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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 2 of the Order brings into force section 3 of the Safeguarding Vulnerable Groups Act 2006 (“the Act”) which has the effect of barring from regulated activity a person who is included in one of the barred lists under section 2 of the Act, namely the children’s barred list and the adults’ barred list. The barred lists are established under section 2 of the Act and are maintained by the Independent Barring Board (“IBB”) which is a body established under section 1 of the Act.

Article 2 also brings into force sections 7, 9 and other sections in the Act that relate to the offences created under the Act in relation to a person who engages in regulated activity whilst on one of the barred lists.

This Order also brings into force the duties to refer prescribed information to the IBB under sections 35, 36, 39, 41 and 45 of the Act. Duties under sections 37, 40, 42 and 46 to provide IBB with prescribed information on request came into force on 20th January 2009 ([S.I. 2009/39](#)). The Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008 ([S.I. 2008/3265](#)) specifies the information prescribed in relation to the duties to refer and to provide information on request. Article 2 also commences the offence under section 38 of the Act for failure to comply with any of the duties under section 35, 36 or 37 of the Act to provide information.

Article 3 provides for partial commencement of the repeal of the provisions of the Criminal Justice and Court Services Act 2000 (“CJCSA”) from 12th October 2009. The effect of article 3 is that where a person is barred from regulated activity by virtue of section 3 of the Act, no disqualification order under section 28, 29 or 29A of the CJCSA can be made in relation to that person. Article 3 also has the effect of excluding from the scope of section 35 of the CJCSA persons subject to disqualification orders falling within the description in paragraph (5) of article 3. Section 35 of the CJCSA makes it an offence for persons disqualified from working with children to apply for, to offer to do, to accept or to do any work in a regulated position.

Articles 4 provides for the partial commencement of the repeal of provisions in the Education Act 2002. The power of the Secretary of State to make directions under section 142 of that Act is repealed save for the making of a direction on grounds relating to a person’s misconduct that has the effect of preventing a person from taking part in the management of an independent school.

Articles 5 to 7 consist of transitional provisions and savings in relation to individuals who immediately before 12th October 2009 are still subject to the old barring regimes (i.e. those included in the list kept under the Protection of Children Act 1999, the list kept under section 81 of the Care Standards Act 2000 or who are subject to a direction made under section 142 of the Education Act 2002). Where such a person has not been included in the children’s barred list by that date, or where the person has been included in that list under article 2 or 4 of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008 ([S.I. 2008/473](#)) but no final decision has been taken on their inclusion, the relevant old barring regime will continue to apply instead of section 3 of the Act until one of the events referred to in article 5(5), 6(5) or 7(4) occurs.