



Safeguarding Vulnerable Groups Act 2006

2006 CHAPTER 47

Professional bodies and supervisory authorities

45 Supervisory authorities: duty to refer

- (1) A supervisory authority must provide [^{F1}ISA] with any prescribed information it holds relating to a person if the first and second conditions are satisfied.
- (2) The first condition is that the supervisory authority thinks, on the basis of relevant evidence—
 - (a) that paragraph 1, 2, 7 or 8 of Schedule 3 applies to the person,
 - (b) that the person has engaged in relevant conduct (within the meaning of paragraph 4 or 10 of Schedule 3) occurring after the commencement of this section, or
 - (c) that the harm test is satisfied.
- (3) The harm test is that the person may—
 - (a) harm a child or vulnerable adult,
 - (b) cause a child or vulnerable adult to be harmed,
 - (c) put a child or vulnerable adult at risk of harm,
 - (d) attempt to harm a child or vulnerable adult, or
 - (e) incite another to harm a child or vulnerable adult.
- (4) The second condition is that the supervisory authority thinks—
 - (a) that the person is engaged or may engage in regulated activity or controlled activity, and
 - (b) (except in a case where paragraph 1, 2, 7 or 8 of Schedule 3 applies) that [^{F1}ISA] may consider it appropriate for the person to be included in a barred list.
- (5) The supervisory authority may provide [^{F1}ISA] with any prescribed information it holds relating to a person if—

Status: Point in time view as at 23/04/2010. This version of this provision has been superseded.

Changes to legislation: Safeguarding Vulnerable Groups Act 2006, Section 45 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) it thinks, on the basis of relevant evidence, that the person has engaged in relevant conduct (within the meaning of paragraph 4 or 10 of Schedule 3) occurring before the commencement of this section, and
 - (b) the condition in subsection (4) is satisfied.
- (6) Subsection (1) does not apply if the supervisory authority is satisfied that [^{F1}ISA] already has the information.
- (7) A supervisory authority is—
- (a) a registration authority within the meaning of section 5 of the Care Standards Act 2000 (c. 14) in respect of its functions under Part 2 of that Act;
 - [^{F2}(aa) the Secretary of State in respect of his functions under Chapter 1 of Part 10 of the Education Act 2002 (c. 32);]
 - (b) the [^{F3}Welsh Ministers] in respect of its functions under Chapter 1 of Part 10 of the Education Act 2002 (c. 32);
 - [^{F4}(c) the Care Quality Commission in respect of its functions under Part 1 of the Health and Social Care Act 2008;]
 - [^{F5}(d)]
 - (e) the [^{F6}Welsh Ministers] in respect of its functions under Chapters 4 and 6 of Part 2 of [^{F7}the Health and Social Care (Community Health and Standards) Act 2003];
 - [^{F8}(ea) the Welsh Ministers in the exercise of their functions under Part 10A, Part 11 or Part 12 of the Children Act 1989;]
 - (f) the Public Guardian in the exercise of his functions;
 - (g) Her Majesty's Chief Inspector of Schools in England in the exercise of his functions;
 - (h) Her Majesty's Chief Inspector of Education and Training in Wales in the exercise of his functions;
 - (i) the Charity Commissioners for England and Wales in the exercise of their functions.
- (8) Relevant evidence is evidence obtained by the supervisory authority in the exercise of the functions mentioned in subsection (7).
- (9) The Secretary of State may by order amend subsection (7) by inserting a paragraph or amending or omitting a paragraph for the time being contained in the subsection.
- (10) For the purposes of subsection (2)(b) or (5)(a), conduct is inappropriate if it appears to the supervisory authority to be inappropriate having regard to the guidance issued by the Secretary of State under paragraph 4(6) or 10(6) of Schedule 3.

Textual Amendments

- F1** Words in ss. 36-47 substituted (12.11.2009) by Policing and Crime Act 2009 (c. 26), ss. 81(2)(3)(m)(i), 116(5)(a)
- F2** S. 45(7)(aa) inserted (23.4.2010) by The Safeguarding Vulnerable Groups Act 2006 (Supervisory Authorities and Devolution Alignment) Order 2010 (S.I. 2010/1073), arts. 1(2), 2
- F3** Words in s. 45(7)(b) substituted (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), 30(b)
- F4** S. 45(7)(c) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 91(a); S.I. 2009/462, art. 2(1), Sch. 1 para. 35(bb)

Status: Point in time view as at 23/04/2010. This version of this provision has been superseded.

Changes to legislation: Safeguarding Vulnerable Groups Act 2006, Section 45 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F5** S. 45(7)(d) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), Sch. 5 para. 91(b), **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(bb), 36
- F6** Words in s. 45(7)(e) substituted (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), **30(b)**
- F7** Words in s. 45(7)(e) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 91(c)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(bb)
- F8** S. 45(7)(ea) inserted (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2009 (S.I. 2009/1797), arts. 1(1), **6**

Commencement Information

- I1** S. 45(1)(5) in force at 19.5.2008 for specified purposes by S.I. 2008/1320, **art. 4(q)**
- I2** S. 45(1)(5)(7)(9) in force at 12.10.2009 in so far as not already in force by S.I. 2009/2611, art. 2, **Sch.**
- I3** S. 45(2)-(4)(6)(8)(10) in force at 12.10.2009 by S.I. 2009/2611, art. 2, **Sch.**
- I4** S. 45(7) in force at 20.1.2009 for specified purposes by S.I. 2009/39, **art. 2(1)(h)**
- I5** S. 45(9) in force at 19.5.2008 for specified purposes by S.I. 2008/1320, **art. 5(i)**

Status:

Point in time view as at 23/04/2010. This version of this provision has been superseded.

Changes to legislation:

Safeguarding Vulnerable Groups Act 2006, Section 45 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.