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## STATUTORY INSTRUMENTS

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# 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.

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#### **Commencement Information**

- II** Art. 32 partly in operation; art. 32 not in operation at date of making see art. 1(3); art. 32(7)(8) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(f)

*Status: Point in time view as at 29/05/2008. This version of this part contains provisions that are prospective.*

*Changes to legislation: The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, Notices and information is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 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).

### Commencement Information

**I2** [Art. 33](#) partly in operation; [art. 33](#) not in operation at date of making see [art. 1\(3\)](#); [art. 33\(6\)](#) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), [art. 5\(e\)](#)

## 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.

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(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).

#### **Commencement Information**

**I3** [Art. 34](#) partly in operation; [art. 34](#) not in operation at date of making see [art. 1\(3\)](#); [art. 34\(10\)](#) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), [art. 4\(g\)](#)

#### **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.

#### **Commencement Information**

**I4** [Art. 35](#) partly in operation; [art. 35](#) not in operation at date of making see [art. 1\(3\)](#); [art. 35\(3\)\(4\)\(b\)](#) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), [art. 4\(h\)](#)

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PROSPECTIVE

### 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.

PROSPECTIVE

### [<sup>F1</sup>Notification of proposal to include person in children's barred list

**36A.**—(1) If ISA proposes to include a person (B) in the children's barred list in the circumstances mentioned in paragraph 3(1) or 5(1) of Schedule 1, it—

- (a) must notify any person who is registered in relation to B under Article 34 in relation to regulated activity relating to children, and
- (b) may notify any other person who it is satisfied falls within paragraph (2).

(2) The following fall within this paragraph—

- (a) any person who is permitting B to engage in regulated activity relating to children,
- (b) any responsible person (within the meaning of Article 27) who is permitting B to engage in controlled activity relating to children.

(3) A notification under this Article must—

- (a) explain that ISA has not yet taken a final decision about whether to include B in the barred list, and
- (b) include such information as ISA thinks appropriate about its reasons for proposing to include B in the barred list.

(4) The requirement to notify a person under paragraph (1)(a) is satisfied if notification is sent to any address recorded against that person's name in the register.

### Textual Amendments

**F1** Arts. 36A-36C inserted (prosp.) by Policing and Crime Act 2009 (c. 26), ss. 90(2), 116(1)

PROSPECTIVE

### Notification of proposal to include person in adults' barred list

**36B.**—(1) If ISA proposes to include a person (B) in the adults' barred list in the circumstances mentioned in paragraph 9(1) or 11(1) of Schedule 1, it—

- (a) must notify any person who is registered in relation to B under Article 34 in relation to regulated activity relating to vulnerable adults, and

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- (b) may notify any other person who it is satisfied falls within paragraph (2).
- (2) The following fall within this paragraph—
  - (a) any person who is permitting B to engage in regulated activity relating to vulnerable adults,
  - (b) any responsible person (within the meaning of Article 27) who is permitting B to engage in controlled activity relating to vulnerable adults.
- (3) A notification under this Article must—
  - (a) explain that ISA has not yet taken a final decision about whether to include B in the barred list, and
  - (b) include such information as ISA thinks appropriate about its reasons for proposing to include B in the barred list.
- (4) The requirement to notify a person under paragraph (1)(a) is satisfied if notification is sent to any address recorded against that person's name in the register.

#### Textual Amendments

F1 Arts. 36A-36C inserted (prosp.) by Policing and Crime Act 2009 (c. 26), ss. 90(2), 116(1)

PROSPECTIVE

#### Articles 36A and 36B: notification of outcome

- 36C.**—(1) Paragraph (2) applies if ISA—
- (a) has notified a person (A) under Article 36A or 36B that it proposes to include another (B) in a barred list, and
  - (b) includes B in the barred list or decides not to do so.
- (2) ISA must notify A that it has included B in the barred list or that it has decided not to do so (as the case may be).
- (3) In a case where A is registered in relation to B under Article 34 (or has ceased to be so registered by virtue of B's inclusion in the barred list), the requirement in paragraph (2) is satisfied if notification is sent to any address recorded (or, as the case may be, formerly recorded) against A's name in the register.]

#### Textual Amendments

F1 Arts. 36A-36C inserted (prosp.) by Policing and Crime Act 2009 (c. 26), ss. 90(2), 116(1)

#### 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—

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- (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.

#### Commencement Information

**I5** [Art. 37](#) wholly in operation; [art. 37](#) not in operation at date of making see [art. 1\(3\)](#); [art. 37\(1\)](#) in operation for certain purposes at 29.5.2008 by [S.R. 2008/233](#), [art. 4\(i\)](#); [art. 37](#) in operation at 12.10.2009 in so far as it is not already in operation by [S.R. 2009/346](#), [art. 3](#), [Sch.](#)

#### 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—

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- (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.

#### **Commencement Information**

**16** Art. 38 wholly in operation; art. 38 not in operation at date of making see art. 1(3); art. 38(1)(2)(3) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(j); art. 38 in operation at 12.10.2009 in so far as it is not already in operation by S.R. 2009/346, art. 3, Sch.

#### **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—

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- (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).

#### Commencement Information

**I7** Art. 39 wholly in operation; art. 39 not in operation at date of making see art. 1(3); art. 39 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(e); art. 39(2) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(k); art. 39 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(c)

#### Duty to provide information: offences

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

#### Commencement Information

**I8** Art. 40 wholly in operation; art. 40 not in operation at date of making see art. 1(3); art. 40 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(f); art. 40 in operation for certain purposes at 13.3.2009 by S.R. 2009/41, art. 3(2)(e); art. 40 in operation at 12.10.2009 in so far as it is not already in operation by S.R. 2009/346, art. 3, Sch.



**Status:**

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