WELSH STATUTORY INSTRUMENTS

2010 No. 1171 (W.104)

CHILDREN AND YOUNG PERSONS, WALES
PROTECTION OF
VULNERABLE ADULTS, WALES

The Safeguarding Vulnerable Groups Act 2006 (Controlled Activity) (Wales) Regulations 2010

Made - - - - 31 March 2010

Coming into force in accordance with regulation 1

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 23(1), 56(1)(f) and 61(5) of the Safeguarding Vulnerable Groups Act 2006(**1**).

A draft of these Regulations was laid before the National Assembly for Wales on 23 February 2010 in accordance with section 61 (3) of that Act (as modified by section 56 (5)(b) of that Act) and approved by a resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Safeguarding Vulnerable Groups Act 2006 (Controlled Activity) (Wales) Regulations 2010 and they come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to Wales.

Circumstances in which a responsible person must not permit another to engage in a controlled activity in Wales relating to children

2.—(1) A responsible person(**2**) ("RP") may only permit another ("A") to engage in a controlled activity relating to children(**3**) in the circumstances specified in paragraph (2) or the circumstances specified in paragraph (3).

(2) The circumstances in this paragraph are that—

(**1**) 2006 c. 47.
(**2**) Section 23(3) of the Safeguarding Vulnerable Groups Act 2006 ("the Act") provides the meaning of a responsible person.
(**3**) Section 21 of the Act provides the meaning of controlled activity relating to children.

(a) the Secretary of State has issued to A under section 113B of the Police Act 1997(**4**) either–

(i) an enhanced criminal record certificate which includes suitability information relating to children (within the meaning of section 113BA(**5**) of that Act), or

(ii) a notification that A is—

(aa) not barred from regulated activity relating to children(**6**),

(bb) not included in the list kept under section 1 of the Protection of Children Act 1999(**7**), and

(cc) not subject to a direction made under section 142 of the Education Act 2002(**8**);

(b) the certificate or notification was issued within the period of 90 days ending on the date on which RP permits A to engage in a controlled activity relating to children; and

(c) RP received a copy of that certificate or notification before permitting A to engage in controlled activity relating to children.

(3) The circumstances in this paragraph are that RP is satisfied, before permitting A to engage in controlled activity relating to children, that A is—

(a) not barred from regulated activity relating to children(**9**),

(b) not included in the list kept under section 1 of the Protection from Children Act 1999, and

(c) not subject to a direction made under section 142 of the Education Act 2002.

(4) Paragraph (1) does not apply in relation to any continuous period in which A is permitted by RP to engage in a controlled activity relating to children if–

(a) the permission was given before these Regulations came into force, and

(b) the permission continues to have effect after these Regulations came into force.

Circumstances in which a responsible person must not permit another to engage in controlled activity in Wales relating to vulnerable adults

3.—(1) A responsible person ("RP") may only permit another ("A") to engage in a controlled activity relating to vulnerable adults(**10**) in the circumstances specified in paragraph (2) or the circumstances specified in paragraph (3).

(2) The circumstances in this paragraph are that—

(a) the Secretary of State has issued to A under section 113B of the Police Act 1997 either–

(**4**) 1997 c. 50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14(3) of Part 2 of Schedule 9 to, the Act, section 378(1) of, and paragraph 149 of Schedule 16 to, the Armed Forces Act 2006 (c. 52), and articles 2 and 4 of the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009, S.I. 2009/203.

(**5**) Section 113BA was inserted by section 63(1) of, and paragraph 14(1) and (4) of Part 2 of Schedule 9 to, the Act and amended by section 170(2) of the Education and Inspections Act 2006 (c. 40) (in relation to Wales; the amendment was not in force in relation to England on the making of these Regulations). Section 169 of, and paragraph 12 of Part 1 of Schedule 1 to, the Education and Skills Act 2008 (c. 25) also amend section 113BA, but were not in force on the making of these Regulations.

(**6**) Section 3(2) of the Act specifies the circumstances in which a person is barred from regulated activity relating to children.

(**7**) 1999 c. 14. Section 1 was amended by sections 95 to 98 of the Care Standards Act 2000 (c. 14) and repealed by section 63 of, paragraph 8(1) and (2) of Part 1 of Schedule 9 to, and Schedule 10 to the Act, subject to the transitional and saving provisions in article 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings) Order 2009, S.I. 2009/2611 ("the CN6TPSO").

(**8**) 2002 c. 32. Section 142 was repealed by section 63 of, and Schedule 10 to, the Act, subject to the transitional and saving provisions in article 7 of the CN6TPSO.

(**9**) Section 3(2) of the Act specifies the circumstances in which a person is barred from regulated activity relating to children.

(**10**) Section 22 of the Act provides the meaning of controlled activity relating to vulnerable adults.