STATUTORY RULES OF NORTHERN IRELAND

# 2010 No. 30

# SAFEGUARDING VULNERABLE GROUPS

## Safeguarding Vulnerable Groups (Regulated Activity, Devolution Alignment and Miscellaneous Provisions) Order (Northern Ireland) 2010

| | |
|---|---|
| *Made - - - -* | *9th February 2010* |
| *To be laid before Parliament* | |
| *Coming into operation* | *1st April 2010* |

The Secretary of State makes the following Order in exercise of the powers conferred by Articles 9(3), 25(12), 56(1) and (2), 61(1)(a), (2)(a) and (c) and (3) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**1**).

## PART 1

### Introduction

**Citation and commencement**

**1.** This Order may be cited as the Safeguarding Vulnerable Groups (Regulated Activity, Devolution Alignment and Miscellaneous Provisions) Order (Northern Ireland) 2010 and comes into operation on 1st April 2010.

**Interpretation**

**2.** In this Order—

"the 2007 Order" means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

(**1**) S.I. 2007/1351 (N.I. 11).

# PART 2

## Regulated activity relating to children

**Regulated activity: children**

**3.** Part 1 of Schedule 2 to the 2007 Order (regulated activity relating to children) is amended in accordance with Articles 4 to 6.

**4.**—(1) Paragraph 1 (general) is amended as follows.

(2) After sub-paragraph (7) insert—

"(7A) The exercise of a function under Article 130 of the Children (Northern Ireland) Order 1995(**2**), so far as it gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children is a regulated activity relating to children.".

(3) In sub-paragraph (8) for the words from "relates" to "paragraph 3(1)" substitute "gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children".

(4) Omit sub-paragraph (9).

(5) Omit sub-paragraph (10).

(6) Omit sub-paragraph (11).

(7) In sub-paragraph (12), for "(8) or (9)" substitute "(7A) or (8)".

**5.** In paragraph 3(1) (establishments)—

(a) omit the words "and (8)"; and

(b) after paragraph (b) insert—

"(bb) premises which are used for the provision of education by an education and library board or on its behalf, which do not fall within paragraph (a) or (b);".

**6.**—(1) Paragraph 4 (positions) is amended as follows.

(2) In sub-paragraph (1)—

(a) after paragraph (aa)(**3**) insert—

"(aaa) an individual who is the proprietor of an independent school;

(aab) an individual who takes part in the governance and management of an independent school;",

(b) in paragraph (k)(**4**) omit "wholly or mainly"; and

(c) after paragraph (k) insert—

"(l) member of an authority responsible for the approval of foster parents in accordance with regulations made under Articles 27 and 28 of the Children (Northern Ireland) Order 1995;

(m) member of an adoption panel established in accordance with regulations made under Article 10 of the Adoption (Northern Ireland) Order 1987 (regulation of adoption agencies)(**5**)."

(**2**) S.I. 1995/755 (N.I. 2).
(**3**) Paragraph (aa) of paragraph 4(1) of Schedule 2 was inserted by S.R. 2009/304.
(**4**) Paragraph (k) inserted by S.R. 2009/304.
(**5**) S.I. 1987/2203 (N.I. 22).

(3) After sub-paragraph (3) insert—

"(4) In this paragraph—

"independent school" and "proprietor" has the same meaning as in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**6**).".

# PART 3

## Regulated activity relating to vulnerable adults

### Regulated activity: vulnerable adults

**7.** Part 2 of Schedule 2 to the 2007 Order (regulated activity relating to vulnerable adults) is amended in accordance with Articles 8 and 9.

**8.**—(1) Paragraph 7 (regulated activity relating to vulnerable adults) is amended as follows.

(2) In sub-paragraph (5) for " or (4)" substitute ", (4) or (6)".

(3) For sub-paragraph (6) substitute—

"(6) The exercise of a function of the following so far as it gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with vulnerable adults, is a regulated activity relating to vulnerable adults—

(a) the Chief Inspector of Criminal Justice in Northern Ireland;

(b) RQIA.".

(4) Omit sub-paragraph (7).

(5) Omit sub-paragraph (8).

**9.** In paragraph 8(1) (office holders etc), in paragraph (f)(**7**) omit "wholly or mainly".

# PART 4

## The period condition

### Regulated activity: the period condition

**10.** In Part 3 of Schedule 2 to the 2007 Order (the period condition), in paragraph 10(1) for "two" substitute "three".

### Controlled activity: the period condition

**11.** In Articles 25(3), (4) and (5) and 26(2) of the 2007 Order (controlled activity: children and vulnerable adults), for "two" substitute "three".

(**6**) The definition of "independent school" was amended by Article 30(1) of the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1))

(**7**) Paragraph (f) inserted by S.R. 2009/304.

# PART 5

## Devolution alignment

### Provision of information by the Independent Safeguarding Authority to a police force in England, Wales or Scotland

**12.** In Article 52A(1)(**8**) of the 2007 Order, after "Police Service of Northern Ireland" insert "or the chief constable of a police force in England, Wales or Scotland".

# PART 6

## Miscellaneous amendments to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007

**13.** The 2007 Order is amended in accordance with Articles 14 to 24.

### Definition of institution of further education

**14.** In Article 2(2) (Interpretation) for the definition of "institution of further education", after "(NI 15)" insert "except that it includes a college or institution established under Article 5(1) of the Agriculture Act (Northern Ireland) 1949 (c.2) for the purpose of instructing persons in agriculture and related subjects".

### Amendments to references to the Regulation and Improvement Authority

**15.**—(1) In Article 2(2) (Interpretation) for the definition of "the Regulation and Improvement Authority" substitute—

""RQIA" means the Health and Social Care Regulation and Quality Improvement Authority;".

(2) In Article 47(7) and paragraph 1(8) of Schedule 2 for "the Regulation and Improvement Authority" substitute "RQIA".

### Educational establishments: members of governing body subject to monitoring

**16.** In Article 12 (Person not to engage in regulated activity unless subject to monitoring) for paragraph (11) substitute—

"(11) A person does not commit an offence under paragraph (3) if, in relation to any continuous period for which the person is a member of the governing body of the establishment—

(a) the person's appointment first took effect before the commencement of this Article, and

(b) it continues to have effect after such commencement.".

### Educational establishments: check on members of governing body

**17.** In Article 17 (Educational establishments: check on members of governing body)—

(a) after paragraph (1) insert—

"(1A) B commits an offence if he—

(**8**) Article 52A was inserted by the Policing and Crime Act 2009 (c. 26), section 91.

(a) acts as a member of the governing body of an educational establishment mentioned in Article 12(5),

(b) has not consented to P making a check in accordance with Article 19(2)(a), and

(c) has not provided P with any information required to make that check.";

(b) in paragraph (2) after "(1)" insert " or (1A)";

(c) after paragraph (3) insert—

"(3A) A person does not commit an offence under paragraph (1A) if, in relation to any continuous period for which the person is a member of the governing body of the establishment—

(a) the person's appointment first took effect before the commencement of this Article, and

(b) it continues to have effect after such commencement.";

(d) in paragraph (4) for "Paragraph (3) does" substitute "Paragraphs (3) and (3A) do"; and

(e) after paragraph (5) insert—

"(6) The period prescribed for purposes of paragraph (1) must not start before B has—

(a) consented to P making a check in accordance with Article 19(2)(a), and

(b) provided P with any information required to make that check.".

**Monitoring application**

**18.** In Article 28 (Monitoring)—

(a) in paragraph (1)(b) for "a monitoring application" substitute "an application to the Secretary of State under this Article ("a monitoring application")";

(b) in paragraph (8)(a) delete "Article"; and

(c) for paragraph (10) substitute—

"(10) The Secretary of State may determine the form, manner and contents of a monitoring application.".

**Monitoring: additional fees**

**19.**—(1) After Article 28 (Monitoring) insert—

"**Monitoring: power to prescribe additional fees**

**28A.**—(1) An individual subject to monitoring under Article 28 in relation to a regulated activity must pay a prescribed fee if—

(a) no fee was payable by virtue of Article 28(1)(d) when the individual made a monitoring application (within the meaning of Article 28) in respect of the activity, and

(b) there has been a prescribed change of circumstances as a result of which a fee would be payable by virtue of Article 28(1)(d) if a monitoring application were now made in respect of the activity.

(2) The amount of the fee payable by virtue of paragraph (1) must not exceed the amount of fee which would be payable if a monitoring application were made in respect of the activity as mentioned in paragraph (1)(b).