
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Protection of Freedoms Act 2012 (Disclosure and
Barring Service Transfer of Functions) Order 2012

PART 2

Transfer of the Independent Safeguarding Authority's functions

CHAPTER 1

Transfer of ISA's functions

Transfer of ISA's functions

2. All of ISA's functions except for the function of establishing the children's barred list and the adults' barred list under section 2 of the 2006 Act and Article 6 of the 2007 Order are transferred to DBS.

CHAPTER 2

Consequential amendments to the principal enactments

Consequential amendments to the 2006 Act

3. In the following provisions of the 2006 Act for "ISA", in each place where it occurs, substitute "DBS"—

- (a) sections 2 and 4;
- (b) sections 35 to 42;
- (c) section 43 (including section 43(1) and (2) as substituted by section 75(3) of the 2012 Act);
- (d) sections 45 to 47;
- (e) sections 50 and 50A(1);
- (f) the following paragraphs of Schedule 3—
 - (i) paragraphs 2 to 5;
 - (ii) paragraph 5A(2);
 - (iii) paragraph 6 (including the reference to ISA inserted by section 74(2) of the 2012 Act);
 - (iv) paragraphs 8 to 11;
 - (v) paragraph 11A(3);

(1) Section 50A was inserted by section 88 of the Policing and Crime Act 2009 (c. 26) and amended by sections 77 and 115(1) of, and paragraphs 43 and 65 of Schedule 9 to, the 2012 Act.
(2) Paragraph 5A was inserted by section 74(1) of the 2012 Act.
(3) Paragraph 11A was inserted by section 74(3) of the 2012 Act.

- (vi) paragraph 12 (including the reference to ISA inserted by section 74(4) of the 2012 Act);
 - (vii) paragraphs 13 to 21;
 - (viii) paragraphs 22A(4) and 23;
 - (ix) paragraph 25;
 - (g) the table in paragraph 1 of Schedule 7;
 - (h) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 8.
4. In section 2 omit “establish and”.
5. In section 60(1) after the definition of “the children’s barred list” insert—
““DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;”

Consequential amendments to the 2007 Order

6. In the following provisions of the 2007 Order for “ISA”, in each place where it occurs, substitute “DBS”—

- (a) Articles 2, 6 and 8;
 - (b) Articles 37 to 44;
 - (c) Article 45 (including Article 45(1) and (2) as substituted by paragraph 12(2) of Schedule 7 to the 2012 Act);
 - (d) Articles 47 to 49;
 - (e) Articles 52 and 52A(5);
 - (f) the following paragraphs of Schedule 1—
 - (i) paragraphs 2 to 5;
 - (ii) paragraph 5A(6);
 - (iii) paragraph 6 (including the reference to ISA inserted by paragraph 11(2) of Schedule 7 to the 2012 Act);
 - (iv) paragraphs 8 to 11;
 - (v) paragraph 11A(7);
 - (vi) paragraph 12 (including the reference to ISA inserted by paragraph 11(4) of Schedule 7 to the 2012 Act);
 - (vii) paragraphs 13 to 21;
 - (viii) paragraphs 22A(8) and 23;
 - (ix) paragraph 25;
 - (g) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 6.
7. For Article 5 substitute—

(4) Paragraph 22A was inserted by [S.I. 2011/565](#).

(5) Article 52A was inserted by section 91 of the Policing and Crime Act 2009 and amended by sections 78 and 115(1) of, and paragraph 14 of Schedule 7 and paragraphs 75 and 97 of Schedule 9 to the 2012 Act.

(6) Paragraph 5A was inserted by paragraph 11(1) of Schedule 7 to the 2012 Act.

(7) Paragraph 11A was inserted by paragraph 11(3) of Schedule 7 to the 2012 Act.

(8) Paragraph 22A was inserted by [S.I. 2010/2660](#).

“Disclosure and Barring Service

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.”

8. In Article 6 omit “establish and”.

Consequential amendments to the 2008 Northern Ireland Transitional Provisions Order

9. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for “IBB”⁽⁹⁾ substitute “DBS”—

- (a) article 3(2), (4) and (5);
- (b) article 4(2);
- (c) article 5(2), (4) and (5);
- (d) article 6(2).

10. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for “IBB” substitute “IBB, ISA or DBS, as the case may be”—

- (a) article 3(1)(c);
- (b) article 4(1)(c);
- (c) article 5(1)(c);
- (d) article 6(1)(c).

Consequential amendments to the 2008 Transitional Provisions Order

11. In the following provisions of the 2008 Transitional Provisions Order for “IBB” substitute “DBS”—

- (a) article 2(2), (4) and (5);
- (b) article 3(2);
- (c) article 4(2), (4) and (5).

12. In the following provisions of the 2008 Transitional Provisions Order for “IBB” substitute “IBB, ISA or DBS, as the case may be”—

- (a) article 2(1)(c);
- (b) article 3(1)(c);
- (c) article 4(1)(c).

CHAPTER 3

Consequential amendments to other enactments

Consequential amendments to other enactments

13.—(1) For the words in the left-hand column of the table, wherever they appear in the provisions of the Acts of Parliament mentioned in paragraph (2) or the subordinate legislation mentioned in paragraph (3), substitute the corresponding words in the right-hand column of the table.

(9) The Independent Barring Board was the original name of the Independent Safeguarding Authority as established by section 1 of the Safeguarding Vulnerable Groups Act 2006. The Independent Barring Board, or IBB, was renamed the Independent Safeguarding Authority by section 81 of the Policing and Crime Act 2009.

<i>Existing words</i>	<i>Substitution</i>
“Independent Barring Board”	“Disclosure and Barring Service”
“IBB”	“DBS”
“Independent Safeguarding Authority”	“Disclosure and Barring Service”
“ISA”	“DBS”
“the Authority”	“the Service”
“the Board”	“the Service”

(2) The provisions of the Acts of Parliament are—

- (a) sections 7(2) and 11(1) and (2A) of the Police Pensions Act 1976**(10)**;
- (b) section 97(1) of the Police Act 1996**(11)**;
- (c) section 119(1A) of the 1997 Act**(12)**;
- (d) paragraph 1(4) of Schedule 2 to the Teaching and Higher Education Act 1998**(13)**;
- (e) in the Education Act 2002**(14)**, section 167C (both as inserted by the Education and Inspections Act 2006**(15)** and as substituted by the Education and Skills Act 2008**(16)**) and paragraph 2(4) of Schedule 11A**(17)**;
- (f) section 171(1)(b) of the Education and Inspections Act 2006;
- (g) sections 130(4) and (5) and 141(1)(b) of the Education and Skills Act 2008.

(3) The subordinate legislation is—

- (a) rule 2A(h)(i) of the Schedule to the General Optical Council (Committee Constitution Rules) Order of Council 2005**(18)**;
- (b) regulations 1, 2, 3 and 4 of the Safeguarding Vulnerable Groups Act 2006 (Barred List Prescribed Information) Regulations 2008**(19)**;
- (c) regulations 3(1) and 4 of the Safeguarding Vulnerable Groups (Prescribed Criteria) (Transitional Provisions) Regulations (Northern Ireland) 2008**(20)**;
- (d) regulations 3, 4 and 5 of the Safeguarding Vulnerable Groups (Barred List Prescribed Information) Regulations (Northern Ireland) 2008**(21)**;

(10) 1976 c. 35. Sections 7(2)(cg), 11(1)(bg) and 11(2A)(g) were inserted by section 63(1) of, and paragraph 11 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.

(11) 1996 c. 16. Section 97(1)(ch) was inserted by section 62(1) of, and paragraph 13(1) and (2) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.

(12) Section 119(1A) was inserted by section 112(1) of, and paragraph 118 of Schedule 7 to, the Policing and Crime Act 2009.

(13) 1998 c. 30.

(14) 2002 c. 32.

(15) 2006 c. 40.

(16) 2008 c. 25.

(17) Schedule 11A was inserted by the Education Act 2011 (c. 21).

(18) S.I. 2005/1474. Rule 2A was inserted by S.I. 2008/3113.

(19) S.I. 2008/16.

(20) S.R. 2008/201.

(21) S.R. 2008/202.

- (e) regulations 3 to 12 of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008**(22)**;
- (f) regulations 2 to 11 of the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008**(23)**;
- (g) regulations 2(1) and 3 of the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria) (Transitional Provisions) Regulations 2008**(24)**;
- (h) article 5(h)(i) of the Nursing and Midwifery Council (Constitution) Order 2008**(25)**;
- (i) article 5(h)(i) of the General Medical Council (Constitution) Order 2008**(26)**;
- (j) regulation 2(h)(i) of the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008**(27)**;
- (k) article 5(h)(i) of the General Chiropractic Council (Constitution) Order 2008**(28)**;
- (l) rule 8(h)(i) of the Schedule to the Nursing and Midwifery Council (Midwifery and Practice Committees) (Constitution) Rules Order of Council 2008**(29)**;
- (m) regulations 2, 3 and 13 of, and the headings before regulations 6 and 13 of, and paragraphs 5, 6 and 10 of the Schedule to, the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008**(30)**;
- (n) paragraph 12(f) of the Schedule to the General Chiropractic Council (Constitution of the Statutory Committees) Rules Order of Council 2009**(31)**;
- (o) regulations 2 and 13 of, and the heading before regulation 13 of, and paragraphs 5, 6 and 10 of the Schedule to, the Safeguarding Vulnerable Groups (Prescribed Information) Regulations (Northern Ireland) 2009**(32)**;
- (p) article 5(h)(i) of the General Osteopathic Council (Constitution) Order 2009**(33)**;
- (q) articles 4, 5, 6 and 7 of the Safeguarding Vulnerable Groups (Commencement No. 5, Transitional Provisions and Savings) Order (Northern Ireland) 2009**(34)**;
- (r) article 5(h)(i) of the General Optical Council (Constitution) Order 2009**(35)**;
- (s) paragraph 12(h)(i) of the Schedule to the General Osteopathic Council (Constitution of the Statutory Committee) Rules Order of Council 2009**(36)**;
- (t) article 5(h)(i) of the Health Professions Council (Constitution) Order 2009**(37)**;
- (u) paragraph 6(h)(i) of the Schedule to the Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules Order of Council 2009**(38)**;
- (v) article 5(h)(i) of the General Dental Council (Constitution) Order 2009**(39)**;

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- (22) [S.R. 2008/203.](#)
 - (23) [S.I. 2008/474.](#)
 - (24) [S.I. 2008/1062.](#)
 - (25) [S.I. 2008/2553.](#)
 - (26) [S.I. 2008/2554.](#)
 - (27) [S.I. 2008/2927.](#)
 - (28) [S.I. 2008/3047.](#)
 - (29) [S.I. 2008/3148.](#)
 - (30) [S.I. 2008/3265.](#)
 - (31) [S.I. 2009/26.](#)
 - (32) [S.R. 2009/40.](#)
 - (33) [S.I. 2009/263.](#)
 - (34) [S.R. 2009/346.](#)
 - (35) [S.I. 2009/442.](#)
 - (36) [S.I. 2009/468.](#)
 - (37) [S.I. 2009/1345.](#)
 - (38) [S.I. 2009/1355.](#)
 - (39) [S.I. 2009/1808.](#)

- (w) rule 6(i)(i) of the Schedule to the General Dental Council (Constitution of Committees) Rules Order of Council 2009(40);
- (x) articles 3, 5, 6 and 7 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings) Order 2009(41);
- (y) article 3 of the Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010(42);
- (z) article 51(m) of the Pharmacy Order 2010(43);
- (aa) article 5(i)(i) of the General Pharmaceutical Council (Constitution) Order 2010(44);
- (bb) articles 2 and 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings (Amendment)) and (Commencement No. 7) Order 2010(45);
- (cc) rule 8(6) of the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010(46);
- (dd) rule 24(6) of the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010(47);
- (ee) articles 6, 8, 9, 10, 12, 14 and 16 of the Protection of Freedoms Act 2012 (Commencement No. 3) Order 2012(48).

Consequential amendment to the Parliamentary Commissioner Act 1967

14. In Schedule 2 to the Parliamentary Commissioner Act 1967(49) omit “Independent Safeguarding Authority”.

Consequential amendment to the Superannuation Act 1972

15. In Schedule 1 to the Superannuation Act 1972(50) omit “Employment by the Independent Safeguarding Authority”.

Consequential amendment to the Data Protection Act 1998

16. In entry 4 in the table in section 56(6) of the Data Protection Act 1998 for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”.

Consequential amendment to the Freedom of Information Act 2000

17. In Part 6 of Schedule 1 to the Freedom of Information Act 2000(51) omit “The Independent Safeguarding Authority”.

(40) [S.I. 2009/1813](#).

(41) [S.I. 2009/2611](#) as amended by [S.I. 2010/1101](#).

(42) [S.R. 2010/145](#).

(43) [S.I. 2010/231](#).

(44) [S.I. 2010/300](#).

(45) [S.I. 2010/1101](#).

(46) [S.I. 2010/1614](#).

(47) [S.I. 2010/1615](#).

(48) [S.I. 2012/2234](#).

(49) 1967 c. 13. Schedule 2 was substituted by [S.I. 2011/2986](#).

(50) 1972 c. 11. The entry in relation to the Independent Barring Board was inserted by paragraph 3(4) of Schedule 1 to the Safeguarding Vulnerable Groups Act 2006 and amended by section 81(3)(a) of the Policing and Crime Act 2009.

(51) 2000 c. 36. The entry in relation to the Independent Safeguarding Authority was inserted by [S.I. 2011/1041](#).

Consequential amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

18. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(52) is amended as follows.

19. In article 3(a)(ii) for “40, 43 or 44” substitute “38, 40 or 43”.

20.—(1) Part II of Schedule 1 is amended as follows.

(2) In paragraph 38—

(a) for “Independent Barring Board” substitute “Disclosure and Barring Service”;

(b) after “Service” insert “, and any other work in the Disclosure and Barring Service”.

(3) Omit paragraph 44.

Consequential amendments to the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001

21. The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001(53) are amended as follows.

22. In regulation 9(1)(c)(54)—

(a) for “Independent Barring Board, established under section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute “Disclosure and Barring Service, established by section 87(1) of the Protection of Freedoms Act 2012”;

(b) for “that Act” substitute “the Safeguarding Vulnerable Groups Act 2006”.

23. In regulation 9(1)(c), in the Welsh language text of those Regulations (Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) 2001),—

(a) for “Bwrdd Gwahardd Annibynnol, a sefydlwyd o dan adran 1 o Ddeddf Diogelu Grwpiau Hyglwyf 2006” substitute “Gwasanaeth Datgelu a Gwahardd, a sefydlwyd o dan adran 87(1) o Ddeddf Diogelu Rhyddid 2012”;

(b) for “o’r Ddeddf honno” substitute “o Ddeddf Diogelu Grwpiau Hyglwyf 2006”.

Consequential amendments to the Education (Supply of Information) (Wales) Regulations 2009

24. The Education (Supply of Information) (Wales) Regulations 2009(55) are amended as follows.

25. In regulation 1(3) for “Independent Barring Board” substitute “Disclosure and Barring Service”.

26. In regulation 1(3), in the Welsh language text of those Regulations (Rheoliadau Addysg (Cyflenwi Gwybodaeth) (Cymru) 2009), for “Bwrdd Gwahardd Annibynnol” substitute “Gwasanaeth Datgelu a Gwahardd”.

(52) S.I. 1975/1023; paragraph 38 was inserted by S.I. 2007/2149.

(53) S.I. 2001/1424 (W. 99).

(54) Regulation 9(1)(c) was inserted by S.I. 2009/2161.

(55) S.I. 2009/1350 (W. 126).

Consequential amendments to the Protection of Vulnerable Groups (Scotland) Act 2007 (Consequential Provisions) Order 2010

27. The Protection of Vulnerable Groups (Scotland) Act 2007 (Consequential Provisions) Order 2010⁽⁵⁶⁾ is amended as follows.

28. In article 2 for the definition of “Independent Safeguarding Authority” substitute—
““Disclosure and Barring Service” and “DBS” mean the body established by section 87(1) of the Protection of Freedoms Act 2012;”

29. In articles 18, 19 and 20, and the subject heading before articles 11 and 18, for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service” and for “ISA” substitute “DBS”.

Consequential amendments to the Family Procedure Rules 2010

30.—(1) The Family Procedure Rules 2010⁽⁵⁷⁾ are amended as follows.

(2) In rule 2.3(1)⁽⁵⁸⁾ in the definition of “professional acting in furtherance of the protection of children” in sub-paragraph (e)⁽⁵⁹⁾—

- (a) for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”; and
- (b) for “section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute “section 87(1) of the Protection of Freedoms Act 2012”.

Consequential amendments to the Fostering Services (England) Regulations 2011

31. The Fostering Services (England) Regulations 2011⁽⁶⁰⁾ are amended as follows.

32. In regulation 2(1) for ““Independent Safeguarding Authority” has the meaning given in section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute ““Disclosure and Barring Service” means the body established by section 87(1) of the Protection of Freedoms Act 2012”.

33. In Schedule 7 for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”.

CHAPTER 4

Supplemental provisions

Further references to ISA and DBS

34. Any reference (other than those dealt with by Chapters 2 and 3 of this Part) to the Independent Safeguarding Authority (including references to the Independent Barring Board, which are to be treated as references to the Independent Safeguarding Authority by virtue of section 81(5) of the Policing and Crime Act 2009) in any enactment passed or made before the commencement of this Order is to be read as a reference to the Disclosure and Barring Service.

35. Any reference to the Disclosure and Barring Service which arises by virtue of this Order is to be read—

- (a) in relation to times before the commencement of section 81 of the Policing and Crime Act 2009, as a reference to the Independent Barring Board, and

⁽⁵⁶⁾ [S.I. 2010/2660](#).

⁽⁵⁷⁾ [S.I. 2010/2955](#).

⁽⁵⁸⁾ Rule 2.3(1) was amended by [S.I. 2011/1328](#), [S.I. 2011/1329](#) and [S.I. 2012/679](#).

⁽⁵⁹⁾ Sub-paragraph (e) was inserted by [S.I. 2012/679](#).

⁽⁶⁰⁾ [S.I. 2011/581](#).

- (b) in relation to times after the commencement of that section but before the commencement of this Order, as a reference to the Independent Safeguarding Authority.