

**2012 No. 2112**

**CHILDREN AND YOUNG PERSONS, ENGLAND AND  
WALES**

**PROTECTION OF VULNERABLE ADULTS, ENGLAND  
AND WALES**

**The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous  
Provisions) Regulations 2012**

*Made* - - - - *14th August 2012*

*Laid before Parliament* *16th August 2012*

*Coming into force in accordance with regulation 1(2) and (3)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 2(5), 35(1), 36(1), 37(2), 39(1) and (5), 41(1), 42(2), 45(1) and (5), 46(1) and (2), 50A(1)(d) and 60(1) and (5) of, and paragraph 15 of Schedule 3 and paragraph 7(1)(f) and (g) of Schedule 4 to, the Safeguarding Vulnerable Groups Act 2006(a).

In accordance with section 56(3)(g), (h), (i), (j), (l), (m) and (r) of that Act, the Secretary of State has consulted the Welsh Ministers.

**Citation, commencement, interpretation and extent**

**1.**—(1) These Regulations may be cited as the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2012.

(2) Subject to paragraph (3), these Regulations shall come into force on 10th September 2012.

(3) Regulations 7 to 9 and 24 to 28 shall come into force on 10th September 2012 immediately after the commencement of section 66 of the Protection of Freedoms Act 2012(b).

(4) In these Regulations “the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006.

(5) These Regulations extend to England and Wales.

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(a) 2006 c. 47. Sections 35(1), 36(1) and 37(2) were amended by section 115(1) and (2) of, and paragraphs 43, 61, 62 and 63 of Schedule 9 and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012; section 39(1) and (5) was amended by sections 77 and 115(2) of, and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012; section 41(1) and (5) was amended by section 75 and 115(2) of, and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012; section 45(1) and (5) was amended by section 76 and 115(2) of, and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012; section 50A was inserted by section 88 of the Policing and Crime Act 2009 (c. 26) and amended by section 77 of the Protection of Freedoms Act 2012. There are other amendments but none relevant to these Regulations.

(b) 2012 c. 9.

### **Amendment of the Safeguarding Vulnerable Groups Act 2006 (Barred List Prescribed Information) Regulations 2008**

2. The Safeguarding Vulnerable Groups Act 2006 (Barred List Prescribed Information) Regulations 2008(a) are amended as follows.

3. In regulation 1(2) omit the definition of the “unique identification number accorded to the monitoring application or referral”.

4. In regulation 1(2) for the definition of the “Criminal Records Bureau disclosure number” substitute ““the criminal record certificate number” means the number relating to any criminal record certificate within the meaning of section 113A of the Police Act 1997(b) or any enhanced criminal record certificate within the meaning of section 113B of the Police Act 1997.”

5. Omit regulation 3(d) and (e).

6. For regulation 3(g) substitute—

“(g) the criminal record certificate number relating to the individual;”

7. In regulation 4(c) for “duty”, in each place where it occurs, substitute “power”.

### **Amendment of the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008**

8. The Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008(c) are amended as follows.

9. In regulation 2—

(a) in paragraph (1) omit “removal from, or”;

(b) in paragraph (5) omit “removal from, or”.

### **Amendment of the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008**

10. The Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008(d) are amended as follows.

11. In regulation 2(1) in the definition of “employment” omit “or controlled”.

12. In regulation 3—

(a) omit “and responsible persons” in the heading;

(b) omit “and (b)”.

13. In regulation 4(2)(e) omit “or controlled activity”.

14. In regulation 4(2)(f)(i), (h) and (i) omit “or controlled”.

15. In regulation 5(1) omit “and (b)”.

16. Omit regulations 6, 8 and 10.

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(a) S.I. 2008/16.

(b) 1997 c. 50. Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), S.I. 2009/203, and sections 79(2), 80(1) and 115(1) and (2) of, and paragraphs 35 and 36 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012; section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008, S.I. 2009/203, and sections 79(2), 80(1), 82 and 115(1) and (2) of, and paragraphs 35 and 37 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012.

(c) S.I. 2008/474.

(d) S.I. 2008/3265.

17. In paragraph 1 of the Schedule—

- (a) at the end of sub-paragraph (e) insert “and”;
- (b) in sub-paragraph (f) omit “; and”;
- (c) omit sub-paragraph (g).

18. In paragraph 2 of the Schedule omit “or controlled”.

19. In paragraph 4(h) of the Schedule omit “or controlled”.

20. In paragraph 6 of the Schedule for “35, 36, 39, 41 or 45” substitute “35 or 36”.

21. In paragraph 9 of the Schedule after “such proceedings” insert “, and including proceedings commenced under the Children Act 1989”.

### **Amendment of the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009**

22. The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009(a) are amended as follows.

23. Omit regulations 2 and 4.

### **Regulated activity relating to vulnerable adults**

24. Subject to regulation 26, the conveying of adults who need to be conveyed by reason of age, illness or disability by the following persons in the course of their employment is regulated activity relating to vulnerable adults under paragraph 7(1)(f) of Schedule 4 to the 2006 Act(b)—

- (a) any person who is employed as a hospital porter;
- (b) any person who is employed as an emergency care assistant;
- (c) any person who is employed as an ambulance technician;
- (d) any driver who is employed in the Patient Transport Service(c) or a person who is employed to assist that driver in carrying out the conveying.

25. Subject to regulation 26, the conveying, or assistance provided in the conveying, of any adult who needs to be conveyed by reason of age, illness or disability is regulated activity relating to vulnerable adults under paragraph 7(1)(f) of Schedule 4 to the 2006 Act in the following circumstances—

- (a) the conveying is on behalf of an organisation, whether or not the person who does, or assists in, such conveying is employed by that organisation;
- (b) the conveying is to or from a place in which the adult will receive, or has received, health care (as defined in paragraph 7(2) of Schedule 4 to the 2006 Act(d)), relevant personal care (as defined in paragraph 7(3B) of Schedule 4 to the 2006 Act(e)) or relevant social work (as defined in paragraph 7(3C) of Schedule 4 to the 2006 Act(f)); and
- (c) the person does, or assists in, such conveying for the purpose of enabling the adult to receive that health care, relevant personal care or relevant social work (as the case may be).

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(a) S.I. 2009/1548.

(b) Paragraph 7(1)(f) of Schedule 4 to the 2006 Act was substituted by section 66(3) of the Protection of Freedoms Act 2012.

(c) Non-emergency patient transport services, known as the Patient Transport Service, are typified by the non-urgent, planned, transportation of patients with a medical need for transport to and from premises providing NHS healthcare and between NHS healthcare providers.

(d) Paragraph 7(2) of Schedule 4 to the 2006 Act was substituted by section 66(3) of the Protection of Freedoms Act 2012.

(e) Paragraph 7(3B) of Schedule 4 to the 2006 Act was inserted by section 66(3) of the Protection of Freedoms Act 2012.

(f) Paragraph 7(3C) of Schedule 4 to the 2006 Act was inserted by section 66(3) of the Protection of Freedoms Act 2012.

26. Regulations 24 and 25 do not apply to any person who does, or assists in, such conveying in a vehicle which is licensed under —

- (a) section 37 of the Town Police Clauses Act 1847(a);
- (b) section 6 of the Metropolitan Public Carriage Act 1869(b);
- (c) section 48 of the Local Government (Miscellaneous Provisions) Act 1976(c);
- (d) section 7 of the Private Hire Vehicles (London) Act 1998(d); or
- (e) an equivalent provision of a local enactment.

27. The provision of psychotherapy or counselling, but not life coaching, to an adult which is related to health care the adult is receiving from, or under the direction or supervision of, a health care professional as defined in paragraph 7(3) of Schedule 4 to the 2006 Act(e) is regulated activity relating to vulnerable adults under paragraph 7(1)(g) of Schedule 4 to the 2006 Act.

#### **Provision of information to the police: prescribed purposes**

28. The disclosure of information by the relevant chief officer under section 113B(4) of the Police Act 1997(f) is prescribed under section 50A(1)(d) of the 2006 Act.

Home Office  
14th August 2012

*James Brokenshire*  
Parliamentary Under-Secretary of State

#### **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

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- (a) 1847 c. 89.
  - (b) 1869 c. 115.
  - (c) 1976 c. 57.
  - (d) 1998 c. 34.
  - (e) Paragraph 7(3) of Schedule 4 to the 2006 Act was substituted by section 66(3) of the Protection of Freedoms Act 2012.
  - (f) 1997 c. 50.

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.

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.

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STATUTORY INSTRUMENTS

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