
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the definition of regulated activity in the Safeguarding Vulnerable Groups Act 2006 (“the Act”). It also makes amendments to the definitions of controlled activity in sections 21 and 22 of the Act and provides for the Independent Safeguarding Authority (“the ISA”) to be able to disclose information to police forces in Scotland and in Northern Ireland.

The ISA is a statutory non-departmental public body established under section 1 of the Act and is under a duty to establish the children’s barred list and the adults’ barred list. The ISA is tasked with making barring decisions relating to people who are unsuitable to work with vulnerable groups.

Articles 2 to 5 amend the definition of regulated activity relating to children in Part 1 of Schedule 4 to the Act (“the Schedule”).

Article 3 amends paragraph 1 of Schedule 4 and brings the exercise (by any person) of the inspection, review and investigation functions specified in Article 3 within the scope of regulated activity relating to children. The exercise of such functions is only a regulated activity if, in exercising the functions, a person has the opportunity to have contact with children. The Order amends Part 1 of the Schedule in other respects to clarify that this proviso applies also to the existing inspection-related functions in that Part of the Schedule.

Similar amendments are made by Articles 6 and 7 of the Order to the definition of regulated activity relating to vulnerable adults in Part 2 of the Schedule. Article 7(2) amends paragraph 7(6) of the Schedule and makes changes to that paragraph in order to make it consistent with the language of other inspection-related provisions in both Parts 1 and 2 of the Schedule.

Article 4 includes pupil referral units within the list of establishments in paragraph 3(1) of the Schedule where such units do not fall within paragraph 3(1)(a) because they do not provide full-time education to children.

Article 5 amends the list of ‘office-holders’ in paragraph 4(1) of the Schedule by adding positions relating to the management of pupil referral units, individuals who are proprietors, or who take part in the management, of an independent school and members of adoption or fostering panels within the definition of regulated activity relating to children.

Article 10 amends the definition of “period condition” which is set out in Part 3 of the Schedule by replacing the reference to a period of two days with three days. The period condition is relevant to whether or not an activity is a regulated activity. Article 11 makes similar amendments to the definition of controlled activity in sections 21 and 22 of the Act.

Article 12 amends section 50A of the Act. Section 50A was inserted by section 88 of the Policing and Crime Act 2009 (c. 26) and enables the ISA to disclose any information it has to the police in England or in Wales for the purposes of crime prevention, detection, etc. The amendment in Article 12 extends the power under section 50A in order that the ISA is, for the same purposes, able to provide information to the police in Scotland and in Northern Ireland.