Draft Order laid before Parliament under section 89(2) of the Protection of Freedoms Act 2012, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No.

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES
CHILDREN AND YOUNG PERSONS, NORTHERN IRELAND
POLICE, ENGLAND AND WALES
PROTECTION OF VULNERABLE ADULTS, ENGLAND AND WALES
PROTECTION OF VULNERABLE ADULTS, NORTHERN IRELAND

The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012

Made - - - -	***
Coming into force - -	*1st December 2012*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 88 and 89 of the Protection of Freedoms Act 2012(**1**)

A draft of this Order was laid before Parliament in accordance with section 89(2) of the Protection of Freedoms Act 2012 and was approved by resolution of each House of Parliament.

(**1**) 2012 c. 9

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 and shall come into force on 1st December 2012.

(2) Subject to paragraphs (3), (4), (5) and (6), this Order extends to England and Wales and Northern Ireland.

(3) The amendments to any enactment made by this Order, subject to paragraphs (4), (5) and (6), have the same extent as the enactment amended.

(4) Subject to paragraph (5), the amendments made to the Police Act 1997(**2**) extend to England and Wales only.

(5) The amendments made to the Police Act 1997 by articles 13(2)(c), 57 and 58 extend to Northern Ireland only.

(6) In article 78 the removal of paragraph (f) in the table in section 56(6) of the Data Protection Act 1998(**3**) extends to England and Wales only.

(7) In this Order—

"the 1997 Act" means the Police Act 1997;

"the 2006 Act" means the Safeguarding Vulnerable Groups Act 2006(**4**);

"the 2007 Order" means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**5**);

"the 2008 Northern Ireland Transitional Provisions Order" means the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008(**6**);

"the 2008 Transitional Provisions Order" means the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008(**7**);

"the 2012 Act" means the Protection of Freedoms Act 2012;

"DBS" means the Disclosure and Barring Service;

"ISA" means the Independent Safeguarding Authority;

"the principal enactments" means the 2006 Act, the 2007 Order, the 2008 Northern Ireland Transitional Provisions Order and the 2008 Transitional Provisions Order.

(**2**) 1997 c. 50.
(**3**) 1998 c. 29.
(**4**) 2006 c. 47.
(**5**) S.I. 2007/1351 (N.I. 11).
(**6**) S.R. 2008/200.
(**7**) S.I. 2008/473.

PART 2

Transfer of the Independent Safeguarding Authority's functions

CHAPTER 1

Transfer of ISA's functions

Transfer of ISA's functions

2. All of ISA's functions except for the function of establishing the children's barred list and the adults' barred list under section 2 of the 2006 Act and Article 6 of the 2007 Order are transferred to DBS.

CHAPTER 2

Consequential amendments to the principal enactments

Consequential amendments to the 2006 Act

3. In the following provisions of the 2006 Act for "ISA", in each place where it occurs, substitute "DBS"—

(a) sections 2 and 4;

(b) sections 35 to 42;

(c) section 43 (including section 43(1) and (2) as substituted by section 75(3) of the 2012 Act);

(d) sections 45 to 47;

(e) sections 50 and 50A(**8**);

(f) the following paragraphs of Schedule 3—

(i) paragraphs 2 to 5;

(ii) paragraph 5A(**9**);

(iii) paragraph 6 (including the reference to ISA inserted by section 74(2) of the 2012 Act);

(iv) paragraphs 8 to 11;

(v) paragraph 11A(**10**);

(vi) paragraph 12 (including the reference to ISA inserted by section 74(4) of the 2012 Act);

(vii) paragraphs 13 to 21;

(viii) paragraphs 22A(**11**) and 23;

(ix) paragraph 25;

(g) the table in paragraph 1 of Schedule 7;

(h) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 8.

4. In section 2 omit "establish and".

5. In section 60(1) after the definition of "the children's barred list" insert—

(**8**) Section 50A was inserted by section 88 of the Policing and Crime Act 2009 (c. 26) and amended by sections 77 and 115(1) of, and paragraphs 43 and 65 of Schedule 9 to, the 2012 Act.
(**9**) Paragraph 5A was inserted by section 74(1) of the 2012 Act.
(**10**) Paragraph 11A was inserted by section 74(3) of the 2012 Act.
(**11**) Paragraph 22A was inserted by S.I. 2011/565.

""DBS" means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;"

Consequential amendments to the 2007 Order

6. In the following provisions of the 2007 Order for "ISA", in each place where it occurs, substitute "DBS"—

(a) Articles 2, 6 and 8;

(b) Articles 37 to 44;

(c) Article 45 (including Article 45(1) and (2) as substituted by paragraph 12(2) of Schedule 7 to the 2012 Act);

(d) Articles 47 to 49;

(e) Articles 52 and 52A(**12**);

(f) the following paragraphs of Schedule 1—

(i) paragraphs 2 to 5;

(ii) paragraph 5A(**13**);

(iii) paragraph 6 (including the reference to ISA inserted by paragraph 11(2) of Schedule 7 to the 2012 Act);

(iv) paragraphs 8 to 11;

(v) paragraph 11A(**14**);

(vi) paragraph 12 (including the reference to ISA inserted by paragraph 11(4) of Schedule 7 to the 2012 Act);

(vii) paragraphs 13 to 21;

(viii) paragraphs 22A(**15**) and 23;

(ix) paragraph 25;

(g) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 6.

7. For Article 5 substitute—

"**Disclosure and Barring Service**

5. In this Order references to DBS are references to the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012."

8. In Article 6 omit "establish and".

Consequential amendments to the 2008 Northern Ireland Transitional Provisions Order

9. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for "IBB"(**16**) substitute "DBS"—

(a) article 3(2), (4) and (5);

(**12**) Article 52A was inserted by section 91 of the Policing and Crime Act 2009 and amended by sections 78 and 115(1) of, and paragraph 14 of Schedule 7 and paragraphs 75 and 97 of Schedule 9 to the 2012 Act.
(**13**) Paragraph 5A was inserted by paragraph 11(1) of Schedule 7 to the 2012 Act.
(**14**) Paragraph 11A was inserted by paragraph 11(3) of Schedule 7 to the 2012 Act.
(**15**) Paragraph 22A was inserted by S.I. 2010/2660.
(**16**) The Independent Barring Board was the original name of the Independent Safeguarding Authority as established by section 1 of the Safeguarding Vulnerable Groups Act 2006. The Independent Barring Board, or IBB, was renamed the Independent Safeguarding Authority by section 81 of the Policing and Crime Act 2009.

(b) article 4(2);

(c) article 5(2), (4) and (5);

(d) article 6(2).

10. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for "IBB" substitute "IBB, ISA or DBS, as the case may be"—

(a) article 3(1)(c);

(b) article 4(1)(c);

(c) article 5(1)(c);

(d) article 6(1)(c).

Consequential amendments to the 2008 Transitional Provisions Order

11. In the following provisions of the 2008 Transitional Provisions Order for "IBB" substitute "DBS"—

(a) article 2(2), (4) and (5);

(b) article 3(2);

(c) article 4(2), (4) and (5).

12. In the following provisions of the 2008 Transitional Provisions Order for "IBB" substitute "IBB, ISA or DBS, as the case may be"—

(a) article 2(1)(c);

(b) article 3(1)(c);

(c) article 4(1)(c).

CHAPTER 3

Consequential amendments to other enactments

Consequential amendments to other enactments

13.—(1) For the words in the left-hand column of the table, wherever they appear in the provisions of the Acts of Parliament mentioned in paragraph (2) or the subordinate legislation mentioned in paragraph (3), substitute the corresponding words in the right-hand column of the table.

Existing words	*Substitution*
"Independent Barring Board"	"Disclosure and Barring Service"
"IBB"	"DBS"
"Independent Safeguarding Authority"	"Disclosure and Barring Service"
"ISA"	"DBS"
"the Authority"	"the Service"
"the Board"	"the Service"