

Annex A

Transposition Note

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. The note does not deal with aspects of the Directive to which these instruments are not directly relevant.

Article	Detail	Implementation	Responsibility
<p>10 Disqualification arising from convictions.</p>	<p>10(3) provides that where a request for information is made under Article 6 of the Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information and content of the criminal record between Member States, information about any convictions mentioned in Articles 3 to 7 of the Directive is sent to the requesting Member State, provided that the individual concerned has consented to this happening. Article 10(3) also provides that alongside this conviction information, information about any disqualification from the right to work with children as a result of those convictions are provided to the requesting Member State.</p>	<p>Article 10(3) is implemented by the Working with Children (Exchange of Criminal Conviction Information) (England and Wales and Northern Ireland) Regulations 2013. Regulation 3 obliges a chief officer of a police force identified by the Secretary of State to disclose the conviction and disqualification information mentioned in Article 10(3) of the Directive pursuant to a request under Article 6 of the Framework Decision 2009/315/JHA, provided that the person concerned has consented for this to happen.</p> <p>Under regulation 4, the Secretary of State must identify a chief officer of a police force to exercise the obligation in regulation 3.</p> <p>Regulation 5 allows the chief officer of a police force to request information about whether a person is disqualified from working with children from the Disqualification and Barring Service. This is the body who is legally tasked with maintaining a record of that information. The Disclosure and Barring Service must, if it maintains that information, comply with the request.</p>	<p>The Chief Officer of a Police Force identified by the Secretary of State.</p>

<p>18 General provisions on assistance, support, and protection measures for child victims.</p>	<p>18(3) provides that where the age of person subject to any of the offences referred to in Article 3 to 7 is uncertain, and there are reasons to believe the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 19 and 20.</p>	<p>Article 18(3) is implemented by the Special Measures for Child Witnesses (Sexual Offences) Regulations 2013.</p> <p>Regulation 2 amends section 33 of the Youth Justice and Criminal Evidence Act 1999 so that the age presumption for the purpose of determining eligibility for special measures when giving evidence extends to complainants of sexual offences (as defined in section 62 of the 1999 Act), and the indecent image offences under section 1 of the Protection of Children Act 1978 and section 160 of the Criminal Justice Act 1988.</p> <p>Separately, the revised Code of Practice for Victims of Crime, which was laid before Parliament on 29th October 2013, applies the age presumption in relation to services provided under the Code to victims of criminal conduct.</p>	<p>Judiciary.</p>
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Scrutiny History

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 (“the Directive”)

On 13 April 2010 a factual EM on the Directive was submitted to the parliamentary scrutiny committees during purdah, with a full EM submitted on 25 May 2010 by the then Secretary of State for Justice (Kenneth Clarke QC). He subsequently wrote on 30 June 2010 informing Parliament of the Government’s decision to opt in to this Directive. A supplementary EM was subsequently submitted on 19 July 2010 in response to questions posed by the House of Lords EU Committee.

On 9 September 2010 the House of Commons, European Scrutiny Committee, report on the Directive was published. An EM on specific articles 1-13 (except art 10) was submitted on 14 October 2010. The European Scrutiny Committee published further reports on 27 October and on 24 November 2010.

On 15 December 2010 an unnumbered EM and Impact Assessment was submitted to Parliament. The European Scrutiny Committee published a report on 2 February 2011. The Committee cleared this proposal from scrutiny following a debate held on 26 April 2011. The House of Lords Sub-Committee E cleared this proposal from scrutiny on 22 June 2011.

On 3 November 2011 a Written Ministerial Statement about the October JHA Council meeting reported that the European Parliament adopted the text agreed by the Council on 27 October, following agreement between the Council, the European Parliament and the Commission.