
STATUTORY INSTRUMENTS

2007 No. 1351

**The Safeguarding Vulnerable Groups
(Northern Ireland) Order 2007**

Notices and information

Personnel suppliers: duty to refer

38.—(1) A personnel supplier must provide [^{F1}DBS] with any prescribed information it holds in relation to a person (P) who has been supplied by it to another person if the supplier knows that P has ceased to be engaged in regulated activity ^{F2}... in the circumstances mentioned in paragraph (2) (a) or (b) of Article 37.

(2) A personnel supplier which is an employment agency or employment business must provide [^{F1}DBS] with any prescribed information it holds in relation to a person (P) for whom it acts if—

- (a) the agency or business determines to cease to act for P for a reason mentioned in paragraph (4), or
- (b) it does not determine to cease to act for P for such a reason but would or might have done so if its arrangement with, or employment of, him had not otherwise come to an end.

(3) A personnel supplier which is an educational institution must provide [^{F1}DBS] with any prescribed information it holds in relation to a student (P) following a course at the institution if—

- (a) the institution determines to cease to supply P to another person for him to engage in regulated ^{F3}... activity for a reason mentioned in paragraph (4),
- (b) the institution determines that P should cease to follow a course at the institution for a reason mentioned in paragraph (4), or
- (c) it does not determine as mentioned in sub-paragraph (a) or (b) for such a reason but would or might have done so if P had not otherwise ceased to engage in the activity or ceased to follow the course.

(4) The reasons are that the personnel supplier thinks—

- (a) that paragraph 1, 2, 7 or 8 of Schedule 1 applies to P,
- (b) that P has engaged in relevant conduct (within the meaning of paragraph 4 or 10 of Schedule 1), or
- (c) that the harm test is satisfied.

(5) The harm test is that P may—

- (a) harm a child or vulnerable adult,
- (b) cause a child or vulnerable adult to be harmed,
- (c) put a child or vulnerable adult at risk of harm,
- (d) attempt to harm a child or vulnerable adult, or
- (e) incite another to harm a child or vulnerable adult.

Changes to legislation: *The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, Section 38 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) For the purposes of paragraph (4)(b), conduct is inappropriate if it appears to the personnel supplier to be inappropriate having regard to the guidance issued by the Secretary of State under paragraph 4(6) or 10(6) of Schedule 1.

(7) An employment agency acts for a person if it makes arrangements with him with a view to—

- (a) finding him employment with an employer, or
- (b) supplying him to employers for employment by them.

(8) An employment business acts for a person if it employs him to act for and under the control of other persons in any capacity.

(9) In this Article “employment” has the same meaning as in Part II of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (NI 20).

(10) This Article does not apply if the conditions specified in paragraph (1), (2) or (3) are fulfilled before the Article is commenced.

Textual Amendments

- F1** Word in arts. 37-44 substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **6(b)** (with Pt. 4)
- F2** Words in art. 38(1) 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. 9 para. 95(2), **Sch. 10 Pt. 5**; S.I. 2012/2234, art. 2(aa)(v)(bb)
- F3** Words in art. 38(3)(a) 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. 9 para. 95(3), **Sch. 10 Pt. 5**; S.I. 2012/2234, art. 2(aa)(v)(bb)

Commencement Information

- I1** Art. 38 wholly in operation; art. 38 not in operation at date of making see art. 1(3); art. 38(1)(2)(3) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), **art. 4(j)**; art. 38 in operation at 12.10.2009 in so far as it is not already in operation by [S.R. 2009/346](#), **art. 3**, **Sch.**

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 1 para. 5A inserted by [2012 c. 9 Sch. 7 para. 11\(1\)](#)
- Sch. 1 para. 11A inserted by [2012 c. 9 Sch. 7 para. 11\(3\)](#)
- art. 32A32B substituted for art. 32-34 by [2012 c. 9 Sch. 7 para. 9\(1\)](#)
- art. 35(3A)-(3D) inserted by [2012 c. 9 Sch. 7 para. 9\(2\)\(c\)](#)
- art. 36ZA inserted by [2012 c. 9 Sch. 7 para. 10](#)
- art. 50(2A) inserted by [2012 c. 9 Sch. 7 para. 13\(3\)\(c\)](#)
- art. 50(5)(b) and word inserted by [2012 c. 9 Sch. 7 para. 13\(3\)\(f\)](#)
- art. 51(2A) inserted by [2012 c. 9 Sch. 7 para. 13\(4\)\(c\)](#)
- art. 51(5)(b) and word inserted by [2012 c. 9 Sch. 7 para. 13\(4\)\(f\)](#)