

2008 No. 3265

**CHILDREN AND YOUNG PERSONS, ENGLAND AND
WALES**

**PROTECTION OF VULNERABLE ADULTS, ENGLAND
AND WALES**

**The Safeguarding Vulnerable Groups Act 2006 (Prescribed
Information) Regulations 2008**

Made - - - - *18th December 2008*

Laid before Parliament *29th December 2008*

Coming into force in accordance with regulation 1

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 35(1)(a) and (b), 36(1), (2) and (3), 37(2), 39(1) and (5), 40(2), 41(1) and (5), 42(2), 45(1) and (5), 46(1)(a) and (2) and 61(5) of, and paragraphs 19(1)(b) and 21 of Schedule 3 to, the Safeguarding Vulnerable Groups Act 2006(a):

In accordance with section 56(2)(a) and (b) of that Act, he has obtained the consent of the Welsh Ministers and in accordance with section 56(3)(g) to (m) of the Act, he has consulted the Welsh Ministers:

Citation and commencement

1.—(1) These Regulations may be cited as the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008.

(2) This regulation, regulations 2, 5, 7, 9, 11 and 12 and the Schedule come into force on 20th January 2009.

(3) The other provisions of these Regulations come into force on 12th October 2009.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Safeguarding Vulnerable Groups Act 2006;

“employment” includes any arrangement (contractual or otherwise) under or by virtue of which a person (P) is permitted to engage in regulated or controlled activity;

(a) 2006 c. 47.

“P” means any person in relation to whom a person has a duty or power to provide information prescribed in regulations 3 to 11 to IBB for the purposes of sections 35, 36, 37, 39, 40, 41, 42, 45 and 46 of the Act;

(2) In these Regulations, a reference to P’s conduct is a reference to any offence which P has committed or is alleged to have committed, any incident involving P or any behaviour or other act or omission of P’s that—

- (a) gave rise to the provision of information to IBB under section 35, 36, 39, 41 or 45 of the Act; or
- (b) in relation to which IBB is considering whether to include or remove P in or from a barred list.

Regulated activity providers and responsible persons: duty to refer

3. The information specified in the Schedule is prescribed for the purposes of section 35(1)(a) and (b) of the Act.

Personnel suppliers: duty to refer

4.—(1) The following information is prescribed for the purposes of section 36(1) and (2) of the Act—

- (a) the information specified in the Schedule; and
- (b) where the personnel supplier is an employment business or employment agency^(a), any other information held by that personnel supplier under Schedule 4 to the Conduct of Employment Agencies and Employment Business Regulations 2003^(b) (particulars relating to work-seekers) except the information specified in paragraph 10 of that Schedule.

(2) The following information is prescribed for the purposes of section 36(3) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) details of the course that P is following at the educational institution including the name and duration of the course and the qualification or other accreditation to which the course leads;
- (c) a copy of P’s application for a place on the course;
- (d) the date on which P began the course;
- (e) details of any regulated activity or controlled activity in which P has engaged as a result of P having been supplied to another person by the educational institution for the purposes of engaging in such activity including—
 - (i) the date on which any placement began and the duration of the placement;
 - (ii) the name and address of the person to whom P was supplied;
 - (iii) the setting and location of the placement;
 - (iv) whether the activity was one relating to children or to vulnerable adults;
 - (v) a description of the position held and the duties undertaken by P;
- (f) the date on which and the reasons why the educational institution determined—
 - (i) to cease to supply P to another person for P to engage in regulated or controlled activity;
 - (ii) that P should cease to follow a course at the institution;

(a) Under section 60(1) of the Act, “employment agency” and “employment business” are to be construed in accordance with the Employment Agencies Act 1973 (c. 35).
(b) S.I. 2003/3319 (to which there are amendments not relevant to these Regulations).

- (g) where an educational institution does not make a determination as mentioned in paragraph (f) but would or might have done so if P had not otherwise ceased to engage in the activity or ceased to follow the course, the reasons why the institution would or might have made any such determination;
- (h) details of any comments or reports made by persons to whom P was supplied for the purposes of engaging in the regulated or controlled activity;
- (i) an assessment of P's progress on the course (including P's placements with persons for the purposes of engaging in regulated or controlled activity).

Regulated activity providers, responsible persons and personnel suppliers: duty to provide information on request

5.—(1) The information specified in the Schedule is prescribed for the purposes of section 37(2)(a) and (b) of the Act.

(2) The information specified in regulation 4(1) is prescribed for the purposes of section 37(2)(c) of the Act.

(3) The information specified in regulation 4(2) is prescribed for the purposes of section 37(2)(d) of the Act.

Local authorities: referral of information to IBB

6. The following information is prescribed for the purposes of section 39(1) and (5) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information contained in reports of and minutes of meetings arising from investigations relating to the protection of children or vulnerable adults.

Local authorities: duty to provide information on request

7. The following information is prescribed for the purposes of section 40(2) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information contained in reports of and minutes of meetings arising from investigations relating to the protection of children or vulnerable adults.

Keepers of relevant registers: duty to refer

8. The following information is prescribed for the purposes of section 41(1) and (5) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information relating to any decisions made, actions taken or complaints received by the keeper in relation to P.

Keepers of relevant registers: duty to provide information on request

9. The following information is prescribed for the purposes of section 42(2) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list

including information relating to any decisions made, actions taken or complaints received by the keeper in relation to P.

Supervisory authorities: referral of information

10. The following is prescribed information for the purposes of section 45(1) and (5) of the Act—

- (a) the information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in a barred list including information relating to any decisions made, actions taken, complaints received or inspections undertaken by the authority in relation to P.

Supervisory authorities: duty to provide information on request

11. The following is prescribed information for the purposes of section 46(1) and (2) of the Act—

- (a) The information specified in paragraphs 1 to 3, 5, 6, 9 and 10 of the Schedule;
- (b) any information other than that relating to P's conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information relating to any decisions made, actions taken, complaints received or inspections undertaken by the authority in relation to P.

Prescribed Details of convictions and cautions

12.—(1) The following details of relevant matter^(a) relating to a person to whom paragraphs 1 to 5 or 7 to 11 of Schedule 3 to the Act apply are prescribed for the purposes of paragraph 19(1)(b) of Schedule 3 to the Act.

(2) A description of the offence committed by that person and the date on which the offence was committed and—

- (a) where P has been convicted of that offence, the date on which and the court at which P was convicted of that offence and the sentence imposed;
- (b) where P has been cautioned in relation to that offence, the date on which and place at which the caution was administered.

Duty on the IBB to provide information to the Secretary of State

13.—(1) The following information relating to a person is prescribed for the purposes of paragraph 21 of Schedule 3 to the Act.

(2) For the purposes of sub-paragraph (a) of paragraph 21—

- (a) the information specified in paragraph 1 of the Schedule;
- (b) whether that person is included in the children's barred list or the adults' barred list (or both), the date of and the reasons for inclusion in any such list (including which of paragraphs 1 to 5 or 7 to 11 of Schedule 3 to the Act IBB relied upon in including P in a list).

(3) For the purposes of sub-paragraph (b) of paragraph 21—

- (a) the information specified in paragraph 1 of the Schedule;
- (b) whether that person is being considered by IBB for inclusion in the children's barred list or the adults' barred list (or both) and which of paragraphs 3, 5, 9 or 11 of Schedule 3 to the Act applies.

(a) "Relevant matter" is defined in paragraph 19(1)(b) of the Schedule to the Act by reference to section 113A Police Act 1997 (c. 50).

- (4) For the purposes of sub-paragraph (c) of paragraph 21—
- (a) the information specified in paragraph 1 of the Schedule;
 - (b) any criterion prescribed for the purposes of paragraphs 1, 2, 7 or 8 of Schedule 3 to the Act that is satisfied in relation to P and the date on which any such criterion was satisfied.

18th December 2008

Delyth Morgan
Parliamentary Under Secretary of State
Department for Children, Schools and Families

SCHEDULE 1

Regulations 3-11 and 13

1. The following information relating to P or, for the purposes of regulation 13, the person referred to in that regulation, namely—

- (a) full name and title;
- (b) any other name or names by which P or a person referred to in regulation 13 may be known;
- (c) date of birth;
- (d) national insurance number;
- (e) gender;
- (f) last known address (including postcode); and
- (g) the unique number allocated by the Secretary of State in relation to an application to be monitored under section 24 of the Act.

2. A description of the regulated or controlled activity that P is, or was, engaged in.

3. Information as to whether or not P is included in any relevant register as defined in section 41(7) of the Act or any register established and maintained by a supervisory authority and, if so, details of the relevant entries in any such register.

4. Information (including copies of relevant documents) relating to P's employment, namely—

- (a) the application for employment made by P and the letter of appointment;
- (b) P's job description including the position held and the duties undertaken by P;
- (c) the date on which P started the employment;
- (d) P's qualifications, employment history and disciplinary record;
- (e) details of any relevant training undertaken by P;
- (f) whether or not P is still employed and if so, P's current job description and a description of P's duties;
- (g) if P is no longer employed, the date from which and the circumstances in which P ceased to be so employed;
- (h) the reasons why permission was withdrawn for P to engage in the regulated or controlled activity in question or, where such permission was not withdrawn (but would or might have been withdrawn had P not otherwise ceased to engage in the activity), the reasons why such permission would have or might have been withdrawn.

5. Information relating to P's conduct, (including copies of relevant documents), namely—

- (a) a summary of the conduct including details of the setting and location in which such conduct occurred;

- (b) details of any harm suffered by any child or vulnerable adult resulting from or arising from the conduct or any risk of harm that a child or vulnerable adult was, or may have been, exposed to as a result of such conduct;
- (c) details, as follows, of any child or vulnerable adult referred to in sub-paragraph (b) above—
 - (i) the name and date of birth of the child or vulnerable adult;
 - (ii) details of the relationship between P and the child or vulnerable adult;
 - (iii) information relating to the vulnerability of the child or vulnerable adult that may be relevant to IBB’s consideration of whether to include or remove P in or from a barred list including any emotional, behavioural, medical or physical condition;
- (d) whether P has accepted responsibility for or admitted the conduct or any part of it;
- (e) any explanation offered by P for the conduct or any remorse or insight demonstrated by P in relation to the conduct;
- (f) any information other than that relating to P’s conduct which is likely to, or may, be relevant in considering whether P should be included in or removed from a barred list including information relating to any previous offences, allegations, incidents, behaviour or other acts or omissions.

6. Information relating to the reason why the person providing information to IBB under sections 35, 36, 39, 41 or 45 of the Act considers that the harm test is satisfied in relation to P.

7. Details of any investigation undertaken by any person in relation to P’s conduct including—

- (a) the evidence and information obtained and considered in any such investigation;
- (b) the outcome of the investigation, if known; and
- (c) contact details (including a name, address, telephone number and e-mail address) of any person responsible for the investigation.

8. Details of any disciplinary proceedings or measures taken, or to be taken, in relation to P’s conduct including—

- (a) the evidence and information obtained and considered in such proceedings or with respect to such measures; and
- (b) the outcome of any disciplinary proceedings or measures taken including a copy of any decision or other document evidencing the outcome of such action.

9. Details of any other proceedings before any court, tribunal or any other person taken or to be taken in relation to P’s conduct including the outcome of any such proceedings.

10. Details of any action taken, or to be taken, by the person referring or providing information under the Act to the IBB in relation to P’s conduct including whether or not the matter has been referred to the police or to any other person.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the information that, in specified circumstances, must be provided to the Independent Barring Board (“IBB”) under various provisions in the Safeguarding Vulnerable Groups Act 2006 (“the Act”) and the information that may be provided to IBB in other circumstances. In brief, the duties and powers to provide information arise where it may be appropriate for a person to be considered by IBB for inclusion in one or both of the barred lists established under section 2 of the Act or where IBB is considering removing a person from a barred list.

A duty to refer the prescribed information or to provide such information following a request from IBB is placed on regulated activity providers, responsible persons, personnel suppliers, local authorities, keepers of relevant registers and supervisory authorities. The circumstances in which such duties arise are set out in sections 35, 36, 37, 39, 40, 41, 42, 45 and 46 of the Act.

The Regulations also include details that must be provided to IBB under paragraph 19(1)(b) of Schedule 3 to the Act (namely prescribed details of cautions and convictions). This duty falls on any person who holds records of convictions or cautions for the use of police forces generally.

In addition, the Regulations prescribe the information that IBB must provide to the Secretary of State under paragraph 21 of Schedule 3 to the Act in circumstances in which it includes a person on a barred list, is considering doing so or where IBB thinks that any of the criteria prescribed for the purposes of paragraphs 1, 2, 7 or 8 of Schedule 3 to the Act (i.e. criteria leading to automatic inclusion in a barred list) are satisfied with respect to a person and that the Secretary of State does not already have this information.

Regulations 5, 7, 9, 11 and 12 will be come into force on 20th January 2009 to assist IBB to exercise functions under transitory provisions that will see IBB start to make barring decisions in relation to individuals who would formerly have been referred to the Secretary of State. This is one of the steps towards the full implementation of the vetting and barring scheme under the Act. The remaining regulations will come into force on 12th October 2009.

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