
STATUTORY INSTRUMENTS

2009 No. 39 (C. 3)

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, ENGLAND AND WALES**

The Safeguarding Vulnerable Groups Act
2006 (Commencement No. 3) Order 2009

Made - - - - 14th January 2009

The Secretary of State for Children, Schools and Families makes the following Order in exercise of the powers conferred by sections 61(5) and 65 of the Safeguarding Vulnerable Groups Act 2006⁽¹⁾:
In accordance with section 56(3)(p) of that Act he has consulted the Welsh Ministers:

Citation and interpretation

1.—(1) This Order may be cited as the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 3) Order 2009.

(2) In this Order, “the Act” means the Safeguarding Vulnerable Groups Act 2006.

Provisions coming into force on 20th January 2009

2.—(1) 20th January 2009 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 2 (barred lists), for the purposes of the Safeguarding Vulnerable Groups Act 2006 (Transitory Provisions) Order 2009⁽²⁾;
- (b) section 5 (regulated activity) and Schedule 4;
- (c) section 28 (independent monitor);
- (d) section 29 (Part 5 of the Police Act 1997: code of practice);
- (e) section 37 (regulated activity providers: duty to provide information on request) and the provisions specified in paragraph (2), in so far as they relate to that section;

(1) 2006 c.47.
(2) S.I. 2009/12.

- (f) section 40 (local authorities: duty to provide information on request);
 - (g) section 42 (registers: duty to provide information on request) and section 41(7) (registers: duty to refer), in so far as it relates to that section;
 - (h) section 46 (supervisory authorities: duty to provide information on request) and section 45(7) (supervisory authorities: duty to refer), in so far as it relates to that section;
 - (i) section 53 (fostering);
 - (j) section 57 (damages);
 - (k) paragraphs 1 to 3, 4(1) to (4) and (6), 5, 7 to 9, 10(1) to (4) and (6), 11, 14 to 20, 22, 23, 24(3) to (7)(3) and 25 of Schedule 3 (barred lists), in so far as they are not already in force;
 - (l) the provisions in Schedule 9 (amendments) specified in paragraph (3) in so far as they are not already in force and section 63(1) (amendments and repeals) in so far as it relates to those provisions.
- (2) The provisions are—
- (a) section 6 (regulated activity providers);
 - (b) section 21 (controlled activity relating to children);
 - (c) section 22(1) to (4), (5)(a) and (b) and (6) (controlled activity relating to adults);
 - (d) section 23(3) (controlled activity: regulations);
 - (e) section 38 (duty to provide information: offences).
- (3) The provisions are—
- (a) paragraph 5(2), (3), (6) and (7), in relation to England;
 - (b) paragraph 5(4);
 - (c) paragraph 5(1), in so far as it relates to the provisions specified in paragraphs (a) and (b);
 - (d) paragraph 6(2), (3) and (6), in relation to England;
 - (e) paragraph 6(4);
 - (f) paragraph 6(1), in so far as it relates to the provisions specified in paragraphs (d) and (e);
 - (g) paragraph 7, in relation to England;
 - (h) paragraph 2, in so far as it relates to the provisions specified in paragraphs (a) to (g).

14th January 2009

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

EXPLANATORY NOTE

(This note is not part of the Order)

This is the fifth Commencement Order made under the Safeguarding Vulnerable Groups Act 2006 (“the Act”). Article 2 brings into force section 2 of the Act for the purposes of the Safeguarding Vulnerable Groups Act 2006 (Transitory Provisions) Order 2008 (“the Transitory Order”), as well as related provisions in Schedule 3 to the Act, which makes provision relating to barring. These provisions relate to the maintenance of a children’s barred list and an adults’ barred list and the process by which a person may be included in, or removed from, either list.

Article 2 also brings section 5 and Schedule 4 into force in full, providing the definition of regulated activity for the purposes of the Act, as well as bringing into force section 53, which defines, and makes provision relating to, fostering (once section 3 of the Act is in force, a person who is included in one of the barred lists will be barred from engaging in the regulated activity to which the list relates; by virtue of paragraph 1(5) of Schedule 4, fostering is regulated activity relating to children).

In addition, article 2 brings into force sections 37, 40, 42 and 46 of the Act, which impose duties on various persons to provide information to the Independent Barring Board (“IBB”) at the IBB’s request (the IBB is established under section 1 of the Act), together with section 57, which makes provision relating to damages where a person has suffered loss or damage in consequence of an individual being included in a barred list, or of the provision of information in pursuance of duties including those mentioned above.

Article 2 also brings into force in relation to England amendments to the Teaching and Higher Education Act 1998 (c. 30). These amendments will have the effect that some people whose cases would formerly have been referred to the Secretary of State will now be referred to the General Teaching Council for England.

Finally, article 2 brings into force sections 28 and 29, which amend the Police Act 1997 (c. 50) in relation to England, Wales and Northern Ireland. Section 28 places the post of Independent Monitor of relevant police information, disclosed as part of the Criminal Records Bureau’s Enhanced Disclosure process, on a statutory footing and applies similar provisions to relevant police information to be provided to the IBB. The Monitor plays a vital role in ensuring that an individual’s right to privacy and family life, in accordance with Article 8 of the European Convention of Human Rights, is not infringed arbitrarily or unnecessarily. Section 29 extends the remit of the code of practice required to be published under section 122 of the Police Act and also broadens the range of options at the disposal of the Secretary of State in the event that a person or body fails to comply with the code.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 1 in relation to England and Wales	2nd January 2008	2007/3545 (C.153)
section 1 in relation to Northern Ireland	31st March 2008	2008/930 (C.45)
sections 2(2) to (5) partially	31st December 2007	2007/3545 (C.153)
section 2 partially	11th February 2008	2007/3545 (C.153)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 2(2), (3) and (4) partially	19th May 2008	2008/1320 (C.57)
section 3(1), (2)(a) and (b) and (3)(b) partially	19th May 2008	2008/1320 (C.57)
section 4(8)	31st December 2007	2007/3545 (C.153)
section 4 in so far as not already in force	19th May 2008	2008/1320 (C.57)
section 5(1) and (2) partially	11th February 2008	2007/3545 (C.153)
section 5 partially	19th May 2008	2008/1320 (C.57)
section 6 partially	11th February 2008	2007/3545 (C.153)
section 6(12) partially	19th May 2008	2008/1320 (C.57)
section 11(2) partially	19th May 2008	2008/1320 (C.57)
section 12 partially	19th May 2008	2008/1320 (C.57)
section 13(1) and (5) partially	19th May 2008	2008/1320 (C.57)
section 14(1), (2) and (3) partially	19th May 2008	2008/1320 (C.57)
section 24(1)(c) and (d), (8)(a) and (c), (10), (11) and (12)(d) partially	19th May 2008	2008/1320 (C.57)
section 25	19th May 2008	2008/1320 (C.57)
section 26(1) partially	19th May 2008	2008/1320 (C.57)
section 30(7) and (8) partially	19th May 2008	2008/1320 (C.57)
section 31(6) partially	19th May 2008	2008/1320 (C.57)
section 32(10) partially	19th May 2008	2008/1320 (C.57)
section 33(3) and (4)(b) partially	19th May 2008	2008/1320 (C.57)
section 35(1) partially	19th May 2008	2008/1320 (C.57)
section 36(1), (2) and (3) partially	19th May 2008	2008/1320 (C.57)
section 37 partially	11th February 2008	2007/3545 (C.153)
section 37(2) partially	19th May 2008	2008/1320 (C.57)
section 39(1) and (5) partially	19th May 2008	2008/1320 (C.57)
section 38 partially	11th February 2008	2007/3545 (C.153)
section 40 partially	11th February 2008	2007/3545 (C.153)
section 40(2) partially	19th May 2008	2008/1320 (C.57)
section 41(1), (5) and (8) partially	19th May 2008	2008/1320 (C.57)
section 42 partially	11th February 2008	2007/3545 (C.153)
section 42(2) partially	19th May 2008	2008/1320 (C.57)
section 43(3) to (5) partially	11th February 2008	2007/3545 (C.153)
section 43(7) partially	19th May 2008	2008/1320 (C.57)
section 44(6) and (7) partially	19th May 2008	2008/1320 (C.57)
section 45(1), (5) and (9) partially	19th May 2008	2008/1320 (C.57)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 46 partially	11th February 2008	2007/3545 (C.153)
section 46(1)(a) and (2) partially	19th May 2008	2008/1320 (C.57)
section 47(6) and (7) partially	19th May 2008	2008/1320 (C.57)
section 48(6), (7) and (8) partially	19th May 2008	2008/1320 (C.57)
section 49(6), (7) and (8) partially	19th May 2008	2008/1320 (C.57)
section 50 partially	11th February 2008	2007/3545 (C.153)
section 51 partially	11th February 2008	2007/3545 (C.153)
section 53 partially	11th February 2008	2007/3545 (C.153)
section 54(1) and (2) partially		2008/1320 (C.57)
section 56	31st December 2007	2007/3545 (C.153)
section 57 partially	11th February 2008	2007/3545 (C.153)
section 58 partially	11th February 2008	2007/3545 (C.153)
section 58(6) partially	19th May 2008	2008/1320 (C.57)
section 59 partially, in relation to England and Wales	11th February 2008	2007/3545 (C.153)
section 59 partially, in relation to Northern Ireland	31st March 2008	2008/930 (C.45)
section 60(1) partially, in relation to England and Wales	31st December 2007	2007/3545 (C.153)
section 60(1) and (4) partially, in relation to England and Wales	11th February 2008	2007/3545 (C.153)
section 60 partially, in relation to Northern Ireland	31st March 2008	2008/930 (C.45)
section 61, in relation to England and Wales	31st December 2007	2007/3545 (C.153)
section 61 partially, in relation to Northern Ireland	31st March 2008	2008/930 (C.45)
section 62 partially	31st December 2007	2007/3545 (C.153)
section 62 in so far as not already in force	11th February 2008	2007/3545 (C.153)
section 63(1) partially	19th May 2008	2008/1320 (C.57)
section 63(1) partially	17th December 2008	2008/3204 (C.145)
section 64	31st December 2007	2007/3545 (C.153)
section 66	31st December 2007	2007/3545 (C.153)
section 67	31st December 2007	2007/3545 (C.153)
Schedule 1 in relation to England and Wales	2nd January 2008	2007/3545 (C.153)
Schedule 1 in relation to Northern Ireland	31st March 2008	2008/930 (C.45)
Schedule 2	2nd January 2008	2007/3545 (C.153)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Schedule 3		
Paragraphs 1(1), 2(1), 7(1) and 8(1) partially	31st December 2007	2007/3545 (C.153)
Paragraphs 15, 18(3)(b) and (6) and 24(1), (2) and (9)	31st December 2007	2007/3545 (C.153)
Paragraphs 1 to 14, 16, 17, 18(1), (2), (3) (a), (4) and (5), 19 to 23, 24(3) to (8) and 25 partially	11th February 2008	2007/3545 (C.153)
Paragraphs 6(1)(b), (2) and (3), 12(1)(b), (2) and (3), 16(5), 19(1)(b) and 21 partially	19th May 2008	2008/1320 (C.57)
Schedule 4		
Schedule 4 partially	11th February 2008	2007/3545 (C.153)
Schedule 4 partially	19th May 2008	2008/1320 (C.57)
Paragraphs 2(1)(f), 6, 7(1)(f) and 9 partially	19th May 2008	2008/1320 (C.57)
Schedule 5		
Paragraphs 1(1), 2(1)(a), 3(1)(c) and (2), 4(1) (c) and (2), 5, 6(1)(c) and (2), 7(1)(c) and (2), 8, 9(1)(c) and (2), 10(1)(c) and (2) and 14 partially	19th May 2008	2008/1320 (C.57)
Schedule 6		
Paragraphs 2(1) and 5 partially	19th May 2008	2008/1320 (C.57)
Schedule 7		
Paragraphs 1 and 2 partially	19th May 2008	2008/1320 (C.57)
Schedule 8		
Paragraphs 2 to 4, partially	31st December 2007	2007/3545 (C.153)
Paragraphs 1 to 5	11th February 2008	2007/3545 (C.153)
Schedule 9		
Paragraphs 2, 5(1) and 6(1) partially	17th December 2008	2008/3204 (C.145)
Paragraphs 5(2), (3) (6) and (7), 6(2), (3) and (6) and 7 in relation to England	17th December 2008	2008/3204 (C.145)
Paragraphs 5(4) and 6(4)	17th December 2008	2008/3204 (C.145)
Paragraphs 10 and 15	19th May 2008	2008/1320 (C.57)