
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 346

**Safeguarding Vulnerable Groups (2007 Order)
(Commencement No. 5, Transitional Provisions
and Savings) Order (Northern Ireland) 2009**

PART 3

Transitional provisions and savings

Persons included in the list of persons unsuitable to work with vulnerable adults: Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003

6.—(1) Notwithstanding the commencement under Article 3 of the repeal of the relevant provisions of POCVA, those provisions shall continue to have effect in relation to a person falling within paragraph (4) (“P”) for any of the purposes specified in paragraph (2) until one of the matters described in paragraph (5) applies to P.

(2) The relevant provisions of POCVA shall continue to have effect for the purposes of—

- (a) keeping the list under Article 35 of that Order;
- (b) providing for the effect of P’s inclusion in that list in accordance with Article 46 of that Order;
- (c) determining whether P is to be removed from that list and providing for P’s removal.

(3) For the purposes of paragraph (2)(c), the reference to determining whether P is to be removed from the list includes consideration of whether P should be removed on an appeal under Article 42 of that Order or on an application under Article 43.

(4) P is a person—

- (a) who immediately before 12th October 2009 is included in the list kept under Article 35 of POCVA, [^{F1}and—
 - (i) there is no outstanding appeal relating to P’s removal from the list, and
 - (ii) the period of time in which any appeal relating to the removal of P from the list may be made has expired;] and
- (b) in relation to whom none of the matters described in paragraph (5)(b) to (e) has occurred before that date.

(5) The matters referred to in paragraph (1) are—

- (a) P is removed from the list kept under Article 35 of POCVA in accordance with a provision of that Order;
- [^{F2}(b) P is included in the adults’ barred list pursuant to Article 5(2)(a) of the 2008 Order and
 - (i) [^{F3}DBS] is not required under Article 5(2)(b) of the 2008 Order to give P the opportunity to make representations as to why P should be removed from that list, or

- (ii) where [F3DBS] is required under that Article to give P the opportunity to make such representations, it decides under that Article not to remove P from that list, and
- (iii) where paragraph (i) or (ii) applies—
 - (aa) there is no outstanding review of P’s inclusion in the list kept under Article 35 of POCVA,
 - (bb) there is no outstanding appeal relating to P’s inclusion in that list, and
 - (cc) the period of time in which any appeal relating to P’s inclusion in that list may be made has expired;]
- (c) [F3DBS] includes P in the adults’ barred list other than in accordance with Article 5(2)(a) of the 2008 Order;
- (d) in accordance with Article 5(4) of the 2008 Order, [F3DBS] removes P from the adults’ barred list;
- (e) where P is referred to [F3DBS] in accordance with Article 6 of the 2008 Order, [F3DBS] makes a decision not to include P in the adults’ barred list.

[F4(5A) Where P has been included in the adults’ barred list in accordance with Article 5(2)(a) of the 2008 Order and where paragraph (5)(a) is satisfied at any time whilst P is so included, [F3DBS] must remove P from the list unless it is satisfied that paragraph 7 or 8 of Schedule 1 to the Order (prescribed criteria for automatic inclusion in the adult’s barred list) applies to P.]

(6) Article 7 of the Order does not apply to P until the relevant provisions of POCVA cease to have effect in relation to P in accordance with this Article.

[F5(7) For the purposes of paragraph (5)(b)(iii)(aa), “outstanding review” means a review being carried out by the Department of Health, Social Services and Public Safety for the purposes of determining whether P should be removed from the list pursuant to Article 35(3) of POCVA.]

- F1** Art. 6(4)(a)(i)(ii) and word inserted (7.4.2010) by The Safeguarding Vulnerable Groups (2007 Order) (Commencement No.6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No.5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010 (S.R. 2010/145), arts. 1(2), **7(2)**
- F2** Art. 6(5)(b) substituted (7.4.2010) by The Safeguarding Vulnerable Groups (2007 Order) (Commencement No.6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No.5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010 (S.R. 2010/145), arts. 1(2), **7(3)**
- F3** Words in art. 6 substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **13(1)(3)(q)** (with Pt. 4)
- F4** Art. 6(5A) inserted (7.4.2010) by The Safeguarding Vulnerable Groups (2007 Order) (Commencement No.6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No.5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010 (S.R. 2010/145), arts. 1(2), **7(4)**
- F5** Art. 6(7) inserted (7.4.2010) by The Safeguarding Vulnerable Groups (2007 Order) (Commencement No.6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No.5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010 (S.R. 2010/145), arts. 1(2), **7(5)**

Commencement Information

- I1** Art. 6 in operation at made date

Changes to legislation:

There are currently no known outstanding effects for the Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 5, Transitional Provisions and Savings) Order (Northern Ireland) 2009, Section 6.