

**2009 No. 40**

**SAFEGUARDING VULNERABLE GROUPS**

**The Safeguarding Vulnerable Groups (Prescribed Information)  
Regulations (Northern Ireland) 2009**

*Made* - - - - *6th February 2009*

*Coming into operation* - *13th March 2009*

*To be laid before Parliament*

The Secretary of State makes the following Regulations in exercise of the powers conferred by Articles 37(1)(a) and (b), 38(1), (2) and (3), 39(2), 41(1) and (5), 42(2), 43(1) and (5), 44(2), 47(1) and (5), 48(1) and (2) and 61(1) of, and paragraphs 19(1)(b) and 21 of Schedule 1 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(a).

**Citation and commencement**

1.—(1) These Regulations may be cited as the Safeguarding Vulnerable Groups (Prescribed Information) Regulations (Northern Ireland) 2009 and, subject to paragraph (2), come into operation on the 13<sup>th</sup> March 2009.

(2) Regulations 3, 4, 6, 8, 10 and 13 and the Schedule in so far as it relates to those regulations, come into operation on 12<sup>th</sup> October 2009.

**Interpretation**

2.—(1) In these Regulations—

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

“employment” includes any arrangement (contractual or otherwise) under or by virtue of which a person (P) engages in regulated or controlled activity;

“P” means any person in relation to whom a person has a duty or power to provide information prescribed in regulations 3 to 11 to IBB for the purposes of Articles 37, 38, 39, 41, 42, 43, 44, 47 and 48 of the Order;

(2) In these Regulations, a reference to P’s conduct includes a reference to any offence which P has committed or is alleged to have committed, any incident involving P or any behaviour or other act or omission of P’s that—

- (a) gave rise to the provision of information to IBB under Article 37, 38, 41, 43 or 47 of the Order; or
- (b) in relation to which IBB is considering whether P should be included in or removed from a barred list.

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(a) S.I. 2007/1351 (N.I.11). See Article 2(1) for definition of “prescribed”.

### **Regulated activity providers and responsible persons: duty to refer**

3. The information specified in the Schedule is prescribed for the purposes of Article 37(1)(a) and (b) of the Order.

### **Personnel suppliers: duty to refer**

4.—(1) The following information is prescribed for the purposes of Article 38(1) and (2) of the Order—

- (a) the information specified in the Schedule; and
- (b) where the personnel supplier is an employment business or employment agency<sup>(a)</sup>, any other information held by a personnel supplier under Schedule 4 to the Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005<sup>(b)</sup> (particulars relating to work-seekers) except the information specified in paragraph 10 of that Schedule.

(2) The following information is prescribed for the purposes of Article 38(3) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) details of the course that P is following at the educational institution including the name and duration of the course and the qualification or other accreditation to which the course leads;
- (c) a copy of P's application for a place on the course;
- (d) the date on which P began the course;
- (e) details of any regulated activity or controlled activity in which P has engaged as a result of P having been supplied to another person by the educational institution for the purposes of engaging in such activity including—
  - (i) the date on which any placement began and the duration of the placement;
  - (ii) the name and address of the person to whom P was supplied;
  - (iii) the setting and location of the placement;
  - (iv) whether the activity was one relating to children or to vulnerable adults;
  - (v) a description of the position held and the duties undertaken by P;
- (f) the date on which and the reasons why the educational institution determined—
  - (i) to cease to supply P to another person for P to engage in regulated or controlled activity;
  - (ii) that P should cease to follow a course at the institution;
- (g) where an educational institution does not make a determination as mentioned in subparagraph (f) but would or might have done so if P had not otherwise ceased to engage in the activity or ceased to follow the course, the reasons why the institution would or might have made any such determination;
- (h) details of any comments or reports made by persons to whom P was supplied for the purposes of engaging in the regulated or controlled activity;
- (i) an assessment of P's progress on the course (including P's placements with persons for the purposes of engaging in regulated or controlled activity).

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(a) Pursuant to Article 2(2) of the Order, employment agency and employment business is to be construed in accordance with Part II of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (N.I.20).  
(b) S.R. 2005 No. 395

**Regulated activity providers, responsible persons and personnel suppliers: duty to provide information on request**

5.—(1) The information specified in the Schedule is prescribed for the purposes of Article 39(2) of the Order.

(2) The information specified in regulation 4(1) is prescribed for the purposes of Article 39(2)(c) of the Order.

(3) The information specified in regulation 4(2) is prescribed for the purposes of Article 39(2)(d) of the Order.

**Education and Library Boards and HSS Bodies: referral of information to the IBB**

6.—(1) The following information is prescribed for the purposes of Article 41(1) and (5) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information contained in reports of and minutes of meetings arising from investigations relating to the protection of children or vulnerable adults.

(2) Where an education and library board—

- (a) has already passed information in relation to P's conduct to a HSS body; and
- (b) has ascertained that the HSS body has not provided the information to IBB,

the education and library board must refer such information to IBB .

**Education and Library Boards and HSS Bodies: duty to provide information on request**

7. The following information is prescribed for the purposes of Article 42(2) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information contained in reports of and minutes of meetings arising from investigations relating to the protection of children or vulnerable adults.

**Keepers of relevant registers: duty to refer**

8. The following information is prescribed for the purposes of Article 43(1) and (5) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information relating to any decisions made, actions taken or complaints received by the keeper in relation to P.

**Keepers of relevant registers: duty to provide information on request**

9. The following information is prescribed for the purposes of Article 44(2) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information relating to any decisions made, actions taken or complaints received by the keeper in relation to P.

### **Supervisory authorities: referral of information**

**10.** The following is prescribed information for the purposes of Article 47(1) and (5) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information relating to any decisions made, actions taken, complaints received or inspections undertaken by the authority in relation to P.

### **Supervisory authorities: duty to provide information on request**

**11.** The following is prescribed information for the purposes of Article 48(1) and (2) of the Order—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information relating to any decisions made, actions taken, complaints received or inspections undertaken by the authority in relation to P.

### **Prescribed details of convictions and cautions**

**12.—(1)** The following details of relevant matter<sup>(a)</sup> relating to a person (P) to whom paragraphs 1 to 5 or 7 to 11 of Schedule 1 to the Order apply are prescribed for the purposes of paragraph 19(1)(b) of Schedule 1 to the Order.

(2) A description of the offence committed by that person and the date on which the offence was committed and—

- (a) where P has been convicted of that offence, the date on which and the court at which P was convicted of that offence and the sentence imposed;
- (b) where P has been cautioned in relation to that offence, the date on which and place at which the caution was administered.

### **Duty on the IBB to provide information to the Secretary of State**

**13.—(1)** The following information relating to a person is prescribed for the purposes of paragraph 21 of Schedule 1 to the Order.

(2) For the purposes of sub-paragraph (a) of paragraph 21—

- (a) the information specified in paragraph 1 of the Schedule;
- (b) whether that person is included in the children's barred list or the adults' barred list (or both), the date of and the reasons for inclusion in any such list (including which of paragraphs 1 to 5 or 7 to 11 of Schedule 1 to the Order IBB relied upon in including P in a list).

(3) For the purposes of sub-paragraph (b) of paragraph 21—

- (a) the information specified in paragraph 1 of the Schedule;
- (b) whether that person is being considered by IBB for inclusion in the children's barred list or the adults' barred list (or both) and which of paragraph 3, 5, 9 or 11 of Schedule 1 to the Order applies.

(4) For the purposes of sub-paragraph (c) of paragraph 21—

- (a) the information specified in paragraph 1 of the Schedule;

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(a) 'Relevant matter' is defined in paragraph 19(1)(b) of Schedule 1 to the Order by reference to section 113A of the Police Act 1997 (c.50).

- (b) any criteria prescribed for the purposes of paragraph 1, 2, 7 or 8 of Schedule 1 to the Order that is satisfied in relation to P and the date on which any such criteria was satisfied.

Northern Ireland Office  
6th February 2009

*Paul Goggins*  
Minister of State

## SCHEDULE

Regulations 3 to 11 and 13

1. The following information relating to P or, for the purposes of regulation 13, the person referred to in that regulation, namely—

- (a) full name and title;
- (b) any other name or names by which P or a person referred to in regulation 13 may be known;
- (c) date of birth;
- (d) national insurance number;
- (e) gender;
- (f) P's last known address (including postcode); and
- (g) the unique number allocated by the Secretary of State in relation to an application to be monitored under Article 28 of the Order.

2. A description of the regulated or controlled activity that P is, or was, engaged in.

3. Information as to whether or not P is included in any relevant register as defined in Article 43(7) of the Order or any register established and maintained by a supervisory authority and, if so, details of the relevant entries in any such register.

4. Information (including copies of relevant documents) relating to P's employment, namely—

- (a) the application for employment made by P and the letter of appointment;
- (b) P's job description including the position held and the duties undertaken by P;
- (c) the date on which P started the employment;
- (d) P's qualifications, employment history and disciplinary record;
- (e) details of any relevant training undertaken by P;
- (f) whether or not P is still employed and, if so, P's current job description and a description of P's duties;
- (g) if P is no longer employed, the date from which and the circumstances in which P ceased to be so employed;
- (h) the reasons for permission was withdrawn for P to engage in the regulated or controlled activity in question or, where such permission was not withdrawn (but would or might have been withdrawn had P not otherwise ceased to engage in the activity), the reasons why such permission would have or might have been withdrawn.

5. Information relating to P's conduct, (including copies of any relevant documents), namely—

- (a) a summary of the conduct including details of the setting and location in which such conduct occurred;
- (b) details of any harm suffered by any child or vulnerable adult resulting from, or arising from the conduct or any risk of harm that a child or vulnerable adult was, or may have been, exposed to as a result of such conduct;

- (c) details, as follows, of any child or vulnerable adult referred to in sub-paragraph (b) above—
    - (i) the name and date of birth of the child or vulnerable adult;
    - (ii) details of the relationship between P and the child or vulnerable adult;
    - (iii) information relating to the vulnerability of the child or vulnerable adult that may be relevant to IBB’s consideration of whether to include or remove P in or from a barred list including any emotional, behavioural, medical or physical condition;
  - (d) whether P has accepted responsibility for or admitted the conduct or any part of it;
  - (e) any explanation offered by P for the conduct or any remorse or insight demonstrated by P in relation to the conduct;
  - (f) any information other than that relating to P’s conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information relating to any previous offences, allegations, incidents, behaviour or other acts or omissions.
- 6.** Information relating to the reason why the person providing information to IBB under Article 37, 38, 41, 43, or 47 of the Order considers that the harm test is satisfied in relation to P.
- 7.** Details of any investigations undertaken by any person in respect of P’s conduct including—
- (a) the evidence and information obtained and considered in such investigation;
  - (b) the outcome of such investigation, if known; and
  - (c) contact details (including a name, address, telephone number and e-mail address) of any person responsible for the investigation.
- 8.** Details of any disciplinary proceedings or measures taken, or to be taken, in relation to P’s conduct including—
- (a) the evidence and information obtained and considered in such proceedings or with respect to such measures; and
  - (b) the outcome of any disciplinary proceedings or measures taken including a copy of any decision or other document evidencing the outcome of such action.
- 9.** Details of any other proceedings before any court, tribunal or any other person taken, or to be taken, in relation to P’s conduct including the outcome of any such proceedings.
- 10.** Details of any action taken, or to be taken, by the person referring or providing information under the Order to the IBB in relation to P’s conduct including whether or not the matter has been referred to the police or to any other person.

### **EXPLANATORY NOTE**

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

These Regulations prescribe the information that, in specified circumstances, must be provided to the Independent Barring Board (“IBB”) under various provisions in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (“the Order”) and the information that may be provided to IBB in other circumstances. In brief, the duties and powers to provide information arise where it may be appropriate for a person to be considered by IBB for inclusion in one or both of the barred lists established under Article 6 of the Order or where IBB is considering removing a person from a barred list.

A duty to refer the prescribed information or to provide such information following a request from IBB is placed on regulated activity providers, responsible persons, personnel suppliers, HSS bodies, education and library boards, keepers of relevant registers and supervisory authorities. The circumstances in which such duties arise are set out in Articles 37, 38, 39, 41, 42, 43, 44, 47 and 48 of the Order.

The Regulations also include details that must be provided to IBB under paragraph 19(1)(b) of Schedule 1 to the Order (namely prescribed details of cautions and convictions). This duty falls on any person who holds records of convictions or cautions for the use of police forces generally.

In addition, the Regulations prescribe the information that IBB must provide to the Secretary of State under paragraph 21 of Schedule 1 to the Order in circumstances in which it includes a person on a barred list, is considering doing so, or where IBB thinks that any of the criteria prescribed for the purposes of paragraph 1, 2, 7 or 8 of Schedule 1 to the Order (i.e. criteria leading to automatic inclusion in a barred list) are satisfied with respect to a person and that the Secretary of State does not already have this information.

Regulations 5, 7, 9, 11 and 12 will come into operation on 13<sup>th</sup> March 2009 to assist IBB to exercise functions under transitory provisions that will mark the start of IBB making barring decisions in relation to individuals who would formerly have been referred to the Department of Health, Social Services and Public Safety or the Department of Education. This is one of the steps towards full implementation of the vetting and barring scheme under the Order. The remaining regulations will come into operation on 12<sup>th</sup> October 2009.

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