

## STATUTORY INSTRUMENTS

# 2007 No. 1351

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

### *Barring*

PROSPECTIVE

#### The [F1 Disclosure and Barring Service]

[F1 5. In this Order references to DBS are references to the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012.]

#### Textual Amendments

- F1 Art. 5 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), 7 (with Pt. 4)

#### Barred lists

6.—(1) [F2 DBS] must F3 ... maintain—

- (a) the children's barred list;
- (b) the adults' barred list.

(2) Part I of Schedule 1 applies for the purpose of determining whether an individual is included in the children's barred list.

(3) Part II of that Schedule applies for the purpose of determining whether an individual is included in the adults' barred list.

(4) Part III of that Schedule contains supplementary provision.

(5) In respect of an individual who is included in a barred list, [F2 DBS] must keep other information of such description as is prescribed.

#### Textual Amendments

- F2 Word in art. 6 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(a) (with Pt. 4)
- F3 Words in art. 6 omitted (1.12.2012) by virtue of [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), 8 (with Pt. 4)

#### Commencement Information

- II Art. 6 wholly in operation; art. 6 not in operation at date of making see art. 1(3); art. 6(2)(3)(4)(5) in operation for certain purposes at 14.3.2008 by [S.R. 2008/127](#), [art. 3\(a\)\(b\)\(c\)](#); art. 6 in operation

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for certain purposes at 14.4.2008 by S.R. 2008/127, **art. 4(a)**; art. 6(2)(3)(4) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, **art. 4(v), art. 5(n)**; art. 6 in operation for certain purposes at 13.3.2009 by S.R. 2009/41, **art. 3(1)(a)**; art. 6 in operation at 12.10.2009 insofar as not already in operation by S.R. 2009/346, **art. 3, Sch.**

**Barred persons**

7.—(1) A reference to a person being barred from regulated activity must be construed in accordance with this Article.

- (2) A person is barred from regulated activity relating to children if he is—
  - (a) included in the children's barred list; or
  - (b) included in a list maintained under the law of England and Wales or Scotland which the Secretary of State specifies by order as corresponding to the children's barred list.
- (3) A person is barred from regulated activity relating to vulnerable adults if he is—
  - (a) included in the adults' barred list; or
  - (b) included in a list maintained under the law of England and Wales or Scotland which the Secretary of State specifies by order as corresponding to the adults' barred list.

**Modifications etc. (not altering text)**

**C1** Art. 7 excluded (12.10.2009) by [Safeguarding Vulnerable Groups \(2007 Order\) \(Commencement No. 5, Transitional Provisions and Savings\) Order \(Northern Ireland\) 2009 \(S.R. 2009/346\)](#), **arts. 5(6), 6(6), 7(5)**

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**Commencement Information**

**I2** Art. 7 wholly in operation; art. 7 not in operation at date of making see art. 1(3); art. 7(2)(b)(3)(b) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), **art. 5(a)**; art. 7 in operation at 12.10.2009 insofar as not already in operation by [S.R. 2009/346](#), **art. 3, Sch.**

**Appeals**

- 8.—(1) An individual who is included in a barred list may appeal to the Care Tribunal against—
- <sup>F4</sup>(a) .....
  - (b) a decision under paragraph [<sup>F5</sup>2, ] 3, 5, [<sup>F6</sup>8,] 9 or 11 of [<sup>F7</sup>Schedule 1] to include him in the list;
  - (c) a decision under paragraph 17 [<sup>F8</sup>, 18 or 18A ] of that Schedule not to remove him from the list.
- (2) An appeal under paragraph (1) may be made only on the grounds that [<sup>F9</sup>DBS] has made a mistake—
- (a) on any point of law;
  - (b) in any finding of fact which it has made and on which the decision mentioned in that paragraph was based.
- (3) For the purposes of paragraph (2), the decision whether or not it is appropriate for an individual to be included in a barred list is not a question of law or fact.
- (4) An appeal under paragraph (1) may be made only with the leave of the Care Tribunal.

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(5) Unless the Care Tribunal finds that [F9DBS] has made a mistake of law or fact, it must confirm the decision of [F9DBS].

(6) If the Care Tribunal finds that [F9DBS] has made such a mistake it must—

- (a) direct [F9DBS] to remove the person from the list, or
- (b) remit the matter to [F9DBS] for a new decision.

(7) If the Care Tribunal remits a matter to [F9DBS] under paragraph (6)(b)—

- (a) the Care Tribunal may set out any findings of fact which it has made (on which [F9DBS] must base its new decision); and
- (b) the person must be removed from the list until [F9DBS] makes its new decision, unless the Care Tribunal directs otherwise.

(8) In this Article “the Care Tribunal” means the Tribunal established under Article 44 of the 2003 Order.

#### Textual Amendments

- F4** Art. 8(1)(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. 77\(a\), Sch. 10 Pt. 5](#) ; S.I. 2012/2234, art. 2(aa)(v)(bb)
- F5** Word in art. 8(1)(b) inserted (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. 77\(b\)\(i\)](#) ; S.I. 2012/2234, art. 2(aa)(v)
- F6** Word in art. 8(1)(b) inserted (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. 77\(b\)\(ii\)](#) ; S.I. 2012/2234, art. 2(aa)(v)
- F7** Words in art. 8(1)(b) substituted (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. 77\(b\)\(iii\)](#) ; S.I. 2012/2234, art. 2(aa)(v)
- F8** Words in art. 8(1)(c) substituted (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. 77\(c\)](#) ; S.I. 2012/2234, art. 2(aa)(v)
- F9** Word in art. 8 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\(a\)](#) (with Pt. 4)

#### Modifications etc. (not altering text)

- C2** Art. 8 applied (16.6.2008) by [Safeguarding Vulnerable Groups \(Transitional Provisions\) Order \(Northern Ireland\) 2008 \(S.R. 2008/200\), art. 3\(6\)](#)
- C3** Art. 8 applied (16.6.2008) by [Safeguarding Vulnerable Groups \(Transitional Provisions\) Order \(Northern Ireland\) 2008 \(S.R. 2008/200\), art. 5\(6\)](#)

#### Commencement Information

- I3** Art. 8 wholly in operation at 29.5.2008; art. 8 not in operation at date of making see art. 1(3); art. 8 in operation for certain purposes at 14.4.2008 by [S.R. 2008/127, art. 4\(b\)](#); art. 8 in operation at 29.5.2008 insofar as not already in operation by [S.R. 2008/233, art. 3\(a\)](#)

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