

Status: Point in time view as at 01/12/2020.

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SCHEDULES

SCHEDULE 3

BARRED LISTS

Modifications etc. (not altering text)

- C1** Sch. 3 modified (20.1.2009) by [Safeguarding Vulnerable Groups Act 2006 \(Transitory Provisions\) Order 2009 \(S.I. 2009/12\)](#), arts. 1(1), **5**

PART 1

CHILDREN'S BARRED LIST

Automatic inclusion

- 1 (1) This paragraph applies to a person if any of the criteria prescribed for the purposes of this paragraph is satisfied in relation to the person.
- [^{F1}(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the children's barred list.]

Textual Amendments

- F1** Sch. 3 para. 1(2) substituted for Sch. 3 para. 1(2)(3) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **56** (with Pt. 4)

Modifications etc. (not altering text)

- C2** Sch. 3 para. 1 modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **9(2)**

Commencement Information

- I1** Sch. 3 para. 1 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545](#), art. **4(a)**
- I2** Sch. 3 para. 1 in force at 20.1.2009 in so far as not already in force by [S.I. 2009/39](#), art. **2(1)(k)**
- I3** Sch. 3 para. 1(1) in force at 31.12.2007 for specified purposes by [S.I. 2007/3545](#), art. **2(j)**

Inclusion subject to consideration of representations

- 2 (1) This paragraph applies to a person if any of the criteria prescribed for the purposes of this paragraph is satisfied in relation to the person.
- [^{F2}[^{F3}(2) Sub-paragraph (4) applies if it appears to DBS that—

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- (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.]
- (4) [F4DBS] must give the person the opportunity to make representations as to why the person should not be included in the children's barred list.
- (5) Sub-paragraph (6) applies if—
- (a) the person does not make representations before the end of any time prescribed for the purpose, or
 - (b) the duty in sub-paragraph (4) does not apply by virtue of paragraph 16(2).
- (6) If [F4DBS] —
- (a) is satisfied that this paragraph applies to the person, and
 - (b) has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children,
- it must include the person in the list.
- (7) Sub-paragraph (8) applies if the person makes representations before the end of any time prescribed for the purpose.
- (8) If [F4DBS] —
- (a) is satisfied that this paragraph applies to the person,
 - (b) has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children, and
 - (c) is satisfied that it is appropriate to include the person in the children's barred list,
- it must include the person in the list.]

Textual Amendments

- F2** Sch. 3 para. 2(2)-(8) substituted for Sch. 3 para. 2(2)-(4) (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 67\(2\), 120 \(with s. 97\); S.I. 2012/2234, art. 2\(d\) \(with arts. 6-16\) \(as amended \(31.3.2014\) by S.I. 2014/831, art. 2\(2\)\)](#)
- F3** Sch. 3 para. 2(2) substituted for Sch. 3 para 2(2)(3) (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 57 \(with Pt. 4\)](#)
- F4** Word in Sch. 3 paras. 2-5 substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\), arts. 1\(1\), 3\(f\)\(i\) \(with Pt. 4\)](#)

Modifications etc. (not altering text)

- C3** Sch. 3 para. 2 modified (temp.) (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\), arts. 1\(1\), 9\(3\)](#)

Commencement Information

- I4** Sch. 3 para. 2 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545, art. 4\(a\)](#)
- I5** Sch. 3 para. 2 in force at 20.1.2009 in so far as not already in force by [S.I. 2009/39, art. 2\(1\)\(k\)](#)
- I6** Sch. 3 para. 2(1) in force at 31.12.2007 for specified purposes by [S.I. 2007/3545, art. 2\(j\)](#)

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Behaviour

- 3 (1) This paragraph applies to a person if—
- (a) it appears to [F4DBS] that the person [F5—
 - (i) has (at any time) engaged in relevant conduct, and
 - (ii) is or has been, or might in future be, engaged in regulated activity relating to children,] and
 - (b) [F4DBS] proposes to include him in the children's barred list.
- (2) [F4DBS] must give the person the opportunity to make representations as to why he should not be included in the children's barred list.
- (3) [F4DBS] must include the person in the children's barred list if—
- (a) it is satisfied that the person has engaged in relevant conduct,
 - [F6(aa) it has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children,] and
 - (b) it [F7; is satisfied] that it is appropriate to include the person in the list.
- (4) This paragraph does not apply to a person if the relevant conduct consists only of an offence committed against a child before the commencement of section 2 and the court, having considered whether to make a disqualification order, decided not to.
- (5) In sub-paragraph (4)—
- (a) the reference to an offence committed against a child must be construed in accordance with Part 2 of the Criminal Justice and Court Services Act 2000 (c. 43);
 - (b) a disqualification order is an order under section 28, 29 or 29A of that Act.

Textual Amendments

- F4** Word in Sch. 3 paras. 2-5 substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **3(f)(i)** (with Pt. 4)
- F5** Words in Sch. 3 para. 3(1)(a) substituted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 67(3)(a)**, 120 (with s. 97); [S.I. 2012/2234](#), art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by [S.I. 2014/831](#), art. 2(2))
- F6** Sch. 3 para. 3(3)(aa) inserted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 67(3)(b)**, 120 (with s. 97); [S.I. 2012/2234](#), art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by [S.I. 2014/831](#), art. 2(2))
- F7** Words in Sch. 3 para. 3(3)(b) substituted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 67(3)(c)**, 120 (with s. 97); [S.I. 2012/2234](#), art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by [S.I. 2014/831](#), art. 2(2))

Commencement Information

- I7** Sch. 3 para. 3 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545](#), **art. 4(a)**
- I8** Sch. 3 para. 3 in force at 20.1.2009 in so far as not already in force by [S.I. 2009/39](#), **art. 2(1)(k)**

- 4 (1) For the purposes of paragraph 3 relevant conduct is—
- (a) conduct which endangers a child or is likely to endanger a child;

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- (b) conduct which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him;
 - (c) conduct involving sexual material relating to children (including possession of such material);
 - (d) conduct involving sexually explicit images depicting violence against human beings (including possession of such images), if it appears to [F4DBS] that the conduct is inappropriate;
 - (e) conduct of a sexual nature involving a child, if it appears to [F4DBS] that the conduct is inappropriate.
- (2) A person's conduct endangers a child if he—
- (a) harms a child,
 - (b) causes a child to be harmed,
 - (c) puts a child at risk of harm,
 - (d) attempts to harm a child, or
 - (e) incites another to harm a child.
- (3) “Sexual material relating to children” means—
- (a) indecent images of children, or
 - (b) material (in whatever form) which portrays children involved in sexual activity and which is produced for the purposes of giving sexual gratification.
- (4) “Image” means an image produced by any means, whether of a real or imaginary subject.
- (5) A person does not engage in relevant conduct merely by committing an offence prescribed for the purposes of this sub-paragraph.
- (6) For the purposes of sub-paragraph (1)(d) and (e), [F4DBS] must have regard to guidance issued by the Secretary of State as to conduct which is inappropriate.

Textual Amendments

F4 Word in Sch. 3 paras. 2-5 substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **3(f)(i)** (with Pt. 4)

Commencement Information

I9 Sch. 3 para. 4 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545](#), **art. 4(a)**

I10 Sch. 3 para. 4(1)-(4)(6) in force at 20.1.2009 in so far as not already in force by [S.I. 2009/39](#), **art. 2(1)(k)**

I11 Sch. 3 para. 4(5) in force at 12.10.2009 in so far as not already in force by [S.I. 2009/2611](#), **art. 2, Sch.**

Risk of harm

- 5 (1) This paragraph applies to a person if—
- (a) it appears to [F4DBS] that the person[F8]—
 - (i) falls within sub-paragraph (4), and
 - (ii) is or has been, or might in future be, engaged in regulated activity relating to children] and
 - (b) [F4DBS] proposes to include him in the children's barred list.

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- (2) [^{F4}DBS] must give the person the opportunity to make representations as to why he should not be included in the children's barred list.
- (3) [^{F4}DBS] must include the person in the children's barred list if—
 - (a) it is satisfied that the person falls within sub-paragraph (4),
 - [^{F9}(aa) it has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children,] and
 - (b) it [^{F10}is satisfied] that it is appropriate to include the person in the list.
- (4) A person falls within this sub-paragraph if he may—
 - (a) harm a child,
 - (b) cause a child to be harmed,
 - (c) put a child at risk of harm,
 - (d) attempt to harm a child, or
 - (e) incite another to harm a child.

Textual Amendments

- F4** Word in Sch. 3 paras. 2-5 substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **3(f)(i)** (with Pt. 4)
- F8** Words in Sch. 3 para. 5(1)(a) substituted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **67(4)(a)**, 120 (with s. 97); S.I. 2012/2234, art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by S.I. 2014/831, art. 2(2))
- F9** Sch. 3 para. 5(3)(aa) inserted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **67(4)(b)**, 120 (with s. 97); S.I. 2012/2234, art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by S.I. 2014/831, art. 2(2))
- F10** Words in Sch. 3 para. 5(3)(b) substituted (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), ss. **67(4)(c)**, 120 (with s. 97); S.I. 2012/2234, art. 2(d) (with arts. 6-16) (as amended (31.3.2014) by S.I. 2014/831, art. 2(2))

Commencement Information

- I12** Sch. 3 para. 5 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545](#), art. 4(a)
- I13** Sch. 3 para. 5 in force at 20.1.2009 in so far as not already in force by [S.I. 2009/39](#), art. 2(1)(k)

Restriction on inclusion

- 6 (1) [^{F11}DBS] must not include a person in the children's barred list—
 - (a) only on a particular ground if a relevant Scottish authority has already considered whether the person should be included in a corresponding list on the same ground (whether or not it decided to include him in the list), or
 - (b) if, in accordance with such criteria as the Secretary of State specifies by order, it is more appropriate for the person's case to be considered by the relevant Scottish authority.
- (2) A relevant Scottish authority is such authority as the Secretary of State specifies by order as exercising for the purposes of the law of Scotland functions which correspond to those of [^{F11}DBS] .

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- (3) A corresponding list is a list maintained for the purposes of the law of Scotland which the Secretary of State specifies by order as corresponding to the children's barred list.

Textual Amendments

- F11** Word in [Sch. 3 para. 6](#) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **3(f)(iii)** (with Pt. 4)

Commencement Information

- I14** Sch. 3 para. 6 in force at 11.2.2008 for specified purposes by [S.I. 2007/3545](#), **art. 4(a)**
- I15** Sch. 3 para. 6 in force at 12.10.2009 in so far as not already in force by [S.I. 2009/2611](#), art. 2, **Sch.**
- I16** Sch. 3 para. 6(1)(b)(2)(3) in force at 19.5.2008 for specified purposes by [S.I. 2008/1320](#), **art. 5(o)**

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