

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 8 – Miscellaneous

Chapter 1 – Safeguarding Vulnerable Groups and Criminal Records

Safeguarding vulnerable groups: England and Wales

Section 82 Educational establishments: check on members of governing body

512. **Section 82** amends provisions in the 2006 Act. Its objectives are:
- a) to ensure that a person (“the appropriate officer”) who is required under section 13 of the 2006 Act to make a check on a member of a governing body (“governor”) of an educational establishment as defined in section 8(5) of the Act, does not commit an offence if the governor fails to consent to the check or fails to provide the appropriate officer with any information necessary to make the check; and
 - b) to create a new criminal offence where a governor acts as a member of a governing body before consenting to the check or providing the appropriate officer with any information required to carry out the check.
513. The appropriate officer is required under section 13 of the 2006 Act to make the check within a prescribed period. To achieve the first objective above, subsection (6) of the section provides that the prescribed period must not start before the governor consents to the appropriate officer making the check and provides any information required to make the check.
514. To achieve the second objective, subsection (2) of the section provides that a governor commits an offence if he or she starts to act as a governor without first consenting to a check and providing the appropriate officer with any information required to make the check.
515. Provisions in sections (4) and (5) of the section mirror the provision at sections 13(3) and (4) of the 2006 Act. Section 13(3) of the SGVA ensures that the appropriate officer does not commit an offence if he or she does not make a check on a governor where the governor was appointed before the commencement of section 13; section 13(4) of the Act allows the Secretary of State by order to set a date when the exception in section 13(3) comes to an end (known as “sunsetting”). These provisions relate to the Government’s announced policy of phasing in, over a few years, the Vetting and Barring Scheme’s requirements to register with the Independent Safeguarding Authority referred to as the Independent Barring Board or IBB in the Act.