
STATUTORY INSTRUMENTS

2007 No. 1351

**The Safeguarding Vulnerable Groups
(Northern Ireland) Order 2007**

Notices and information

Provision of vetting information

32.—(1) The Secretary of State must provide a person (A) with the information mentioned in paragraph (4) in relation to another (B) if—

- (a) A makes an application for the information,
- (b) the application contains the appropriate declaration, and
- (c) the Secretary of State has no reason to believe that the declaration is false.

(2) The appropriate declaration is a declaration by A—

- (a) that he falls within column 1 of a specified entry, and
- (b) that B has consented to the provision of the information to A.

(3) In this Article references to a specified entry are to an entry in the table in Schedule 5 specified by A in his declaration.

(4) The information is—

- (a) if column 2 of the specified entry refers to children, relevant information relating to children, and
- (b) if column 2 of the specified entry refers to vulnerable adults, relevant information relating to vulnerable adults.

(5) Sub-paragraph (b) of paragraph (2) does not apply if the specified entry is 17.

(6) If B consents to the provision of information to A in relation to an application under this Article, the consent also has effect in relation to any subsequent such application by A.

(7) The Secretary of State may prescribe the form, manner and contents of an application for the purposes of this Article (including the form and manner of a declaration contained in such an application).

(8) The Secretary of State may by regulations make provision requiring an authority which makes or proposes to make payments to or on behalf of a person in accordance with regulations under Article 18C of the Children Order or section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (c. 6) to inform the person of his right to obtain relevant information under this Article.

Meaning of relevant information in Article 32

33.—(1) This Article has effect for the purposes of Article 32.

(2) Relevant information relating to children is—

- (a) whether B is subject to monitoring in relation to regulated activity relating to children, and
- (b) if so, whether he is undergoing assessment.

- (3) Relevant information relating to vulnerable adults is—
 - (a) whether B is subject to monitoring in relation to regulated activity relating to vulnerable adults, and
 - (b) if so, whether he is undergoing assessment.
- (4) B is undergoing assessment if—
 - (a) the Secretary of State is required to notify B as mentioned in Article 28(4) in connection with B’s monitoring application but has not yet done so;
 - (b) B has made a simultaneous application under section 113B of the Police Act 1997 but the Secretary of State has not yet issued an enhanced criminal record certificate under that section;
 - (c) in relation to paragraph (2)(b), IBB is considering whether to include B in the children’s barred list in pursuance of paragraph 3 or 5 of Schedule 1;
 - (d) in relation to paragraph (3)(b), IBB is considering whether to include B in the adults’ barred list in pursuance of paragraph 9 or 11 of that Schedule.
- (5) In paragraph (4)(b) “simultaneous application” means an application made simultaneously with B’s monitoring application under Article 28.
- (6) The Secretary of State may by order amend the preceding provisions of this Article for the purpose of altering the meaning of relevant information relating to children or vulnerable adults (as the case may be).

Notification of cessation of monitoring

- 34.**—(1) The Secretary of State must establish and maintain a register for the purposes of this Article.
- (2) The Secretary of State must register a person (A) in relation to another (B) if—
 - (a) A makes an application to be registered in relation to B,
 - (b) the application contains the appropriate declaration,
 - (c) the Secretary of State has no reason to believe that the declaration is false, and
 - (d) B is subject to monitoring in relation to the regulated activity to which the application relates.
 - (3) The appropriate declaration is a declaration by A—
 - (a) that he falls within column 1 of a specified entry, and
 - (b) that B has consented to the application.
 - (4) In this Article references to a specified entry are to an entry in the table in Schedule 5 specified by A in his declaration.
 - (5) A’s application and registration relate—
 - (a) if column 2 of the specified entry refers to children, to regulated activity relating to children;
 - (b) if column 2 of the specified entry refers to vulnerable adults, to regulated activity relating to vulnerable adults.
 - (6) The Secretary of State must notify A if B ceases to be subject to monitoring in relation to the regulated activity to which A’s registration relates.
 - (7) The requirement under paragraph (6) is satisfied if notification is sent to any address recorded against A’s name in the register.
 - (8) Sub-paragraph (b) of paragraph (3) does not apply if the specified entry is 17.

(9) If B consents to the provision of information to A under Article 32 the consent also has effect as consent to any application by A to be registered in relation to B under this Article.

(10) The Secretary of State may prescribe the form, manner and contents of an application for the purposes of this Article (including the form and manner of a declaration contained in such an application).

Cessation of registration

35.—(1) In this Article references to registration are to registration in the register maintained for the purposes of Article 34.

(2) Once a person is notified as mentioned in paragraph (6) of that Article, his registration ceases.

(3) The Secretary of State may cancel a person's registration in such circumstances as are prescribed.

(4) The Secretary of State must cancel a person's registration—

(a) if the person applies for it to be cancelled;

(b) in prescribed circumstances, if the person in relation to whom he is registered applies for it to be cancelled.

(5) When a person's registration is cancelled under paragraph (3) or (4)(b), the Secretary of State must notify him of that fact.

(6) The requirement under paragraph (5) is satisfied if notification is sent to any address recorded against A's name in the register.

Declarations under Articles 32 and 34

36.—(1) An individual commits an offence if, in an application made for the purposes of Article 32 or 34—

(a) he makes a false declaration, and

(b) he either knows that it is false or is reckless as to whether it is false.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Regulated activity providers: duty to refer

37.—(1) Paragraph (2) applies to—

(a) a regulated activity provider who holds any prescribed information in relation to a person (P) engaged in regulated activity provided by him;

(b) a responsible person (within the meaning of Article 27) who holds any prescribed information in relation to a person (P) whom he permits to engage in controlled activity.

(2) A person to whom this paragraph applies must provide IBB with the information if—

(a) he withdraws permission for P to engage in the activity for a reason mentioned in paragraph (3), or

(b) he does not withdraw permission for such a reason but would or might have done so if P had not otherwise ceased to engage in the activity.

(3) The reasons are that the person to whom paragraph (2) applies thinks—

(a) that paragraph 1, 2, 7 or 8 of Schedule 1 applies to P,

(b) that P has engaged in relevant conduct (within the meaning of paragraph 4 or 10 of Schedule 1), or

(c) that the harm test is satisfied.

(4) The harm test is that P may—

- (a) harm a child or vulnerable adult,
- (b) cause a child or vulnerable adult to be harmed,
- (c) put a child or vulnerable adult at risk of harm,
- (d) attempt to harm a child or vulnerable adult, or
- (e) incite another to harm a child or vulnerable adult.

(5) For the purposes of paragraph (3)(b), conduct is inappropriate if it appears to the person to whom paragraph (2) applies to be inappropriate having regard to the guidance issued by the Secretary of State under paragraph 4(6) or 10(6) of Schedule 1.

(6) If regulated activity engaged in by P—

- (a) is regulated activity relating to vulnerable adults, and
- (b) falls within Article 20,

paragraph (2) must be read as if for “must” there were substituted “may”.

(7) This Article does not apply if the conditions specified in paragraph (2) are fulfilled before the Article is commenced.

Personnel suppliers: duty to refer

38.—(1) A personnel supplier must provide IBB with any prescribed information it holds in relation to a person (P) who has been supplied by it to another person if the supplier knows that P has ceased to be engaged in regulated activity or controlled activity in the circumstances mentioned in paragraph (2)(a) or (b) of Article 37.

(2) A personnel supplier which is an employment agency or employment business must provide IBB with any prescribed information it holds in relation to a person (P) for whom it acts if—

- (a) the agency or business determines to cease to act for P for a reason mentioned in paragraph (4), or
- (b) it does not determine to cease to act for P for such a reason but would or might have done so if its arrangement with, or employment of, him had not otherwise come to an end.

(3) A personnel supplier which is an educational institution must provide IBB with any prescribed information it holds in relation to a student (P) following a course at the institution if—

- (a) the institution determines to cease to supply P to another person for him to engage in regulated or controlled activity for a reason mentioned in paragraph (4),
- (b) the institution determines that P should cease to follow a course at the institution for a reason mentioned in paragraph (4), or
- (c) it does not determine as mentioned in sub-paragraph (a) or (b) for such a reason but would or might have done so if P had not otherwise ceased to engage in the activity or ceased to follow the course.

(4) The reasons are that the personnel supplier thinks—

- (a) that paragraph 1, 2, 7 or 8 of Schedule 1 applies to P,
- (b) that P has engaged in relevant conduct (within the meaning of paragraph 4 or 10 of Schedule 1), or
- (c) that the harm test is satisfied.

(5) The harm test is that P may—

- (a) harm a child or vulnerable adult,

- (b) cause a child or vulnerable adult to be harmed,
- (c) put a child or vulnerable adult at risk of harm,
- (d) attempt to harm a child or vulnerable adult, or
- (e) incite another to harm a child or vulnerable adult.

(6) For the purposes of paragraph (4)(b), conduct is inappropriate if it appears to the personnel supplier to be inappropriate having regard to the guidance issued by the Secretary of State under paragraph 4(6) or 10(6) of Schedule 1.

(7) An employment agency acts for a person if it makes arrangements with him with a view to—

- (a) finding him employment with an employer, or
- (b) supplying him to employers for employment by them.

(8) An employment business acts for a person if it employs him to act for and under the control of other persons in any capacity.

(9) In this Article “employment” has the same meaning as in Part II of the [Employment \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1981 \(NI 20\)](#).

(10) This Article does not apply if the conditions specified in paragraph (1), (2) or (3) are fulfilled before the Article is commenced.

Regulated activity providers: duty to provide information on request etc.

39.—(1) This Article applies if IBB is considering—

- (a) whether to include any person in a barred list;
- (b) whether to remove any person from a barred list.

(2) IBB may require—

- (a) any regulated activity provider who has made arrangements for that person to engage in regulated activity (whether or not the arrangements are still in place),
- (b) any responsible person (within the meaning of Article 27) who permits or has permitted that person to engage in controlled activity,
- (c) any personnel supplier which is an employment agency or employment business and which acts for or has acted for that person, or
- (d) any personnel supplier which is an educational institution and which has supplied that person to another person for him to engage in regulated or controlled activity,

to provide IBB with any prescribed information he or it holds relating to the person.

(3) An employment agency acts for a person if it makes arrangements with him with a view to—

- (a) finding him relevant employment with an employer, or
- (b) supplying him to employers for relevant employment by them.

(4) Relevant employment is employment which consists in or involves engaging in regulated or controlled activity.

(5) An employment business acts for a person if it employs him to engage in regulated or controlled activity for and under the control of other persons.

(6) In this Article “employment” has the same meaning as in Part II of the [Employment \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1981 \(NI 20\)](#).

Duty to provide information: offences

40.—(1) A person commits an offence if—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) he is required under Article 37 or 38 or in pursuance of Article 39 to provide information to IBB, and
 - (b) he fails, without reasonable excuse, to provide the information.
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.