

2012 No. 322

SAFEGUARDING VULNERABLE GROUPS

The Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2012

Made - - - - *14th August 2012*

Laid before Parliament *17th August 2012*

Coming into operation in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by Articles 45(7), 50(6) and 51(6) of, and paragraph 9 of Schedule 2 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(a).

Citation and commencement

1.—(1) This Order may be cited as the Safeguarding Vulnerable Groups (Miscellaneous Provisions) Order (Northern Ireland) 2012 and, subject to paragraph (2) below, comes into operation on 10th September 2012.

(2) Articles 5 to 7 of this Order come into operation on 10th September 2012 immediately after the commencement of paragraph 3 of Schedule 7 to the Protection of Freedoms Act 2012(b).

Interpretation

2. In this Order—

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

Relevant Disqualifications

3. For the purposes of Articles 45(7) and 50(6) of the 2007 Order, each of the following is a list corresponding to the children’s barred list—

(a) the list maintained under section 1(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007(c);

(b) the list maintained under section 2(1)(a) of the Safeguarding Vulnerable Groups Act 2006(d).

4. For the purposes of Articles 45(7) and 51(6) of the 2007 Order, each of the following is a list corresponding to the adults’ barred list—

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

(b) 2012 c. 9.

(c) 2007 asp. 14.

(d) 2006 c. 47.

- (a) the list maintained under section 1(1)(b) of the Protection of Vulnerable Groups (Scotland) Act 2007;
- (b) the list maintained under section 2(1)(b) of the Safeguarding Vulnerable Groups Act 2006.

Exceptions from Regulated Activity Relating to Vulnerable Adults

5. The provision to an adult of health care (as defined in paragraph 7(2) of Schedule 2 to the 2007 Order(a)) by a person who is not, but who acts under the direction or supervision of, a health care professional (as defined in paragraph 7(3) of Schedule 2 to the 2007 Order(b)) is not to be treated as a regulated activity relating to vulnerable adults where that health care—

- (a) is provided under regulations under Article 62 of the Health and Personal Social Services (Northern Ireland) Order 1972(c) in practice premises or as mobile services; or
- (b) is provided in a registered pharmacy (within the meaning of Part IV of the Medicines Act 1968(d)).

6. For the purposes of Article 5—

- (a) “practice premises” means the address which is included in relation to the contractor in the ophthalmic list in accordance with paragraph 3 of Schedule 1 to the General Ophthalmic Services Regulations (Northern Ireland) 2007(e) as the address at which services are to be provided;
- (b) “mobile services” means mobile services within the meaning of the General Ophthalmic Services Regulations (Northern Ireland) 2007.

7. The provision to an adult of physical assistance in connection with the care of hair (within the meaning of paragraph 7(3B)(a)(vi) of Schedule 2 to the 2007 Order(f)) is not to be treated as a regulated activity relating to vulnerable adults where that assistance relates solely to the cutting of the adult’s hair.

Home Office
14th August 2012

James Brokenshire
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 3 and 4 of this Order specify that the lists maintained under section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the Scottish barred lists”) and section 2 of the Safeguarding Vulnerable Groups Act 2006 (“the England and Wales barred lists”) are lists corresponding to the children’s and adults’ barred lists for the purposes of Articles 45, 50 and 51 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (“the 2007 Order”). This means that the Independent Safeguarding Authority (“ISA”), when responding to a request for

(a) Paragraph 7(2) of Schedule 2 to the 2007 Order was substituted by section 78 of, and paragraph 3(2) of Schedule 7 to, the Protection of Freedoms Act 2012.
 (b) Paragraph 7(3) of Schedule 2 to the 2007 Order was substituted by section 78 of, and paragraph 3(2) of Schedule 7 to, the Protection of Freedoms Act 2012.
 (c) S.I. 1972/1265 (N.I. 14).
 (d) 1968 c. 7.
 (e) S.R. 2007 No. 436.
 (f) Paragraph 7(3B) of Schedule 2 to the 2007 Order was inserted by section 78 of, and paragraph 3(2) of Schedule 7 to, the Protection of Freedoms Act 2012.

information by, or proactively notifying, a keeper of a relevant register (for example the Northern Ireland Social Care Council) under Article 45 of the 2007 Order, will include information as to whether the particular person is on the barred list(s), and the Scottish barred list(s) and the England and Wales barred list(s) (as the case may be). This also means that when the ISA proactively notifies supervisory authorities (for example the Regulation and Quality Improvement Authority) under Article 50 of the 2007 Order as to whether a particular person is on the children's barred list, this will include information as to whether the particular person is also on the Scottish children's barred list and the England and Wales children's barred list (as the case may be). When the ISA proactively notifies supervisory authorities under Article 51 of the 2007 Order as to whether a person is on the adults' barred list, this will include information as to whether the particular person is also on the Scottish adults' barred list and the England and Wales adults' barred list (as the case may be).

Article 5 of this Order provides that the provision of ophthalmic health care by someone who is not a health care professional, but is providing the health care under the direction or supervision of a health care professional, will not (by way of exception to paragraph 7(1)(a) and (2) of Schedule 2 to the 2007 Order), be engaging in regulated activity relating to vulnerable adults when that health care is being provided in opticians' practice premises or where such health care is provided as mobile services. This captures, for example, those people administering eye tests to adults in a residential centre or in the adult's home.

Article 5 of this Order also provides that the provision of health care by someone who is not a health care professional, but is providing the health care under the direction or supervision of a health care professional, will not (by way of exception to paragraph 7(1)(a) and (2) of Schedule 2 to the 2007 Order), be engaging in regulated activity relating to vulnerable adults when that health care is being provided in a registered pharmacy which captures, for example, retail staff in pharmacies.

Article 7 of this Order provides that hairdressers, who fall within the definition of persons providing relevant personal care, are not to be treated as engaging in a regulated activity even if they do cut adults' hair in e.g. hospitals or care homes.

An impact assessment has not been produced for this rule as no impact on the private, voluntary or public sector is foreseen.

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