
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under the Safeguarding Vulnerable Groups Act 2006 (“the Act”), make provision relating to controlled activity and to the criteria prescribed for the purposes of various paragraphs in Schedule 3 (barred lists) to the Act. The Regulations come into force on the day after the day on which they are made.

Regulation 2 provides that a responsible person, as defined in section 23(3) of the Act, may only permit another to engage in controlled activity relating to children, as defined in section 21 of the Act, in the circumstances specified in that regulation; this restriction does not apply if permission was given before the Regulations came into force and remains in place after that date. Regulation 3 makes provision in relation to controlled activity relating to vulnerable adults, as defined in section 22 of the Act, in terms similar to the provision made in regulation 2. Regulations 2 and 3 apply in relation only to controlled activity in England.

Regulation 4 modifies section 113A of the Police Act 1997. The modification provides that the duty of the Secretary of State to issue a criminal record certificate does not apply if the exempted question for which the certificate is required relates to the assessment of the suitability of a person for any work which is a controlled activity relating to children or a controlled activity relating to vulnerable adults.

Regulations 5, 6 and 7 modify section 113B of the Police Act 1997. The modifications provide for the Secretary of State to issue a notification stating that the person is not barred from regulated activity in relation to children and/or vulnerable adults, instead of an enhanced criminal record certificate. The notification is relevant to the circumstances specified in regulations 2 and 3. The modifications do not apply if the controlled activity is work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18. Regulation 8 makes a textual modification of section 113B of the Police Act 1997, referring to regulations 5, 6 and 7.

Regulation 9 amends the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 which prescribe the criteria which determine whether a person should be included automatically in the children’s barred list or the adults’ barred list maintained under section 2 of the Act.

An assessment of the impact of these Regulations is set out at section 10 of the Explanatory Memorandum which is available alongside these Regulations on the OPSI website.