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Changes to legislation: The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, PART III is up to date with all changes known to be in force on or before 08 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)

SCHEDULES

SCHEDULE 1

BARRED LISTS

Modifications etc. (not altering text)

- C1** Sch. 1 modified (12.10.2009) by Safeguarding Vulnerable Groups (Regulated Activity, Transitional Provisions and Commencement No. 4) Order (Northern Ireland) 2009 (S.R. 2009/304), **art. 10** (with art. 5)
- C1** Sch. 1 modified (13.3.2009) by Safeguarding Vulnerable Groups (Transitory Provisions) Order (Northern Ireland) 2009 (S.R. 2009/38), **art. 6**

PART III

SUPPLEMENTARY

Modifications etc. (not altering text)

- C1** Sch. 1 Pt. III modified (16.6.2008) by Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (S.R. 2008/200), **art. 3(5)**
- C2** Sch. 1 Pt. III modified (16.6.2008) by Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (S.R. 2008/200), **art. 5(5)**

Procedure

13.—(1) IBB must ensure that in respect of any information it receives in relation to an individual from whatever source or of whatever nature it considers whether the information is relevant to its consideration as to whether the individual should be included in each barred list.

(2) Sub-paragraph (1) does not, without more, require IBB to give an individual the opportunity to make representations as to why he should not be included in a barred list.

Commencement Information

- I1** Sch. 1 para. 13 wholly in operation; Sch. 1 para. 13 not in operation at date of making see art. 1(3); Sch. 1 para. 13 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, **art. 4(a)**; Sch. 1 para. 13 in operation at 12.10.2009 in so far as it is not already in operation by S.R. 2009/346, **art. 3**, Sch.

14. When an individual is included in a barred list IBB must take all reasonable steps to notify the individual of that fact.

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Commencement Information

- I2** Sch. 1 para. 14 wholly in operation; Sch. 1 para. 14 not in operation at date of making see art. 1(3); Sch. 1 para. 14 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 14 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

15.—(1) The Secretary of State may, by regulations, make provision as to the procedure to be followed for the purposes of any decision IBB is required or authorised to take under this Schedule.

(2) Such provision may include provision as to the time within which anything is to be done.

Commencement Information

- I3** Sch. 1 para. 15 wholly in operation; Sch. 1 para. 15 not in operation at date of making see art. 1(3); Sch. 1 para. 15(1)(2) in operation at 14.3.2008 by S.R. 2008/127, art. 3(f); Sch. 1 para. 15 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 15 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

Representations

16.—(1) A person who is, by virtue of any provision of this Schedule, given an opportunity to make representations must have the opportunity to make representations in relation to all of the information on which IBB intends to rely in taking a decision under this Schedule.

(2) Any requirement of this Schedule to give a person an opportunity to make representations does not apply if IBB does not know and cannot reasonably ascertain the whereabouts of the person.

(3) The opportunity to make representations does not include the opportunity to make representations that findings of fact made by a competent body were wrongly made.

(4) Findings of fact made by a competent body are findings of fact made in proceedings before one of the following bodies or any of its committees—

- (a) the General Teaching Council for Northern Ireland
- (b) the Council of the Pharmaceutical Society of Northern Ireland;
- (c) the General Medical Council;
- (d) the General Dental Council;
- (e) the General Optical Council;
- (f) the General Osteopathic Council;
- (g) the General Chiropractic Council;
- (h) the Nursing and Midwifery Council;
- (i) the Health Professions Council;
- (j) the Northern Ireland Social Care Council.

(5) The Secretary of State may by order amend sub-paragraph (4) by inserting a paragraph or amending or omitting a paragraph for the time being contained in the sub-paragraph.

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Commencement Information

- 14** Sch. 1 para. 16 wholly in operation; Sch. 1 para. 16 not in operation at date of making see art. 1(3); Sch. 1 para. 16 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 16(5) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 5(n); Sch. 1 para. 16 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

17.—(1) This paragraph applies to a person who is included in a barred list (except a person included in pursuance of paragraph 1 or 7) if, before he was included in the list, IBB was unable to ascertain his whereabouts.

(2) This paragraph also applies to such a person if—

- (a) he did not, before the end of any time prescribed for the purpose, make representations as to why he should not be included in the list, and
- (b) IBB grants him permission to make such representations out of time.

(3) If a person to whom this paragraph applies makes such representations after the prescribed time—

- (a) IBB must consider the representations, and
- (b) if it thinks that it is not appropriate for the person to be included in the list concerned, it must remove him from the list.

(4) For the purposes of this paragraph, it is immaterial that any representations mentioned in sub-paragraph (3) relate to a time after the person was included in the list concerned.

Commencement Information

- 15** Sch. 1 para. 17 wholly in operation; Sch. 1 para. 17 not in operation at date of making see art. 1(3); Sch. 1 para. 17 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 17 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

Review

18.—(1) A person who is included in a barred list may apply to IBB for a review of his inclusion.

(2) An application for a review may be made only with the permission of IBB.

(3) A person may apply for permission only if—

- (a) the application is made after the end of the minimum barred period, and
- (b) in the prescribed period ending with the time when he applies for permission, he has made no other such application.

(4) IBB must not grant permission unless it thinks—

- (a) that the person's circumstances have changed since he was included in the list or since he last applied for permission (as the case may be), and
- (b) that the change is such that permission should be granted.

(5) On a review of a person's inclusion, if IBB is satisfied that it is no longer appropriate for him to be included in the list it must remove him from it; otherwise it must dismiss the application.

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(6) The minimum barred period is the prescribed period beginning with such of the following as may be prescribed—

- (a) the date on which the person was first included in the list;
- (b) the date on which any criterion prescribed for the purposes of paragraph 1, 2, 7 or 8 is first satisfied;
- (c) where the person is included in the list on the grounds that he has been convicted of an offence in respect of which a sentence of imprisonment or detention was imposed, the date of his release;
- (d) the date on which the person made any representations as to why he should not be included in the list.

Commencement Information

16 Sch. 1 para. 18 wholly in operation; Sch. 1 para. 18 not in operation at date of making see art. 1(3); Sch. 1 para. 18(3)(b)(6) in operation at 14.3.2008 by S.R. 2008/127, art. 3(f); Sch. 1 para. 18 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 18 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

Information

19.—(1) IBB may require—

- (a) any person who holds records of convictions or cautions for the use of police forces generally to provide to it any relevant information relating to a person to whom any of paragraphs 1 to 5 or 7 to 11 applies;
- (b) any person who holds such records to provide to it prescribed details of relevant matter (within the meaning of section 113A of the Police Act 1997 (c. 50)) relating to a person to whom any of those paragraphs apply;
- (c) the chief officer of a relevant police force to provide to it any such relevant information;
- (d) any person who holds information prescribed for the purposes of Article 28(8)(c) to provide to it any such information relating to a person to whom any of paragraphs 1 to 5 or 7 to 11 applies.

(2) For the purposes of sub-paragraph (1)(a), relevant information relating to a person is information which the person holding the records thinks might be relevant in relation to the regulated activity concerned.

(3) For the purposes of sub-paragraph (1)(c), relevant information relating to a person is information which the chief officer thinks might be relevant in relation to the regulated activity concerned.

(4) IBB must pay to the appropriate police authority such fee as the Secretary of State thinks appropriate for information provided to IBB in accordance with sub-paragraph (1)(c).

(5) For the purpose of deciding under this Schedule whether or not a person is included in a barred list IBB must not take account of relevant police information if the chief officer of the relevant police force thinks that it would not be in the interests of the prevention or detection of crime to disclose the information to the person.

(6) In sub-paragraph (5) relevant police information is information which falls within sub-paragraph (3), whether it is obtained by IBB in pursuance of subparagraph (1)(c) or paragraph 20(2).

(7) In this paragraph—

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“caution” has the same meaning as in section 126 of the Police Act 1997 (c. 50);

“relevant police force” must be construed in accordance with subsection (9) of section 113B of that Act as if the person had made an application for the purposes of that section.

(8) If IBB so requests, the Secretary of State must inform IBB which police forces are relevant police forces in relation to a person.

Commencement Information

17 Sch. 1 para. 19 wholly in operation; Sch. 1 para. 19 not in operation at date of making see art. 1(3); Sch. 1 para. 19 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 19(1)(b) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(v); Sch. 1 para. 19 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

20.—(1) The Department of Health, Social Services and Public Safety may provide to IBB any information relating to a person which is held by that Department in connection with its functions under Part II or III of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

(2) The Department of Education may provide to IBB any information relating to a person which is held by that Department in connection with its functions under Articles 70(2)(e)(iii) and 88A(2)(b)(iii) of the Education and Libraries (Northern Ireland) Order 1986 (NI 3).

(3) The Secretary of State must provide to IBB any information relating to a person which is held by him in connection with his functions under this Order (except information he holds relating to an offence prescribed for the purposes of paragraph 4(5) or 10(5) of this Schedule).

Commencement Information

18 Sch. 1 para. 20 wholly in operation; Sch. 1 para. 20 not in operation at date of making see art. 1(3); Sch. 1 para. 20 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 20 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

21. IBB must provide the Secretary of State with the prescribed information relating to a person if—

- (a) it includes that person in a barred list;
- (b) it is considering whether to include him in a barred list;
- (c) it thinks that any of the criteria prescribed for the purposes of paragraph 1, 2, 7 or 8 is satisfied in relation to him and that the Secretary of State does not already have the information.

Commencement Information

19 Sch. 1 para. 21 partly in operation; Sch. 1 para. 21 not in operation at date of making see art. 1(3); Sch. 1 para. 21 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 21 in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(v); Sch. 1 para. 21(a) in operation at 12.10.2009 in so far as it is not already in operation by S.R. 2009/346, art. 3, Sch.

22. The Secretary of State must inform the Scottish Ministers if a person is included in a barred list.

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Commencement Information

I10 Sch. 1 para. 22 wholly in operation; Sch. 1 para. 22 not in operation at date of making see art. 1(3); Sch. 1 para. 22 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 22 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

23. IBB may—

- (a) at the request of the Secretary of State provide him with such information relating to the exercise of its functions as IBB thinks may be relevant to the exercise by the Secretary of State of any of his functions;
- (b) at the request of a Northern Ireland department provide it with such information relating to the exercise of IBB's functions as IBB thinks may be relevant to the exercise by that Department of any of its functions.

Commencement Information

I11 Sch. 1 para. 23 wholly in operation; Sch. 1 para. 23 not in operation at date of making see art. 1(3); Sch. 1 para. 23 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(a); Sch. 1 para. 23 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(i)

Prescribed criteria

- 24.—(1) The criteria which may be prescribed for the purposes of paragraphs 1, 2, 7 and 8 are—
- (a) that a person has been convicted of, or cautioned in relation to, an offence of a specified description;
 - (b) that an order of a specified description requiring the person to do or not to do anything has been made against him;
 - (c) that a person is included in a specified list maintained for the purposes of a country or territory outside the United Kingdom;
 - (d) that an order or direction of a specified description requiring the person to do or not to do anything has been made against him for the purposes of a country or territory outside the United Kingdom.
- (2) The power to specify offences for the purposes of sub-paragraph (1) includes power to specify offences under—
- [^{F1}(a) the law of a country or territory outside Northern Ireland;]
 - (b) section 70 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18);
 - (c) section 70 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19);
 - (d) section 42 of the Naval Discipline Act 1957 (c. 53);
 - (e) section 42 of the Armed Forces Act 2006 (c. 52).
- (3) The Secretary of State may specify a list for the purposes of sub-paragraph (1)(c) only if he thinks that inclusion in the list has a corresponding or similar effect to inclusion in a barred list.
- (4) For the purposes of determining whether any of the criteria is satisfied in relation to a person, ignore—
- (a) any offence committed before he attained the age of 18;

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(b) any order or direction made before that time.

(5) The criteria which may be prescribed for the purposes of paragraph 1 or 2 must not consist only of circumstances in which the person has committed an offence against a child before the commencement of Article 6 if the court, having considered whether to make a disqualification order, decided not to.

(6) In sub-paragraph (5)—

(a) the reference to an offence committed against a child must be construed in accordance with Chapter II of Part II of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (NI 4);

(b) a disqualification order is an order under Article 23 or 24 of that Order.

(7) For the purposes of sub-paragraph (4) an offence committed over a period of time must be treated as committed on the last day of the period.

(8) For the purpose of considering whether the criteria apply to an individual, the Secretary of State must, from time to time, examine records of convictions or cautions held for the use of police forces generally.

(9) Sub-paragraph (8) does not apply to records of convictions made, or cautions given, before such date as is prescribed.

[^{F2}(10) For the purposes of sub-paragraph (2)(a) in its application to an offence committed outside the British Islands the Secretary of State must not specify the offence unless—

(a) the conduct which constitutes the offence would, if carried out in Northern Ireland, amount to an offence under the law of Northern Ireland (the equivalent offence), and

(b) the equivalent offence is also specified for the purposes of paragraph 1, 2, 7 or 8 (as the case may be).]

Textual Amendments

F1 Sch. 1 para. 24(2)(a) substituted (27.2.2009) by Safeguarding Vulnerable Groups (Prescribed Criteria) (Foreign Offences) Order (Northern Ireland) 2009 (S.R. 2009/21), **art. 3(2)**

F2 Sch. 1 para. 24(10) inserted (27.2.2009) by Safeguarding Vulnerable Groups (Prescribed Criteria) (Foreign Offences) Order (Northern Ireland) 2009 (S.R. 2009/21), **art. 3(3)**

Commencement Information

I12 Sch. 1 para. 24 partly in operation; Sch. 1 para. 24 not in operation at date of making see art. 1(3); Sch. 1 para. 24(1)(2)(9) in operation at 14.3.2008 by S.R. 2008/127, **art. 3(f)**; Sch. 1 para. 24 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, **art. 4(a)**; Sch. 1 para. 24(3)-(7) in operation at 13.3.2009 by S.R. 2009/41, **art. 3(1)(i)**

25.—[^{F3}(1)] A court by or before which a person is convicted of an offence of a description specified for the purposes of paragraph 24(1)(a), or which makes an order of a description specified for the purposes of paragraph 24(1)(b), must inform the person at the time he is convicted or the order is made that IBB will include him in the barred list concerned.

[^{F4}(2) This paragraph does not apply to convictions by or before a court in a country or territory outside Northern Ireland.]

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Textual Amendments

- F3** Sch. 1 para. 25 renumbered (27.2.2009) as sub-para. (1) by Safeguarding Vulnerable Groups (Prescribed Criteria) (Foreign Offences) Order (Northern Ireland) 2009 (S.R. 2009/21), **art. 4(2)**
- F4** Sch. 1 para. 25(2) inserted (27.2.2009) by Safeguarding Vulnerable Groups (Prescribed Criteria) (Foreign Offences) Order (Northern Ireland) 2009 (S.R. 2009/21), **art. 4(3)**
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Commencement Information

- I13** Sch. 1 para. 25 wholly in operation; Sch. 1 para. 25 not in operation at date of making see art. 1(3); Sch. 1 para. 25 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, **art. 4(a)**; Sch. 1 para. 25 in operation at 13.3.2009 by S.R. 2009/41, **art. 3(1)(i)**

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