
DRAFT STATUTORY INSTRUMENTS

2012 No.

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

PART 3

Transfer of the Secretary of State's functions

CHAPTER 4

Consequential amendments to the 1997 Act, the 2006 Act and the 2007 Order

Consequential amendments to the 1997 Act in England and Wales

- 50.**—(1) Section 119 of the 1997 Act is amended as follows—
- (2) Omit subsection (1A).
 - (3) After subsection (4) insert—

“(4A) DBS may require the Secretary of State to provide it with the information and advice specified in section 113CD(2) to (6) for the purpose of enabling DBS to carry out its functions under section 113CD.”
- 51.** Omit section 122A(1) of the 1997 Act.

Consequential amendments to the 1997 Act in Northern Ireland

- 52.**—(1) Section 119 of the 1997 Act is amended as follows.
- (2) After subsection (1) insert—

“(1ZA) Any person who holds records of convictions or cautions for the use of police forces generally must make those records available to the Disclosure and Barring Service for the purpose of enabling it to carry out its functions under paragraph 1, 2, 7 or 8 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.”
 - (3) In subsection (5)—
 - (a) after “Secretary of State” insert “or the Disclosure and Barring Service”, and
 - (b) after “him” insert “or it”.
 - (4) Omit subsection (8)(d).
- 53.** In section 126A of the 1997 Act omit—
- (a) subsections (2)(b) and (3), and
 - (b) in subsection (2)(d) “section 119 or”.

Consequential amendments to the 2006 Act

54. In section 43(5E) of the 2006 Act omit “or (as the case may be) the Secretary of State”.
55. Schedule 3 to the 2006 Act is amended as follows.
56. For sub-paragraphs (2) and (3) of paragraph 1 substitute—
 - “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the children’s barred list.”
57. For sub-paragraphs (2) and (3) of paragraph 2 substitute—
 - “(2) Sub-paragraph (4) applies if it appears to DBS that—
 - (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to children.”
58. For sub-paragraphs (2) and (3) of paragraph 7 substitute—
 - “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the adults’ barred list.”
59. For sub-paragraphs (2) and (3) of paragraph 8 substitute—
 - “(2) Sub-paragraph (4) applies if it appears to DBS that—
 - (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to vulnerable adults.”
60. Omit paragraph 19(8).
61. Omit paragraph 20(2).

Consequential amendments to the 2007 Order

62. In Article 45(5E) of the 2007 Order omit “or (as the case may be) the Secretary of State”.
63. Schedule 1 to the 2007 Order is amended as follows.
64. For sub-paragraphs (2) and (3) of paragraph 1 substitute—
 - “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the children’s barred list.”
65. For sub-paragraphs (2) and (3) of paragraph 2 substitute—
 - “(2) Sub-paragraph (4) applies if it appears to DBS that—
 - (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to children.”
66. For sub-paragraphs (2) and (3) of paragraph 7 substitute—
 - “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the adults’ barred list.”
67. For sub-paragraphs (2) and (3) of paragraph 8 substitute—
 - “(2) Sub-paragraph (4) applies if it appears to DBS that—
 - (a) this paragraph applies to a person, and

(b) the person is or has been, or might in future be, engaged in regulated activity relating to vulnerable adults.”

68. Omit paragraph 20(3).