
STATUTORY INSTRUMENTS

2009 No. 2611

**The Safeguarding Vulnerable Groups Act
2006 (Commencement No. 6, Transitional
Provisions and Savings) Order 2009**

PART 3

Transitional provisions and savings

Transitional provisions and savings: Protection of Children Act 1999

5.—(1) Despite the commencement under article 2 of the repeal of—

- (a) provisions of POCA, and
- (b) the other related provisions,

those provisions continue to have effect in relation to a person falling within paragraph (4) (“P”) for any of the purposes specified in paragraph (2) until one of the matters described in paragraph (5) applies to P.

(2) The provisions mentioned in paragraph (1) continue to have effect for the purposes of—

- (a) keeping the list under section 1 of POCA;
- (b) including P in that list;
- (c) providing for the effect of P’s inclusion in that list in accordance with section 7 of that Act;
- (d) determining whether P is to be removed from that list and providing for P’s removal.

(3) For the purposes of paragraph (2)(d), the reference to determining whether P is to be removed from the list includes consideration of whether P should be removed on an appeal under section 4 of that Act or on an application under section 4A of that Act.

(4) P is a person—

- (a) who immediately before 12th October 2009 is included (provisionally or otherwise) in the list kept under section 1 of POCA, and
- (b) in relation to whom none of the matters described in paragraph (5)(b) to (e) has occurred before that date.

(5) The matters referred to in paragraph (1) are—

- (a) P is removed from the list kept under section 1 of POCA in accordance with a provision of that Act;
- (b) P is included in the children’s barred list pursuant to article 2(2)(a) of the 2008 Order and either—
 - (i) IBB is not required under article paragraph (2)(b) of article 2 of that Order to give P the opportunity to make representations as to why P should be removed from that list, or

- (ii) where IBB is required under that paragraph to give P the opportunity to make such representations, IBB decides under that article not to remove P from that list;
 - (c) P is included in the children’s barred list other than in accordance with article 2(2)(a) of the 2008 Order;
 - (d) in accordance with article 2(4) of the 2008 Order, IBB removes P from the children’s barred list;
 - (e) where P is referred to IBB in accordance with article 3 of the 2008 Order, IBB makes a decision not to include P in the children’s barred list.
- (6) Section 3 of the Act does not apply to P until the provisions referred to in paragraph (1) cease to have effect in relation to P in accordance with this article.
- (7) In paragraph (1) “the other related provisions” means—
- (a) the following provisions of CSA—
 - (i) sections 82(4) to (7), 83(4) to (7) and 85(1) to (6), in so far as those provisions apply by virtue of sections 2C of POCA to the inclusion of persons in the list kept under section 1 of that Act; and
 - (ii) sections 94 to 98 and paragraph 26 of Schedule 4;
 - (b) paragraphs 155, 157 and 158 of Schedule 7 to CJCSA;
 - (c) paragraph 121 of Schedule 21 to EA 2002, in so far as the amendments made by those provisions are relevant to the provisions of section 7 of POCA affecting persons included in the list under section 1 of that Act;
 - (d) paragraphs 122(a) and 123 of Schedule 21 to EA 2002;
 - (e) section 189(1) of the Health and Social Care (Community Health and Standards) Act 2003(1), in so far the amendment made by that provision is relevant to the provisions of section 7 of POCA affecting persons included in the list under section 1 of that Act.

Transitional provisions and savings: Care Standards Act 2000

- 6.—(1) Despite the commencement under article 2 of the repeal of—
- (a) provisions of CSA, and
 - (b) the related provisions of POCA,
- those provisions continue to have effect in relation to a person falling within paragraph (4) (“P”) for any of the purposes specified in paragraph (2) until one of the matters described in paragraph (5) applies to P.
- (2) The provisions mentioned in paragraph (1) continue to have effect for the purposes of—
- (a) keeping the list under section 81 of CSA;
 - (b) including P in that list;
 - (c) providing for the effect of P’s inclusion in that list in accordance with section 89 of that Act;
 - (d) determining whether P is to be removed from that list and providing for P’s removal.
- (3) For the purposes of paragraph (2)(d), the reference to determining whether P is to be removed from the list includes consideration of whether P should be removed on an appeal under section 86 of that Act or on an application under section 87.
- (4) P is a person—

- (a) who immediately before 12th October 2009 is included (provisionally or otherwise) in the list kept under section 81 of CSA, and
 - (b) in relation to whom none of the matters described in paragraph (5)(b) to (d) has occurred before that date.
- (5) The matters referred to in paragraph (1) are—
- (a) P is removed from the list kept under section 81 of CSA in accordance with a provision of that Act;
 - (b) P is included in the adults' barred list pursuant to article 4(2)(a) of the 2008 Order and either—
 - (i) IBB is not required under paragraph (2)(b) of article 4 of that Order to give P the opportunity to make representations as to why P should be removed from that list, or
 - (ii) where IBB is required under that paragraph to give P the opportunity to make such representations, IBB decides under that article not to remove P from that list;
 - (c) IBB includes P in the adults' barred list other than in accordance with article 4(2)(a) of the 2008 Order;
 - (d) in accordance with article 4(4) of the 2008 Order, IBB removes P from the adults' barred list.
- (6) Section 3 of the Act does not apply to P until the provisions referred to in paragraph (1) cease to have effect in relation to P in accordance with this article.
- (7) In paragraph (1) “the related provisions of POCA” means sections 2(4) to (7), 2A(3), 2B(1) to (6) and 2D(1) and (2) of that Act, in so far as those provisions apply by virtue of section 92 of CSA to the inclusion of persons in the list kept under section 81 of that Act.

Transitional provisions and savings: Education Act 2002

- 7.—(1) Despite the commencement by this Order of the repeal of—
- (a) the provisions of EA 2002 referred to in article 4,
 - (b) section 7 of POCA (in so far as that section has effect in relation to persons subject to a direction under section 142 of the EA 2002), and
 - (c) the other related provisions,
- those provisions continue to have effect in relation to a person falling within paragraph (3) (“P”) for any of the purposes specified in paragraph (2) until one of the matters described in paragraph (4) applies to P.
- (2) The provisions mentioned in paragraph (1) continue to have effect for the purposes of—
- (a) enabling a direction under section 142 of EA 2002 (“a direction”) to be made and to have effect in relation to P;
 - (b) providing for the effect of a direction in relation to P under section 7 of POCA;
 - (c) determining whether a direction in relation to P should be revoked under section 142(6) of EA 2002 (revocation by the Secretary of State) or section 144 of that Act (revocation by the First-tier Tribunal on review or on appeal) and revoking such a direction;
 - (d) giving effect to regulations under the provisions of EA 2002 mentioned in paragraph (1)(2) in so far as the regulations are relevant for the purposes specified in sub-paragraphs (a) to (c).
- (3) P is a person—

(2) The current relevant regulations are in [S.I. 2003/1184](#), amended by [S.I. 2007/195](#).

- (a) who immediately before 12th October 2009—
 - (i) is included (provisionally or otherwise) in the list kept under section 1 of POCA, or
 - (ii) is not included in that list but is subject to a direction made under section 142 of EA 2002 on the grounds referred to in subsection (4)(b) to (e) of that section; and
 - (b) in relation to whom none of the matters described in paragraph (4)(b) to (e) has occurred before that date.
- (4) The matters referred to in paragraph (1) are—
- (a) a direction made in relation to P is revoked under section 142(6) or 144 of EA 2002;
 - (b) P is included in the children’s barred list pursuant to article 2(2)(a) of the 2008 Order and either—
 - (i) IBB is not required under paragraph (2)(b) of article 2 of that Order to give P the opportunity to make representations as to why P should be removed from that list, or
 - (ii) where IBB is required under that paragraph to give P the opportunity to make such representations, IBB decides under that article not to remove P from that list;
 - (c) P is included in the children’s barred list other than in accordance with article 2(2)(a) of the 2008 Order;
 - (d) in accordance with article 2(4) of that Order, IBB removes P from the children’s barred list;
 - (e) where P is referred to the IBB in accordance with article 3 of the 2008 Order, IBB makes a decision not to include P in the children’s barred list.
- (5) Section 3 of the Act does not apply to a person falling within paragraph (3)(a)(ii) until the provisions referred to in paragraph (1) cease to have effect in relation to that person in accordance with this article.
- (6) In paragraph (1) “the other related provisions” means—
- (a) the following provisions in so far as the amendments made by those provisions are relevant to the provisions of section 7 of POCA affecting persons subject to a direction under section 142 of EA 2002—
 - (i) paragraph 121 of Schedule 2 to EA 2002;
 - (ii) section 189(1) of the Health and Social Care (Community Health and Standards) Act 2003(3);
 - (b) section 9(2)(b) of POCA; and
 - (c) paragraph 122(a) of Schedule 21 to EA 2002.