
STATUTORY INSTRUMENTS

2010 No. 1061

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, ENGLAND AND WALES**

The Safeguarding Vulnerable Groups Act 2006 (Appropriate Officer and Schedule 7 Prescribed Persons) Regulations 2010

<i>Made</i>	- - - -	<i>28th March 2010</i>
<i>Laid before Parliament</i>		<i>1st April 2010</i>
<i>Coming into force</i>	- -	<i>26th July 2010</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 13(5) and 61(5) of, and entry 19 in the table in paragraph 1 of Schedule 7 to, the Safeguarding Vulnerable Groups Act 2006(1):

Citation and commencement

1. These Regulations may be cited as the Safeguarding Vulnerable Groups Act 2006 (Appropriate Officer and Schedule 7 Prescribed Persons) Regulations 2010 and come into force on 26th July 2010.

Interpretation

2. In these Regulations—

“the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006;

“children’s charity” has the same meaning as in paragraph 4(4) of Schedule 4 to the 2006 Act;

“maintained school” means—

(a) a community, foundation or voluntary school (referred to in section 20 of the School Standards and Framework Act 1998(2)),

(1) [2006 c. 47](#). For the meaning of “prescribed” see section 60(1) of the Safeguarding Vulnerable Groups Act 2006 (“the 2006 Act”). Section 13 was amended by section 82 of the Policing and Crime Act 2009 ([c. 26](#)) but these amendments are not yet in force.

(2) [1998 c. 31](#).

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- (b) a community or foundation special school (referred to in that section), or
(c) a maintained nursery school (as defined in section 22(9) of that Act);

“non-maintained special school” means a school approved by the Secretary of State under section 342 of the Education Act 1996(3);

“the Schedule 7 table” means the table in paragraph 1 of Schedule 7 to the 2006 Act

“vulnerable adults’ charity” has the same meaning as in paragraph 8(4) of Schedule 4 to the 2006 Act.

Appropriate officer

3. For the purposes of section 13(1) of the 2006 Act the head teacher is the appropriate officer for—

- (a) a maintained school or a non-maintained special school in England;
(b) a school falling within section 19(2B) of the Education Act 1996(4).

Prescribed persons for purposes of entry 19 of the Schedule 7 table

4.—(1) A person (A) falls within column 1 of entry 19 in the Schedule 7 table if A falls within column 1 of the following table.

(2) Column 2 of the following table prescribes, for the purposes of column 2 of entry 19 in the Schedule 7 table, either children or vulnerable adults (as the case may be) in relation to the corresponding entry in column 1 of the table.

<i>Column 1</i>	<i>Column 2</i>
1. Head teacher of a maintained school or a non-maintained special school who is performing the function of checking whether B is suitable to serve on a committee established by the school’s governing body	Children
2. Head teacher of a maintained school or a non-maintained special school who is performing the function of checking whether B is suitable to be the clerk to the school’s governing body	Children
3. Teacher in charge of a school which falls within section 19(2) or (2B) of the Education Act 1996 but which does not provide full-time education to children when considering whether B is suitable to be a member of or clerk to a committee (established in accordance	Children

(3) 1996 c.56. Section 342 was substituted by paragraph 82 of Schedule 30 to the School Standards and Framework Act 1998 and was amended by sections 142 and 143 of the Education and Skills Act 2008 (c. 25) (but those amendments are not yet in force). Functions of the Secretary of State under section 342, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and were subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(4) A school falling within section 19(2B) of the Education Act 1996 is a pupil referral unit in England. However, section 249(1) of the Apprenticeships, Skills, Children and Learning Act 2009, which comes into force on 1st September 2010, changes the name of such a school to a “short stay school”. By virtue of paragraph 2 of Schedule 1 to the Education Act 1996, the reference in regulation 3 to “head teacher” is to be read, in relation to such a school, as a reference to the teacher in charge.

with regulations made under paragraph 15 of Schedule 1 to the Education Act 1996) which acts as the management committee of that school	
4. Local authority when considering whether B is suitable to be a member of a relevant local government body (as defined in paragraph 4(2) of Schedule 4 to the 2006 Act)	Children
5. Local authority when considering whether B is suitable to be a member of a relevant local government body (as defined in paragraph 8(2) of Schedule 4 to the 2006 Act)	Vulnerable adults
6. Trustee of a children’s charity when considering whether B is suitable to be appointed as a trustee of that charity	Children
7. Trustee of a vulnerable adults’ charity when considering whether B is suitable to be appointed as a trustee of that charity	Vulnerable adults
8. The Secretary of State performing functions under section 41 of, or Schedule 2 to, the Crime and Disorder Act 1998 ⁽⁵⁾ when considering whether B is suitable to be a member of the Youth Justice Board for England and Wales ⁽⁶⁾	Children
9. The Secretary of State performing functions under Schedule 1 to the Children Act 2004 ⁽⁷⁾ when considering whether B is suitable to be the Children’s Commissioner ⁽⁸⁾	Children
10. The Children’s Commissioner performing functions under Schedule 1 to the Children Act 2004 when considering whether B is suitable to be the deputy Children’s Commissioner ⁽⁹⁾	Children
11. The First Minister for Wales performing functions under regulations made under paragraph 2 of Schedule 2 to the Care Standards Act 2000 ⁽¹⁰⁾ when considering whether B is suitable to be the Children’s Commissioner for Wales ⁽¹¹⁾	Children
12. The Children’s Commissioner for Wales performing functions under Schedule 2 to the Care Standards Act 2000 when considering	Children

(5) 1998 c. 37.

(6) The Youth Justice Board for England and Wales was established by section 41 of the Crime and Disorder Act 1998, to which there are amendments not relevant to these Regulations.

(7) 2004 c. 31.

(8) The Children’s Commissioner is appointed under Part 1 of the Children Act 2004.

(9) The deputy Children’s Commissioner is appointed under Part 1 of the Children Act 2004.

(10) 2000 c. 14.

(11) The Children’s Commissioner for Wales is appointed under Part 5 of the Care Standards Act 2000.

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whether B is suitable to be the deputy Children's Commissioner for Wales(12)	
13. The First Minister for Wales performing functions under regulations made under paragraph 2 of Schedule 1 to the Commissioner for Older People (Wales) Act 2006(13) when considering whether B is suitable to be the Commissioner for Older People in Wales(14)	Vulnerable adults
14. The Commissioner for Older People in Wales performing functions under Schedule 1 to the Commissioner for Older People (Wales) Act 2006 when considering whether B is suitable to be the deputy Commissioner for Older People in Wales(15)	Vulnerable adults
15. The Secretary of State performing functions under paragraph 1 of Schedule 2 to the Criminal Justice and Court Services Act 2000(16) when considering whether B is suitable to be chairman or other member of the Children and Family Court Advisory and Support Service(17)	Children
16. The Secretary of State performing functions under paragraph 5(4)(a) of Schedule 2 to the Criminal Justice and Court Services Act 2000 when considering whether B is suitable to be the chief executive of the Children and Family Court Advisory and Support Service	Children
17. The Secretary of State performing functions under paragraph 1(2) or 2(4) of Schedule 1 to the 2006 Act when considering whether B is suitable to be the chairman or other member, or chief executive, of the Independent Safeguarding Authority(18)	Children
18. The Secretary of State performing functions under paragraph 1(2) or 2(4) of Schedule 1 to the 2006 Act when considering whether B is suitable to be the chairman or other member, or chief executive, of the Independent Safeguarding Authority	Vulnerable adults

(12) The deputy Children's Commissioner for Wales is appointed under Part 5 of the Care Standards Act 2000.

(13) 2006 c. 30.

(14) The Commissioner for Older People in Wales is appointed under Schedule 1 to the Commissioner for Older People (Wales) Act 2006.

(15) The deputy Commissioner for Older People in Wales is appointed under Schedule 1 to the Commissioner for Older People (Wales) Act 2006.

(16) 2000 c. 43.

(17) The Children and Family Court Advisory and Support Service was established by section 11(1) of the Criminal Justice and Court Services Act 2000.

(18) The Independent Barring Board (established by section 1 of the 2006 Act) was renamed the Independent Safeguarding Authority by section 88 of the Policing and Crime Act 2009 (c. 26).

<p>19. Adoption Agency (within the meaning of section 2 of the Adoption and Children Act 2002⁽¹⁹⁾) performing functions in accordance with regulations made under section 9 of that Act when considering whether B is suitable—</p> <p>(a) to adopt a child;</p> <p>(b) to live in premises in which a child is placed for adoption</p>	Children
<p>20. Bishop of a diocese in the Church of England performing functions under the Canons of the Church of England when considering whether B is suitable for ordination or admission to the office of priest, deacon, deaconess, reader or licensed lay worker, or considering whether to license or authorise B to serve in the Bishop’s diocese (where B has been ordained or admitted to the office of priest, deacon, deaconess, reader or licensed lay worker)</p>	Children
<p>21. Bishop of a diocese in the Church of England performing functions under the Canons of the Church of England when considering whether B is suitable for ordination or admission to the office of priest, deacon, deaconess, reader or licensed lay worker, or considering whether to license or authorise B to serve in the Bishop’s diocese (where B has been ordained or admitted to the office of priest, deacon, deaconess, reader or licensed lay worker)</p>	Vulnerable adults
<p>22. Person performing functions in relation to the approval or accreditation of B for any form of teaching, training, instruction, care or supervision when considering whether B is suitable to teach, train, instruct, care for or supervise children</p>	Children
<p>23. Person performing functions in relation to the approval or accreditation of B for any form of teaching, training or instruction when considering whether B is suitable to teach, train or instruct vulnerable adults</p>	Vulnerable adults

28th March 2010

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

⁽¹⁹⁾ 2002 c. 38.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the further implementation of the Safeguarding Vulnerable Groups Act 2006 (“the Act”) which establishes a new vetting and barring scheme in England and Wales.

The first major stage of the implementation involved the commencement of the barring-related provisions of the Act on 12th October 2009. The Act established a children’s barred list and an adult’s barred list, and a person included in those lists will commit an offence if they engage in regulated activity relating to children or (as the case may be) vulnerable adults. “Regulated activity” is defined in Schedule 4 to the Act and includes work with children or vulnerable adults (“vulnerable groups”), work in specified settings where there is the opportunity for contact with vulnerable groups, or specified offices or positions relating to services provided in relation to vulnerable groups.

These Regulations relate to the second major stage of implementation which will bring into force some of the provisions which relate to the vetting of individuals who wish to engage in regulated activity or those who, for some other reason, have contact with vulnerable groups.

The provisions in these Regulations relate to checks made to confirm whether a person is “subject to monitoring”. Subject to monitoring is a status under the Act that is acquired by making an application to the Secretary of State (in practice, the Criminal Records Bureau or “CRB”) under section 24 of the Act. A person who is included in a barred list cannot be subject to monitoring. Once a person’s application to be subject to monitoring is accepted, information on them is retained by the CRB who will make periodic checks from a range of sources in order to update this information. Should any information come to light that indicates that the individual may pose a risk of harm to vulnerable groups, the CRB will pass this information to the Independent Safeguarding Authority (“ISA”) which is the barring body established under section 1 of the Act to take all barring decisions in relation to work with vulnerable groups

Requirements under the Act to be subject to monitoring will not be in force until November 2010. However, from 26th July 2010, individuals in specified categories (mainly new entrants to the regulated activity workforce) will be able to apply to be, and be confirmed as being, subject to monitoring.

Regulation 3 prescribes (in relation to England only) the “appropriate officer” for the purposes of section 13 of the Act. Section 13 requires the appropriate officer to check whether a person who is appointed to the governing body of an educational establishment is subject to monitoring (and failure to do so is an offence). Although the duty to check under section 13 (or the requirement for any person to be subject to monitoring) will not be commenced until November 2010, members of governing bodies who are newly appointed on or after 26th July 2010 will be able to apply to be subject to monitoring. By prescribing the appropriate officer in these Regulations, by virtue of entry 17 of the table in Schedule 7 to the Act, those governors who choose to be subject to monitoring can be checked before November 2010 (when the duty to check will commence). Regulation 3 prescribes the head teacher as the appropriate officer for maintained schools, non-maintained special schools and pupil referral units (although for pupil referral units the reference to “head teacher” is modified by the Education Act 1996 to be read as the teacher in charge).

Section 30 of the Act provides for a check to be made as to whether a person is subject to monitoring. However, in making the check the consent of the individual being checked is required and the person making the check must confirm that he or she falls within the table in paragraph 1 of Schedule 7 to the Act

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Regulation 4 contains a table which prescribes persons for the purposes of entry 19 of the table in Schedule 7 to the Act. The table in Schedule 7 prescribes persons (A) who are able to check (under section 30 of the Act) whether another person (B) is subject to monitoring. By virtue of A's inclusion in the table, A is also able (under section 32 of the Act) to register an interest in B with the Secretary of State, meaning that the Secretary of State must inform A if B ceases to be subject to monitoring.

Column 1 of the table in regulation 4 prescribes persons for the purposes of entry 19. The majority of the entries in the table in regulation 4 are for the purpose of enabling checks to be carried out on individuals who are holders of offices or other posts set out in paragraphs 4(1) or 8(1) of Schedule 4 to the Act. Column 2 of the table in regulation 4 specifies whether, for each of the corresponding entries in column 1, A is able to obtain (under sections 30 and 32 of the Act) information about whether B is subject to monitoring in relation to either children or (as the case may be) vulnerable adults or be notified if B ceases to be subject to monitoring.

No impact assessment has been prepared for this instrument as the impact on the private or voluntary sectors, if any, is minimal.