Draft Regulations laid before Parliament under section 61(3) of the Safeguarding Vulnerable Groups Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

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

The Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria) (Transitional Provisions) Regulations 2008

Made - - - -	*2008*
Coming into force - -	*7th April 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 61(5) and 64(1) of, and paragraphs 1(1), 7(1) and 24(1) to (3)(**1**) of Schedule 3 to, the Safeguarding Vulnerable Groups Act 2006(**2**):

In accordance with section 56(3)(q) of that Act he has consulted the Welsh Ministers:

A draft of these Regulations was laid before Parliament in accordance with section 61(3) of the Safeguarding Vulnerable Groups Act 2006 and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria) (Transitional Provisions) Regulations 2008 and come into force on 7th April 2008.

(2) In these Regulations—

"the Act" means the Safeguarding Vulnerable Groups Act 2006;

"connected offence" means, in relation to an offence specified in the Schedule, an offence of—

(**1**) Paragraphs 1 and 7 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006 refer to criteria prescribed for the purposes of those paragraphs. Paragraph 24 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006 makes provision as to the criteria that may be prescribed for the purposes of paragraphs 1 and 7 of that Schedule. Section 60(1) of that Act defines "prescribed" as meaning prescribed by regulations made by the Secretary of State.

(**2**) 2006 c.47.

(a) attempting, conspiring or incitement to commit that offence, or

(b) aiding, abetting, counselling or procuring the commission of that offence;

"disqualification order" means an order of the court under section 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(**3**);

"relevant circumstances" means—

(a) in relation to an offence specified in sub-paragraph (a) or (b) of paragraph 1 of the Schedule, the circumstances described in the relevant sub-paragraph which relate to the commission of that offence, and

(b) in relation to an offence specified in sub-paragraph (c), (e) or (g)(i) of that paragraph, the circumstances referred to in the relevant sub-paragraph in relation to the commission of that offence.

(3) In regulation 2, a reference to an offence specified in paragraph 1(a) to (c), (e) or (g)(i) of the Schedule is a reference to that offence only where it was committed in relevant circumstances.

(4) In regulations 2 and 3, a reference to an offence specified in the Schedule includes a reference to an offence which is a connected offence in relation to the specified offence.

(5) For the purposes of regulations 2 and 3, an offence committed over a period of time must be treated as having been committed on the last day of that period.

Prescribed criteria – children's barred list

2.—(1) The criteria prescribed for the purposes of paragraph 1 of Schedule 3 to the Act as it has effect for the purposes of article 2(7) of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008(**4**) are that the person has been convicted of, or cautioned in relation to, an offence specified in paragraph 1 of the Schedule which that person committed within the period of 10 years ending on the day that the Secretary of State refers the person to IBB under article 2(1)(c) of that Order for inclusion in the children's barred list.

(2) Paragraph 1 does not apply in relation to the commission of an offence specified in paragraph 1 of the Schedule if the court, having considered whether to make a disqualification order in relation to that commission of that offence, decided not to.

Prescribed criteria – adults' barred list

3. The criteria prescribed for the purposes of paragraph 7 of Schedule 3 to the Act as it has effect for the purposes of article 4(7) of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008 are that the person has been convicted of, or cautioned in relation to, an offence specified in paragraph 2 of the Schedule which that person committed within the period of 10 years ending on the day that the Secretary of State refers the person to IBB under article 4(1)(c) of that Order for inclusion in the adults' barred list.

Name
Parliamentary Under Secretary of State
2008 Department for Children, Schools and Families

(**3**) 2000 c.43; section 29A was inserted by paragraph 2 of Schedule 30 to the Criminal Justice Act 2003 (c.44). An order of the court made under section 28, 29 or 29A disqualifies the person in respect of whom it is made from working with children.
(**4**) S.I. 2008/473.

SCHEDULE

Regulations 2 and 3

1. The offences specified for the purposes of regulation 2 are—

(a) the offence of rape contrary to the common law of Scotland, where the offence was committed against a child;

(b) the offence of rape contrary to the common law of Northern Ireland, where the offence was committed against a child;

(c) any offence contrary to a provision specified in the first column of Part 1 of the table set out in this paragraph, where it was committed in circumstances specified in the corresponding entry in the second column of that Part of that table;

(d) any offence contrary to a provision specified in Part 2 of that table;

(e) any offence contrary to—

(i) section 70 of the Army Act 1955(**5**),

(ii) section 70 of the Air Force Act 1955(**6**), or

(iii) section 42 of the Naval Discipline Act 1957(**7**),

which corresponds to an offence contrary to any provision specified in the first column of Part 1 of that table and which was committed in circumstances specified in the entry in the second column of that Part of that table that corresponds to the relevant entry in the first column of that Part of that table;

(f) any offence contrary to—

(i) section 70 of the Army Act 1955,

(ii) section 70 of the Air Force Act 1955, or

(iii) section 42 of the Naval Discipline Act 1957,

which corresponds to an offence contrary to any provision specified in Part 2 of that table; and

(g) any offence contrary to section 42 of the Armed Forces Act 2006(**8**) where—

(i) the corresponding offence under the law of England and Wales is one contrary to a provision specified in the first column of Part 1 of that table, and the offence under the Armed Forces Act 2006 was committed in circumstances specified in the entry in the second column of that Part of that table that corresponds to the relevant entry in the first column of that Part of that table, or

(ii) the corresponding offence under the law of England and Wales is one contrary to a provision specified in Part 2 of that table.

(**5**) 1955 c.18; so far as relevant, section 70 was amended by Schedule 1 to the Suicide Act 1961 (c.60), section 1(6) of the Genocide Act 1969 (c.12), section 5(1) of the Biological Weapons Act 1974 (c.6), section 7(1) of the Criminal Attempts Act 1981 (c.47), section 35(a) of the Chemical Weapons Act 1996 (c.6), section 12(a) of the Nuclear Explosions (Prohibition and Inspections) Act 1998 (c.7), section 74(2)(a) and (b), and (3) of, and Schedule 10 to, the International Criminal Court Act 2001 (c.17), and paragraph 9(a) and (b) of Schedule 6, and Schedule 7, to the Sexual Offences Act 2003 (c.42). Section 70 is to be repealed by Schedule 17 to the Armed Forces Act 2006 (c.52).

(**6**) 1955 c.19; so far as relevant, section 70 was amended by Schedule 1 to the Suicide Act 1961, section 1(6)(b) of the Genocide Act 1969, section 5(1) of the Biological Weapons Act 1974, section 7(1) of the Criminal Attempts Act 1981, section 35(b) of the Chemical Weapons Act 1996, section 12(b) of the Nuclear Explosions (Prohibition and Inspections) Act 1998, section 74(2)(a) and (b), and (3) of, and Schedule 10 to, the International Criminal Court Act 2001, and paragraph 10(a) and (b) of Schedule 6, and Schedule 7, to the Sexual Offences Act 2003. Section 70 is to be repealed by Schedule 17 to the Armed Forces Act 2006.

(**7**) 1957 c.53; so far as relevant, section 42 was amended by section 34(3) of the Armed Forces Act 1971 (c.33), section 7(1) of the Criminal Attempts Act 1981, paragraph 3 of Schedule 1, and Schedule 2, to the Armed Forces Act 1986 (c.21), and paragraph 5(1) and (2) of Schedule 3, and paragraph 34(1), (2), (3) and (4) of Schedule 6, and Schedule 7, to the Armed Forces Act 2001 (c.19). Section 42 is to be repealed by Schedule 17 to the Armed Forces Act 2006.

(**8**) 2006 c.52.