
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.

Changes to legislation:

There are currently no known outstanding effects for the The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Order 2012.