EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force further provisions of the Safeguarding Vulnerable Groups Act 2006 ("the Act") and also makes amendments to transitional and savings provisions in the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional and Savings Provisions) Order 2009 ("the 2009 Order").

Article 3 commences sections 21, 22 and 23(3) of the Act (definitions of "controlled activity" and "responsible person"). These provisions have been partially commenced in earlier commencement orders under the Act but are now commenced in full for the purposes of regulations made under section 23 of the Act which put in place limited safeguards in relation to a person who is barred from engaging in regulated activity but who wishes to work in a controlled activity position. "Regulated activity" is defined in Schedule 4 to the Act and consists mainly of specified types of work with children or vulnerable adults, work in establishments where there is the opportunity to have contact with such vulnerable groups and specified offices and positions. "Controlled activity" is an activity that is ancillary to regulated activity and which gives a person the opportunity to have contact with children or vulnerable adults or access to sensitive records relating to them.

Article 4 commences section 50 of the Act (provision of information to supervisory authorities) to enable the Independent Safeguarding Authority (the barring authority established under section 1 of the Act) to provide information to the Secretary of State where such information is relevant to the Secretary of State's functions relating to independent schools in England. The Safeguarding Vulnerable Groups Act 2006 (Supervisory Authorities and Devolution Alignment) Order 2010 adds the Secretary of State, as the registration authority for independent schools, to the list of supervisory authorities in section 45(7) of the Act.

Article 5 repeals provisions of the Criminal Justice and Court Services Act 2000 ("CJCSA") which relate to disqualification orders made under sections 28 to 29A of that Act. The effect of this article is that the offence in section 35(2) of the CJCSA ceases to have effect in the circumstances specified in the article. The section 35(2) offence includes a person knowingly offering work to, or employing, a person subject to a disqualification order under the CJCSA ("disqualified person") in a regulated position. A regulated position is one that falls within section 36 of the CJCSA and consists mainly of specified types of work with or in relation to children. In very general terms, the section 35(2) offence falls away if the disqualified person is or has ever been barred from regulated activity relating to children but only if the bar took into account the fact that the person was subject to the disqualification order. A similar provision was included in the 2009 Order but in relation to the offence in section 35(1) which consists of a disqualified person knowingly applying for, offering to work in or accepting or working in a regulated position.

Part 3 of the Order amends the 2009 Order. Articles 6 to 10 to put beyond doubt the intended consequences of the savings and transitional provisions in that Order in relation to people who are in the process of being migrated from the old barring regime to the barred lists under the Act. The purpose of the amendments is to ensure that where there is any outstanding review, determination or appeal under the old legislation, section 3 of the Act (bar from engaging in regulated activity) does not commence in relation to that person until the all the review, determination or appeal has been finally determined any relevant periods during which an appeal under that legislation can be made have expired. Article 11 makes minor correcting amendments to the 2009 Order.