

2013 No. 2945

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

**CHILDREN AND YOUNG PERSONS,
NORTHERN IRELAND**

POLICE, ENGLAND AND WALES

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**The Working with Children (Exchange of Criminal Conviction
Information) (England and Wales and Northern Ireland)
Regulations 2013**

<i>Made</i>	- - - -	<i>19th November 2013</i>
<i>Laid before Parliament</i>		<i>22nd November 2013</i>
<i>Coming into force</i>	- -	<i>18th December 2013</i>

The Secretary of State, being a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to criminal justice, in exercise of the powers conferred by that section, makes the following Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013 and shall come into force on 18th December 2013.

(2) These Regulations extend to England and Wales and Northern Ireland.

Interpretation

2. In these Regulations—

(a) S.I. 2012/2752.

(b) 1972 c. 68. Section 2(2) has been amended by paragraph 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c. 7).

“the Directive” means the Directive 2011/93/EU of the European Parliament and of the Council of 13th December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA(a);

“the Framework Decision” means the Council Framework Decision 2009/315/JHA of 26th February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States(b);

“conviction” means—

- (a) in relation to England and Wales, a conviction within the meaning of the Rehabilitation of Offenders Act 1974(c), and includes a spent conviction within the meaning of that Act;
- (b) in relation to Northern Ireland, a conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(d), and includes a spent conviction within the meaning of that Order;

“DBS” means the Disclosure and Barring Service established by section 87 of the Protection of Freedoms Act 2012;

“relevant records” means—

- (a) information in any form relating to convictions on a names database held by the Secretary of State for the use of police forces generally;
- (b) in relation to England and Wales only, the “children’s barred list” within the meaning of section 2 of the Safeguarding Vulnerable Groups Act 2006(e);
- (c) in relation to Northern Ireland only, the “children’s barred list” within the meaning of Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(f).

Exchange of conviction and disqualification information

3.—(1) Where a Member State makes a request under Article 6 of the Framework Decision, the chief officer of a police force identified under regulation 4 must transmit the information described in paragraph (2) in accordance with the procedures set out in the Framework Decision to the Member State which has made the request, provided that the condition in paragraph (3) is satisfied.

(2) That information is information held in relevant records concerning—

- (a) the existence of convictions for any of the offences referred to in Articles 3 to 7 of the Directive; and
- (b) the existence of any disqualification from exercising activities involving direct and regular contacts with children arising from those convictions.

(3) The condition is that the person to whom the requested information relates has consented to the transmission of that information to the Member State who has requested it under Article 6 of the Framework Decision.

Identification of a chief officer of police

4.—(1) The Secretary of State must identify a chief officer of a police force for the purposes of complying with regulation 3.

(a) OJ No. L26, 28.1.2012, p. 1.

(b) OJ No. L93, 7.4.2009, p. 23.

(c) 1974 c. 53. Relevant amendments have been made by paragraph 1 of Schedule 15 to the Children Act 1989 (c. 41), paragraph 1 of Schedule 13 to, and paragraph 20(c) of Schedule 11 to, the Criminal Justice Act 1991 (c. 53), paragraph 47 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), paragraph 63 of Schedule 16 to the Armed Forces Act 2006 (c. 52), section 24(1) of, and paragraph 8 of Schedule 7 to, the Criminal Justice and Licensing (Scotland) Act 2010 asp 13 and paragraph 134(3) of Schedule 9 to the Protection of Freedoms Act 2012 (c. 9).

(d) S.I. 1978/1908 (N.I. 27). Relevant amendments have been made by S.I. 1996/3160 (N.I. 24), paragraph 8 of Schedule 11 to the Proceeds of Crime Act 2002 (c.29) and paragraphs 84 and 85 of Schedule 16 to the Armed Forces Act 2006.

(e) 2006 c. 47. Section 2 has been amended by S.I. 2012/3006.

(f) S.I. 2007/1351 (N.I. 11). This instrument has been amended by S.I. 2012/3006.

(2) That chief officer is designated as the United Kingdom Central Authority, within the meaning of Article 3 of the Framework Decision, for the purposes of complying with the obligation in regulation 3.

Information sharing

5.—(1) That chief officer may request the DBS to disclose information of a type mentioned in regulation 3(2)(b) for the purpose of complying with the obligation in regulation 3.

(2) If such a request is made to the DBS, and the information is contained in either or both of the “children’s barred list” within the meaning of section 2 of the Safeguarding Vulnerable Groups Act 2006, or the “children’s barred list” within the meaning of Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, the DBS must comply with the request.

Home Office
19th November 2013

Taylor of Holbeach
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Article 10(3) of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

Regulation 3 places an obligation upon a chief officer of a police force to comply with the information-sharing requirements of Article 10(3) of the Directive.

Regulation 4 requires the Secretary of State to identify a chief officer of a police force to carry out the obligations in regulation 3.

Regulation 5 allows that chief officer of police to request relevant information relating to disqualification from working with children from the Disclosure and Barring Service. Regulation 5 also places an obligation upon the DBS to provide that information to the chief officer of police in response to a request.

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