications

- (1) Before section 126 of the Police Act 1997 (c. 50) insert—

“125B Form of applications

- (1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.
- (2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.”
- (2) In the following provisions of that Act omit “in the prescribed manner and form”—
 section 112(1)(a) (criminal conviction certificates),
 section 113A(1)(a) (criminal record certificates),
 section 113B(1)(a) (enhanced criminal record certificates).
- (3) In the following provisions of that Act omit “in the prescribed form”—
 section 114(1)(a) (criminal record certificates: Crown employment),
 section 116(1)(a) (enhanced criminal record certificates: judicial appointments and Crown employment).

Commencement Information

I4 S. 97 in force at 29.1.2010 by S.I. 2010/125, art. 2(n)

Status:

Point in time view as at 10/09/2012. This version of this chapter contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Policing and Crime Act 2009, Chapter 1.