
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 375

**CHILDREN AND YOUNG PERSONS
PROTECTION OF VULNERABLE ADULTS**

The Protection of Vulnerable Groups (Scotland) Act 2007
(Transitory Provisions in Consequence of the Safeguarding
Vulnerable Groups (Northern Ireland) Order 2007) Order 2009

Made - - - - 28th October 2009

Laid before the Scottish

Parliament - - - - 29th October 2009

Coming into force - - 20th November 2009

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 87(2) and (3) and 100(2) of the Protection of Vulnerable Groups (Scotland) Act 2007(1) and all other powers enabling them to do so.

Citation and commencement

1.—(1) This Order may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Transitory Provisions in Consequence of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) Order 2009.

(2) This Order comes into force on 20th November 2009.

Effect of the Order

2. This Order has effect until the commencement, for all purposes, of paragraph 30 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007.

Modification of the Police Act 1997

3.—(1) For the purpose of this Order section 113C(3) (criminal record certificates: suitability relating to children) of the Police Act 1997(2) has effect as if it had been modified by inserting after paragraph (c)—

“(ca) the children’s barred list maintained under article 6(1)(a) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(3);”.

(1) 2007 asp 14.

(2) 1997 c.50, the effect of section 113C is modified by [SSI 2009/337](#).

(3) [S.I. 2007/1351](#).

(2) For the purpose of this Order section 113D(3) (criminal record certificates: suitability relating to adults) of the Police Act 1997(4) has effect as if it had been modified by inserting after paragraph (b)—

“(ba) the adults’ barred list maintained under article 6(1)(b) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;”.

Amendment to the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006

4.—(1) Regulation 13(1) (children’s suitability statement – specified children’s list and directions) of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006(5) is amended as follows:—

- (a) at the end of sub-paragraph (c)(ii) omit “and”; and
- (b) after sub-paragraph (c) insert—

“(ca) in the children’s barred list maintained under article 6(1)(a) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, the details are whether any appeal against inclusion in the list is pending; and”.

(2) Regulation 14 (adults’ suitability statement – specified adults’ list) of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 is amended by inserting at the end of sub-paragraph (b)—

“; and

- (c) in the adults’ barred list maintained under article 6(1)(b) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, the details are whether any appeal against inclusion in the list is pending.”.

St Andrew’s House, Edinburgh
28th October 2009

ADAM INGRAM
Authorised to sign by the Scottish Ministers

(4) The effect of section 113D is modified by SSI 2009/337.

(5) S.S.I. 2006/96 amended by S.S.I. 2009/216, and 40, 2008/6, 2007/112 and 2006/521.

EXPLANATORY NOTE

(This note is not part of the Order)

The purpose of this Order is to make provision in consequence of the Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 5, Transitional provisions and Savings) Order (Northern Ireland) 2009 (“The NI Order”).

The NI Order appoints 12th October 2009 as the day for the coming fully into force of various provisions of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (“the 2007 Order”) including article 6 (barred lists). Under that article the Independent Barring Board (established under article 5 of the 2007 Order) is required to establish and maintain lists of those barred from working in regulated activity with children or adults. These lists will replace, in Northern Ireland, the existing lists under article 3 or 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (SI 2003/417) and any list kept for the purposes of regulations under article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986 (SI 1986/594). During a transitional period those on the existing lists will be transferred from those lists onto the new lists under the 2007 Order.

This Order, which has effect until the repeal of section 113C to 113F of the Police Act 1997 (by paragraph 30 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007), provides at article 3 that the Police Act 1997 is to have effect as if it had been modified to include references to the new lists where appropriate. This will mean that during this transitional period enhanced disclosure certificates issued under the Police Act 1997 may include details of all 5 of the Northern Irish lists (the children’s barred list under article 6(1)(a) the 2007 Order, the adults’ barred list under article 6(1)(b) of the 2007 Order, the list under article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003, the list under article 35 of that Order and any list kept for the purposes of regulations under article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986).

Article 4 amends the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 to enable enhanced disclosure certificates to also provide details, where relevant, of any appeal against inclusion in the children’s barred list maintained under article 6(1)(a) of the 2007 Order or against inclusion in the adults’ barred list maintained under article 6(1)(b) of that Order as the case may be. The 2007 Order does not provide for “provisional” listing.