
STATUTORY INSTRUMENTS

2007 No. 1351

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

Monitoring

Monitoring

- 28.**—(1) An individual is subject to monitoring in relation to regulated activity if—
- (a) he is not barred from engaging in the activity,
 - (b) he makes a monitoring application,
 - (c) he satisfies the prescribed requirements, and
 - (d) he pays such fee (if any) as is prescribed.
- (2) A monitoring application must specify whether it is in respect of—
- (a) regulated activity relating to children, or
 - (b) regulated activity relating to vulnerable adults.
- (3) On a monitoring application being made the Secretary of State must—
- (a) make such enquiries as he thinks appropriate to ascertain whether any relevant information exists in relation to the individual;
 - (b) request the person who holds such information to provide it to the Secretary of State.
- (4) The Secretary of State must—
- (a) provide the individual with any disclosable information that he has, or
 - (b) notify the individual that he has no disclosable information.
- (5) Disclosable information is information provided to the Secretary of State under paragraph (3) (b) in relation to the individual, but does not include information to which paragraph (9) applies.
- (6) Paragraph (4) does not apply if the individual made an application for an enhanced criminal record certificate (under section 113B of the Police Act 1997 (c. 50)) simultaneously with his monitoring application.
- (7) The Secretary of State must also ensure that—
- (a) at such intervals as he thinks appropriate such enquiries are made as he thinks appropriate to ascertain whether any new relevant information exists in relation to the individual;
 - (b) the person who holds such new relevant information is requested to provide it to him.
- (8) Relevant information is—
- (a) the prescribed details of relevant matter (within the meaning of Article section 113A of the Police Act 1997);
 - (b) information which the chief officer of a relevant police force thinks might be relevant in relation to the regulated activity concerned;
 - (c) such other information as may be prescribed.

(9) This paragraph applies to information mentioned in paragraph (8)(b) which the chief officer of a relevant police force thinks it would not be in the interests of the prevention or detection of crime to disclose to an individual subject to monitoring.

(10) A monitoring application is an application made to the Secretary of State in the prescribed form and manner.

(11) The prescribed requirements may include requirements as to the manner in which the applicant must prove his identity (identification requirements); and if such requirements include a requirement that the applicant has his fingerprints taken at such place and in such manner as may be prescribed, the regulations may make provision requiring their destruction in specified circumstances and by specified persons.

(12) For the purpose of verifying evidence of identity supplied in pursuance of the identification requirements the Secretary of State may obtain such information as he thinks is appropriate from data held—

- (a) by the Identity and Passport Service;
- (b) by the Driver and Vehicle Agency in Northern Ireland or the Driver and Vehicle Licensing Agency;
- (c) by the Department for Social Development or the Secretary of State in connection with keeping records of national insurance numbers;
- (d) by such other persons or for such purposes as is prescribed.

(13) Relevant information is new if it was not discovered when any earlier inquiries under this Article were carried out.

(14) References to a relevant police force must be construed in accordance with section 113B of the Police Act 1997 as if an application under this Article were an application under that section.

Monitoring fees

29.—(1) This Article has effect in respect of fees which may be prescribed in relation to applications for monitoring under Article 28.

(2) In setting a fee for an application made during the period of 5 years beginning with the commencement of that Article, the Secretary of State may take account of expenditure incurred, or which he thinks will be incurred, by him before the end of that period (taking one financial year with another)—

- (a) in connection with the operation of IBB (including payments under paragraph 11 of Schedule 1 to the Safeguarding Vulnerable Groups Act 2006);
- (b) in respect of any other expenditure of the Secretary of State in connection with his functions under this Order.

(3) In setting a fee for an application made after that period, the Secretary of State may take account of expenditure incurred, or which he thinks will be incurred, by him—

- (a) in making payments under paragraph 11 of that Schedule;
- (b) in respect of any other expenditure of the Secretary of State in connection with his functions under this Order.

(4) For the purposes of paragraph (2), it is immaterial that any expenditure is incurred before the commencement of Article 28.

(5) The power to prescribe fees is exercisable only with the consent of the Treasury.

(6) Fees received by the Secretary of State by virtue of Article 28(1)(d) must be paid into the Consolidated Fund of the United Kingdom.

Ceasing monitoring

30.—(1) The Secretary of State may cease monitoring as mentioned in Article 28 in relation to an individual in such circumstances as are prescribed.

- (2) The Secretary of State must cease such monitoring in relation to an individual who—
- (a) satisfies the Secretary of State that he is not engaged in the regulated activity concerned, and
 - (b) requests the Secretary of State to cease monitoring.

Prohibition of requirement to produce certain records

31.—(1) A person (P) must not, in connection with—

- (a) the recruitment of another person as an employee, or
- (b) the continued employment of another person,

require that other person or a third party to supply him with a relevant record.

(2) A person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public must not, as a condition of providing or offering to provide any goods, facilities or services to another person, require that other person or a third party to supply him with a relevant record.

(3) Paragraph (1) does not apply if the duties of the employee include activity of a kind mentioned in paragraph 2(1) or 7(1) of Schedule 2 and the activity is for, or for the benefit, of—

- (a) P himself;
- (b) a child, or vulnerable adult, who is a member of P's family;
- (c) a child, or vulnerable adult, who is a friend of P.

(4) “Family” and “friend” must be construed in accordance with Article 4.

(5) A person who contravenes paragraph (1) or (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A relevant record is the record of information provided by the Secretary of State under Article 28(4).

(7) An employee is an individual who—

- (a) works under a contract of employment, as defined by Article 3(2) of the [Employment Rights \(Northern Ireland\) Order 1996 \(NI 16\)](#),
- (b) provides any service under a contract for services, or
- (c) holds any office,

whether or not he is entitled to remuneration; and “employment” must be construed accordingly.