
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of changes to existing regulations under the Safeguarding Vulnerable Groups Act 2006 (“the 2006 Act”) which are consequential upon the changes to the 2006 Act in Chapter 1 of Part 5 of the Protection of Freedoms Act 2012 (“the 2012 Act”). These Regulations also make a number of new provisions.

Regulations 2 to 7 amend the Safeguarding Vulnerable Groups Act 2006 (Barred List Prescribed Information) Regulations 2008) which set out the information which the Independent Safeguarding Authority (“ISA”) is obliged to keep in relation to any individual who is barred. Regulation 3 omits a definition which was linked to monitoring applications which were to be made under section 24 of the 2006 Act. Monitoring (including section 24) is repealed by section 69 of the 2012 Act. Regulation 4 substitutes a new definition which was also linked to monitoring; regulation 6 makes a consequential amendment in light of the new definition. Regulation 5 makes further amendments consequential upon the repeal of monitoring. Regulation 7 makes amendments consequential upon the changes to sections 41 and 45 of the 2006 Act made by sections 75(1) and 76(1) of the 2012 Act which changes the duty on keepers of registers (under section 41 of the 2006 Act) and on supervisory authorities (under section 45 of the 2006 Act) to refer information to the ISA into a power to refer information to the ISA.

Regulations 8 and 9 amend the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008 to reflect the changes made to the barring procedure by section 67 of the 2012 Act. Under paragraphs 2 and 8 of Schedule 3 to the 2006 Act (as amended by section 67 of the 2012 Act), individuals will no longer make representations in order to be removed from the barred list(s), rather they will make representations in order not to be included in the barred list(s).

Regulations 10 to 21 amend the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008 in light of changes made by the 2012 Act. Those Regulations set out the information which is to be provided to the ISA by various bodies under various provisions in the 2006 Act. Regulations 11, 12, 13, 14, 15, 18 and 19 make amendments which are consequential upon the repeal of controlled activity by section 68 of the 2012 Act. Regulations 16 and 20 revoke the regulations which concerned information which local authorities, keepers of relevant registers and supervisory authorities were obliged to provide to the ISA under sections 39, 41 and 45 of the 2006 Act in light of the amendments made by sections 75(1), 76(1) and 77(2) of the 2012 Act which removes these obligations and replaces them with a power to refer information to the ISA. Regulation 17 makes an amendment which is consequential upon the repeal of monitoring by section 69 of the 2012 Act. Regulation 21 makes an amendment for the purpose of clarifying the obligation on various bodies to provide details of any court proceedings. All court proceedings taken in relation to the person’s conduct are included in the obligation and this amendment simply emphasises, for the avoidance of doubt, that this includes proceedings under the Children Act 1989.

Regulations 22 and 23 amend the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009 (“the 2009 Regulations”). Section 59 of the 2006 Act defined who was a vulnerable adult in some detail and enabled regulations to be made in relation to that definition. Since section 59 of the 2006 Act is repealed by section 65(1) of the 2012 Act, regulation 2 of the 2009 Regulations is revoked. Regulation 4 of the 2009 Regulations is revoked because the circumstances in which conveying an adult is regulated activity is prescribed in regulations 24 to 26 of these Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 24 to 26 prescribe the persons who will be doing such conveying that is, and the circumstances in which conveying an adult is, regulated activity relating to vulnerable adults. The circumstances are that the conveying is being done by someone who is employed as a hospital porter, emergency care assistant, an ambulance technician or a driver employed by the Patient Transport Service (or someone employed to assist the driver in such conveying). Conveying will also be regulated activity if the person doing the conveying is doing so on behalf of an organisation (rather than merely in the capacity of a friend or relative, for example) whether employed by the organisation or doing so as a volunteer, and the adult is being conveyed either to or from a place in which the adult will receive, or has received, health care, relevant personal care or relevant social work, where the purpose of the conveying is to ensure the adult can receive that care (therefore excluding adults travelling, for example, on a public bus where the driver's purpose is general conveyance of the public). No person who is driving a taxi or private hire vehicle, even if they are, for example, conveying an adult to a hospital, will be engaging in a regulated activity.

Regulation 27 prescribes circumstances in which a person engages in regulated activity that is connected with the provision of health care to adults. Someone who provides psychotherapy or counselling (but not life coaching) to an adult, when that psychotherapy or counselling is related to health care which the adult is receiving from (or under the direction or supervision of) a health care professional, is engaging in a regulated activity.

Regulation 28 makes provision under section 50A(1)(d) of the 2006 Act which was inserted by section 77(3) of the 2012 Act. Section 50A(1)(d) enables the police to use information given to them by the ISA for prescribed purposes and regulation 29 provides that the police can use information given to them by the ISA for the purposes of disclosing it as relevant information on an enhanced criminal record certificate under section 113B(4) of the Police Act 1997.

An impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sector is foreseen.