

2009 No. 21

SAFEGUARDING VULNERABLE GROUPS

**The Safeguarding Vulnerable Groups (Prescribed Criteria)
(Foreign Offences) Order (Northern Ireland) 2009**

Made - - - - - *22nd January 2009*

Coming into operation - *27th February 2009*

To be laid before Parliament

The Secretary of State makes the following Order in exercise of the powers conferred by Article 61(1), (2)(a) and (3) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007^(a).

Citation and Commencement

1. This Order may be cited as the Safeguarding Vulnerable Groups (Prescribed Criteria) (Foreign Offences) Order (Northern Ireland) 2009 and shall come into operation on 27th February 2009.

Interpretation

2. In this Order the “2007 Order” means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

Amendment to paragraph 24 of Schedule 1

3.—(1) Paragraph 24 of Schedule 1 (prescribed criteria) to the 2007 Order is amended in accordance with paragraphs (2) and (3).

(2) For paragraph (a) of sub-paragraph (2) substitute—

“(a) the law of a country or territory outside Northern Ireland;”.

(3) After sub-paragraph (9) insert—

“(10) For the purposes of sub-paragraph (2)(a) in its application to an offence committed outside the British Islands the Secretary of State must not specify the offence unless—

- (a) the conduct which constitutes the offence would, if carried out in Northern Ireland, amount to an offence under the law of Northern Ireland (the equivalent offence), and
- (b) the equivalent offence is also specified for the purposes of paragraph 1, 2, 7 or 8 (as the case may be).”.

(a) S.I. 2007 No. 1351 (N.I. 11).

Amendment to paragraph 25 of Schedule 1

4.—(1) Paragraph 25 of Schedule 1 to the 2007 Order is amended in accordance with paragraphs (2) and (3).

(2) The existing words of the paragraph shall become sub-paragraph (1).

(3) After sub-paragraph (1) insert—

“(2) This paragraph does not apply to convictions by or before a court in a country or territory outside Northern Ireland.”.

Northern Ireland Office
22nd January 2009

Paul Goggins
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under Article 61 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (“the 2007 Order”). It amends paragraph 24 of Schedule 1 to the 2007 Order by conferring a power on the Secretary of State to prescribe foreign offences for the purposes of paragraphs 1, 2, 7 and 8 of that Schedule. Paragraphs 1, 2, 7 and 8 refer to the criteria that may be prescribed by the Secretary of State which lead to the automatic inclusion of a person in the children’s barred list or the adults’ barred list.

Article 6 of the 2007 Order places a duty on the Independent Barring Board (an independent statutory body established under section 1 of the Safeguarding Vulnerable Groups Act 2006) to establish and maintain two lists, namely a children’s barred list and an adults’ barred list. Paragraphs 1, 2, 7 and 8 of Schedule 1 set out the circumstances in which a person is to be automatically included in the barred lists (either with or without a right to make representations).

Paragraph 24(1)(a) of Schedule 1 to the 2007 Order states that the criteria that can be prescribed for the purposes of paragraphs 1, 2, 7 and 8 include the fact that a person has been convicted of, or cautioned in relation to, an offence of a specified description. Paragraph 24(2)(a) of the Schedule sets out the offences that can be included in the prescribed criteria. As originally enacted, paragraph 24(2)(a) provides that the power to specify offences includes offences under the law of England and Wales, Scotland, the Channel Islands or the Isle of Man. This Order amends paragraph 24(2)(a) in order to enable the Secretary of State to include (in the criteria prescribed for the purposes of paragraphs 1, 2, 7 and 8) offences committed under the law of any country or territory outside Northern Ireland. Only foreign offences that are equivalent to offences under the law of Northern Ireland (and which have been prescribed for the same purposes) can be prescribed for the purposes of paragraphs 1, 2, 7 and 8 of Schedule 1 to the 2007 Order.

The Order also makes a consequential amendment to paragraph 25 of Schedule 1 to the 2007 Order, in that it clarifies that paragraph 25 applies to courts in Northern Ireland only. Paragraph 25 places a duty on a court that convicts a person of an offence that would lead to automatic inclusion in the barred lists to inform the person convicted that the Independent Barring Board will include him or her in the barred list concerned.

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