
STATUTORY INSTRUMENTS

2012 No. 2113

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, ENGLAND AND WALES**

The Safeguarding Vulnerable Groups Act
2006 (Miscellaneous Provisions) Order 2012

Made - - - - 14th August 2012

Laid before Parliament 16th August 2012

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 43(7), 48(6) and 49(6) of, and paragraph 9 of Schedule 4 and paragraph 2 of Schedule 7 to, the Safeguarding Vulnerable Groups Act 2006⁽¹⁾, makes the following Order.

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2012 and, subject to paragraph (2), comes into force on 10th September 2012.

(2) Articles 4 to 9 of this Order come into force on 10th September 2012 immediately after the commencement of section 66 of the Protection of Freedoms Act 2012⁽²⁾.

(3) In this Order “the Act” means the Safeguarding Vulnerable Groups Act 2006.

(4) This Order extends to England and Wales.

Relevant disqualifications

2. For the purposes of sections 43(7) and 48(6) of the Act, each of the following is a list corresponding to the children’s barred list—

(1) 2006 c. 47. Paragraph 2 of Schedule 7 to the Act was amended by section 72(5) of the Protection of Freedoms Act 2012.

(2) 2012 c. 9.

- (a) the list maintained under section 1(1)(a) of the Protection of Vulnerable Groups (Scotland) Act 2007(3);
 - (b) the list maintained under Article 6(1)(a) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(4).
3. For the purposes of sections 43(7) and 49(6) of the Act, each of the following is a list corresponding to the adults' barred list—
- (a) the list maintained under section 1(1)(b) of the Protection of Vulnerable Groups (Scotland) Act 2007;
 - (b) the list maintained under Article 6(1)(b) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

Exceptions from regulated activity relating to vulnerable adults

4. The provision to an adult of health care (as defined in paragraph 7(2) of Schedule 4 to the Act(5)) by a person who is not, but who acts under the direction or supervision of, a health care professional (as defined in paragraph 7(3) of Schedule 4 to the Act(6)) is not to be treated as a regulated activity relating to vulnerable adults where that health care—

- (a) is provided under regulations under Part 6 of the National Health Service Act 2006(7) or Part 6 of the National Health Service (Wales) Act 2006(8) in practice premises or as mobile services; or
- (b) is provided in a registered pharmacy (within the meaning of Part IV of the Medicines Act 1968(9)).

5. For the purposes of article 4—

- (a) “practice premises” means practice premises within the meaning of the General Ophthalmic Services Contracts Regulations 2008(10) or, in relation to services provided in Wales, means the address which is included in relation to the contractor in the ophthalmic list in accordance with paragraph 3 of Schedule 1 to the National Health Service (General Ophthalmic Services) Regulations 1986(11) as the address at which services are provided;
- (b) “mobile services” means mobile services within the meaning of the General Ophthalmic Services Contracts Regulations 2008 or the National Health Service (General Ophthalmic Services) Regulations 1986.

6. The provision to an adult of physical assistance in connection with the care of hair (within the meaning of paragraph 7(3B)(a)(vi) of Schedule 4 to the Act(12)) is not to be treated as a regulated activity relating to vulnerable adults where that assistance relates solely to the cutting of the adult's hair.

Schedule 7 amendments

7. Schedule 7 to the 2006 Act is amended as follows.

8. At the end of the table in paragraph 1 insert the following entry—

(3) 2007 asp. 14.

(4) S.I. 2007/1351 (N.I. 11).

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

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

(7) 2006 c. 41.

(8) 2006 c. 42.

(9) 1968 c. 67.

(10) S.I. 2008/1185.

(11) S.I. 1986/975.

(12) Paragraph 7(3B) of Schedule 4 to the Act was inserted by section 66(2) of the Protection of Freedoms Act 2012.

Table 1

<i>Column 1</i>	<i>Column 2</i>
19. The Independent Safeguarding Authority in relation to members and employees and prospective members and employees of the Independent Safeguarding Authority	Children and vulnerable adults

9. In paragraph 3 in sub-paragraph (2) for “1, 2, 5, 6, 9 and 13” substitute “1, 5 and 9”.

Home Office
14th August 2012

James Brokenshire
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 2 and 3 of this Order specify that the lists maintained under section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) (“the Scottish barred lists”) and Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (2007/1351) (N.I. 11) (“the Northern Ireland barred lists”) are lists corresponding to the children’s and adults’ barred lists for the purposes of sections 43, 48 and 49 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) (“the 2006 Act”). This means that the Independent Safeguarding Authority (“ISA”), when responding to a request for information by, or proactively notifying, a keeper of a relevant register (for example the General Medical Council) under section 43 of the 2006 Act, will include information as to whether the particular person is on the barred list(s), and the Scottish barred list(s) and the Northern Ireland barred list(s) (as the case may be). This also means that when the ISA proactively notifies supervisory authorities (for example Her Majesty’s Chief Inspector of Schools in England) under section 48 of the 2006 Act as to whether a particular person is on the children’s barred list, this will include information as to whether the particular person is also on the Scottish children’s barred list and the Northern Ireland children’s barred list (as the case may be). When the ISA proactively notifies supervisory authorities under section 49 of the 2006 Act as to whether a person is on the adults’ barred list, this will include information as to whether the particular person is also on the Scottish adults’ barred list and the Northern Ireland adults’ barred list (as the case may be).

Articles 4 and 5 of this Order provide that the provision of ophthalmic health care by someone who is not a health care professional, but is providing the health care under the direction or supervision of a health care professional, will not (by way of exception to paragraph 7(1)(a) and (2) of Schedule 4 to the 2006 Act) be engaging in regulated activity relating to vulnerable adults when that health care is being provided in opticians’ practice premises or where such health care is provided as mobile services. This captures, for example, those people administering eye tests to adults in a residential centre or in the adult’s home. The provision of health care in ophthalmic hospitals under the direction or supervision of a health care professional remains a regulated activity.

Article 4 of this Order also provides that someone who provides health care who is not a health care professional, but who is providing the health care under the direction or supervision of a health care professional, will not (by way of exception to paragraph 7(1)(a) and (2) of Schedule 4 to the 2006 Act) be engaging in regulated activity relating to vulnerable adults when that health care is being provided in a registered pharmacy which captures, for example, retail staff in pharmacies.

Article 6 of this Order provides that hairdressers, who fall within the definition of persons providing relevant personal care (within the meaning of paragraph 7(1)(b) and (3B) of Schedule 4 to the 2006 Act), are not to be treated as engaging in a regulated activity even if they do cut adults’ hair in e.g. hospitals or care homes.

Articles 7 to 9 amend Schedule 7 to the 2006 Act. Schedule 7 to the 2006 Act sets out the list of persons in relation to whom barred list information may be sought under sections 30A and 30B of the 2006 Act (inserted by section 72 of the 2012 Act). An addition to the list is made for checking members or employees of the ISA.

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