
DRAFT STATUTORY INSTRUMENTS

2009 No.

**The Safeguarding Vulnerable Groups Act 2006
(Regulated Activity, Miscellaneous and Transitional
Provisions and Commencement No. 5) Order 2009**

PART 2

Provisions applying during the first transitional period

Transitional modifications applying during the first transitional period

4. Articles 5 to 9 apply during the first transitional period.

Modification to section 113BA of the Police Act 1997

- 5.—(1) Section 113BA(1) of the Police Act 1997 has effect subject to the following modification.

- (2) For subsection (2) substitute—

“(2) Suitability information relating to children is whether the applicant—

- (a) is provisionally included in the list kept under section 1 of the Protection of Children Act 1999;
- (b) is included in the list kept under section 1 of the Protection of Children Act 1999 otherwise than provisionally and disqualified from working with children for the purposes of section 35 of the Criminal Justice and Court Services Act 2000 or is barred from regulated activity relating to children;
- (c) is subject to a direction made under section 142 of the Education Act 2002.

(2A) If the applicant is provisionally included in the list kept under section 1 of the Protection of Children Act 1999, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a childcare position with a childcare organisation in accordance with section 7 of that Act.

(2B) If the applicant is subject to a direction made under section 142 of the Education Act 2002, the suitability information includes—

- (a) details of any prohibition or restriction on the applicant’s employment;
- (b) the grounds on which the direction was made, and, where the grounds are misconduct, details of the misconduct.

(2C) In subsection (2A), “childcare position” and “childcare organisation” have the same meanings as in section 12 of the Protection of Children Act 1999.”.

Modification to section 113BB of the Police Act 1997

6.—(1) Section 113BB(2) of the Police Act 1997 has effect subject to the following modification.

(2) For subsection (2) substitute—

“(2) Suitability information relating to vulnerable adults is whether the applicant—

(a) is provisionally included in the list kept under section 81 of the Care Standards Act 2000;

(b) is included in the list kept under section 81 of the Care Standards Act 2000 otherwise than provisionally and prohibited from working in a care position or is barred from regulated activity relating to vulnerable adults.

(2A) If the applicant is provisionally included in the list kept under section 81 of the Care Standards Act 2000, the suitability information includes the fact that the applicant must not be employed or, as the case may be, must cease to be employed in a care position.

(2B) In subsection (2), “care position” has the same meaning as in Part 7 of the Care Standards Act 2000.”.

Modification to section 119 of the Police Act 1997

7.—(1) Section 119(3) of the Police Act 1997 has effect subject to the following modification.

(2) In subsection (1A), for “a list mentioned in section 113C(3) or 113D(3) above” substitute “the list kept under section 1 of the Protection of Children Act 1999 or the list kept under section 81 of the Care Standards Act 2000 or maintains a list under section 2 of the Safeguarding Vulnerable Groups Act 2006”.

Modification to section 120A of the Police Act 1997

8.—(1) Section 120A(4) of the Police Act 1997 has effect subject to the following modification.

(2) In subsection (3)(b), for “mentioned in section 113C(3) or 113D(3)” substitute “kept under section 1 of the Protection of Children Act 1999 or section 81 of the Care Standards Act 2000 or maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006”.

Modifications to Schedule 3 to the Safeguarding Vulnerable Groups Act 2006

9.—(1) Schedule 3 to the Act has effect subject to the following modifications.

(2) In paragraph 1, for sub-paragraphs (2) and (3) substitute—

“(2) If IBB is satisfied that this paragraph applies to the person, it must include the person in the children’s barred list.”.

(3) In paragraph 2, for sub-paragraphs (2) and (3) substitute—

“(2) If IBB is satisfied that this paragraph applies to the person, it must—

(a) include the person in the children’s barred list;

(b) give the person an opportunity to make representations as to why the person should be removed from the children’s barred list.”.

(2) Section 113BB is inserted by paragraph 14(4) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006.
(3) Section 119 was amended by sections 325 and 423 of, and paragraph 112, Part 7, of Schedule 34 to, the Greater London Authority Act 1999 (c. 29), section 134(2) of the Criminal Justice and Police Act 2001 (c. 16) and section 165(1) of, and paragraphs 1 and 4 of Schedule 14 to, the Serious Organised Crime and Police Act 2005 (c. 15). It is to be amended by paragraph 14(1) and (7) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006.
(4) Section 120A was inserted by section 134(1) of the Criminal Justice and Police Act 2001 and was amended by paragraphs 1 and 8 of Schedule 35 to the Criminal Justice Act 2003 (c. 44), section 165 of, and paragraphs 1 and 8 of Schedule 14 to, the Serious Organised Crime and Police Act 2005 and by S.I. 2009/203.

- (4) In paragraph 7, for sub-paragraphs (2) and (3) substitute—
- “(2) If IBB is satisfied that this paragraph applies to the person, it must include the person in the adults’ barred list.”.
- (5) In paragraph 8, for sub-paragraphs (2) and (3) substitute—
- “(2) If IBB is satisfied that this paragraph applies to the person, it must—
- (a) include the person in the adults’ barred list;
 - (b) give the person an opportunity to make representations as to why the person should be removed from the adults’ barred list.”.