

**2009 No. 305**

**SAFEGUARDING VULNERABLE GROUPS**

**The Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2009**

*Made* - - - - *1st September 2009*

*Coming into operation* - *12th October 2009*

*To be laid before Parliament*

The Secretary of State makes the following Order in exercise of the powers conferred by Articles 3(11), 7(2)(b) and (3)(b), 47(9), 61(1), (2)(a) and (3) of, and paragraphs 6 and 9 of Schedule 2 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(a).

**Citation and commencement**

1. This Order may be cited as the Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2009 and comes into operation on 12th October 2009.

**Interpretation**

2. In this Order—

“the 2007 Order” means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;

“relative” has the same meaning as in Article 2 of the Children (Northern Ireland) Order 1995(b).

**Vulnerable Adults**

3.—(1) A person (P) who falls within Article 3(9)(b) of the 2007 Order is not to be treated as a vulnerable adult for the purposes of Article 3(1)(h) of the 2007 Order where—

(a) P has one or more of the disabilities mentioned in paragraph (2);

(b) P has no other form of disability; and

(c) P receives a service or participates in an activity provided specifically for persons with a disability mentioned in paragraph (2).

(2) The disabilities referred to in paragraph (1) are—

(a) dyslexia;

(b) dyscalculia;

(c) dyspraxia;

(d) irlen syndrome;

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(a) S.I. 2007/1351 (N.I. 11).

(b) S.I. 1995/755 (N.I. 2).

- (e) alexia;
- (f) auditory processing disorder;
- (g) dysgraphia.

#### **Exceptions – regulated activity relating to children**

4.—(1) The provision of any form of treatment for a child is not to be treated as a regulated activity relating to children where—

- (a) a person (P) who is engaged in any activity;
  - (b) provides treatment to a child; and
  - (c) the provision of treatment is not one of the main purposes of the activity in which P is engaged.
- (2) The fostering of a child (C) is not to be treated as a regulated activity where—
- (a) a person (F) is included in the children’s barred list;
  - (b) C is being looked after by an authority within the meaning of Articles 25 and 26 of the Children (Northern Ireland) Order 1995;
  - (c) the authority that looks after C is satisfied that C’s welfare requires that C is fostered by F; and
  - (d) either—
    - (i) F or a member of F’s household is a relative of C; or
    - (ii) C was being fostered by F immediately before F was included in the children’s barred list.

#### **Exception – regulated activity relating to vulnerable adults**

5. The provision of any form of treatment for a vulnerable adult is not to be treated as a regulated activity relating to vulnerable adults where—

- (a) a person (P) who is engaged in any activity;
- (b) provides treatment to a vulnerable adult; and
- (c) the provision of treatment is not one of the main purposes of the activity in which P is engaged.

#### **Barred Lists**

6. For the purposes of—

- (a) Article 7(2)(b) of the 2007 Order, the lists maintained under—
  - (i) section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006(a); and
  - (ii) section 1(1) of the Protection of Children (Scotland) Act 2003(b) except where subsection (1) of section 7 (Provisional inclusion in list) of that Act applies, are specified as corresponding to the children’s barred list;
- (b) Article 7(3)(b) of the 2007 Order, the list maintained under section 2(1)(b) of the Safeguarding Vulnerable Groups Act 2006 is specified as corresponding to the adults’ barred list.

#### **Amendments to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007**

7.—(1) The 2007 Order is amended in accordance with paragraphs (2) to (5).

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(a) 2006 c.47.  
 (b) 2003 asp 5.

- (2) In Article 2(2) for the definition of “HSS body” substitute—  
““HSC body” means any of the following within the meaning of the Health and Social Care (Reform) Act (Northern Ireland) 2009(a)—  
(a) the Regional Health and Social Care Board;  
(b) the Regional Agency for Public Health and Social Well-being;  
(c) a HSC trust;  
(d) a special agency;  
(e) the Patient and Client Council;”.
- (3) For “HSS body” in every place where this reference occurs in the 2007 Order substitute “HSC body”.
- (4) In Article 25(6)(c) (Controlled activity relating to children) for “(10)(a)” substitute “(10)(b)”.
- (5) In Article 47(7), (Supervisory authorities: duty to refer), after sub-paragraph (b) insert—  
“(c) the Charity Commission for Northern Ireland in respect of its functions under the Charities Act (Northern Ireland) 2008 (c.12)”.

Northern Ireland Office  
1st September 2009

*Paul Goggins*  
Minister of State

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order sets out a number of provisions made under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (N.I.11) (“the 2007 Order”). Article 3 provides that a person who has one or more learning difficulties specified in paragraph (2), and who has no other form of disability, who receives a service or participates in an activity that is provided specifically for adults with the specified learning difficulties, will not be treated as a vulnerable adult for the purposes of Article 3(1)(h) of the 2007 Order.

Article 4 sets out two sets of circumstances in which an activity that is a regulated activity relating to children is not to be treated as a regulated activity. The first exception relates to treatment given to a child by a person where the provision of that treatment is not one of the main purposes of the work or activity in which that person is engaged. An example of such treatment might be an assistant in a shop, who is also the shop’s health and safety representative, giving first aid to a child who is taken ill or injured while in the shop.

The second exception relates to circumstances where a person fosters a child. The aim of this exception is to ensure that, where a child’s welfare requires it, a child who is being looked after by an authority can be placed with an authority foster parent even if that person is included in the children’s barred list. The circumstances are where a foster parent was fostering the child immediately before he or she was included in the children’s barred list or where a foster parent (or any member of the fostering household) is a relative of the child.

Article 5 sets out an exception to regulated activity relating to vulnerable adults which mirrors the exception in Article 4 relating to treatment provided to children.

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(a) 2009 c. 1 (N.I.).

Article 6 specifies the barred lists in England and Wales, and Scotland that correspond with the barred lists under the 2007 Order. The purpose of this is to bar persons from engaging in regulated activity in Northern Ireland where they are also barred from such activity in England and Wales, or Scotland because they are on one of the corresponding England and Wales, or Scotland lists. An individual may be provisionally included in the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003 but not disqualified from working with children. Account has therefore been taken of this in Article 6(a)(ii).

Article 7 amends various provisions in the 2007 Order.

Article 7(2) amends the definition of HSS body at Article 2 of the 2007 Order to take account of new structures within health and social care in Northern Ireland as a result of the Review of Public Administration. Article 7(3) amends all subsequent references to HSS body in the 2007 Order to read HSC body.

Article 7(4) amends a typographical error in Article 25(6)(c) of the 2007 Order.

Article 7(5) adds to the list of supervisory authorities in the 2007 Order, the Charity Commission for Northern Ireland in relation to the exercise of its functions under the Charities Act (Northern Ireland) 2008. The Charity Commission did not exist at the time of drafting the 2007 Order. As a result of its inclusion, the powers and duties conferred on supervisory authorities by the 2007 Order will also apply to the Charity Commission for Northern Ireland.

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