



Safeguarding Vulnerable Groups Act 2006

2006 CHAPTER 47

General

57 Damages

- (1) No claim for damages lies in respect of any loss or damage suffered by any person in consequence of—
 - (a) the fact that an individual is included in a barred list;
 - (b) the fact that an individual is not included in a barred list;
 - (c) the provision of prescribed information in pursuance of any of sections 35, 36, 37, 39, 40, 41, 42, 45 and 46.
- (2) Subsection (1)(c) does not apply to the provision of information which is untrue by a person who knows the information is untrue and either—
 - (a) he is the originator of the information and he knew at the time he originated the information that it was not true, or
 - (b) he causes another person to be the originator of the information knowing, at the time the information is originated, that it is untrue.
- (3) Nothing in this Act affects section 8 of the Human Rights Act 1998 (c. 42) as it relates to the power of a court to award damages in respect of an unlawful act of a public authority (within the meaning of that Act).

58 Family and personal relationships

- (1) This Act does not apply to any activity which is carried out in the course of a family relationship.
- (2) This Act does not apply to any activity which is carried out—
 - (a) in the course of a personal relationship, and
 - (b) for no commercial consideration.
- (3) A family relationship includes a relationship between two persons who—
 - (a) live in the same household, and

- (b) treat each other as though they were members of the same family.
- (4) A personal relationship is a relationship between or among friends.
- (5) A friend of a person (A) includes a person who is a friend of a member of A's family.
- (6) The Secretary of State may by order provide that an activity carried out in specified circumstances either is or is not—
 - (a) carried out in the course of a family relationship;
 - (b) carried out in the course of a personal relationship.

59 Vulnerable adults

- (1) A person is a vulnerable adult if he has attained the age of 18 and—
 - (a) he is in residential accommodation,
 - (b) he is in sheltered housing,
 - (c) he receives domiciliary care,
 - (d) he receives any form of health care,
 - (e) he is detained in lawful custody,
 - (f) he is by virtue of an order of a court under supervision by a person exercising functions for the purposes of Part 1 of the Criminal Justice and Court Services Act 2000 (c. 43),
 - (g) he receives a welfare service of a prescribed description,
 - (h) he receives any service or participates in any activity provided specifically for persons who fall within subsection (9),
 - (i) payments are made to him (or to another on his behalf) in pursuance of arrangements under section 57 of the Health and Social Care Act 2001 (c. 15), or
 - (j) he requires assistance in the conduct of his own affairs.
- (2) Residential accommodation is accommodation provided for a person—
 - (a) in connection with any care or nursing he requires, or
 - (b) who is or has been a pupil attending a residential special school.
- (3) A residential special school is a school which provides residential accommodation for its pupils and which is—
 - (a) a special school within the meaning of section 337 of the Education Act 1996 (c. 56);
 - (b) an independent school (within the meaning of section 463 of that Act) which is approved by the Secretary of State in accordance with section 347 of that Act;
 - (c) an independent school (within the meaning of section 463 of that Act) not falling within paragraph (a) or (b) which, with the consent of the Secretary of State given under section 347(5)(b) of that Act, provides places for children with special educational needs (within the meaning of section 312 of that Act);
 - (d) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992) which provides accommodation for children.
- (4) Domiciliary care is care of any description or assistance falling within subsection (5) whether provided continuously or not which a person receives in a place where he is, for the time being, living.

- (5) Assistance falls within this subsection if it is (to any extent) provided to a person by reason of—
- (a) his age;
 - (b) his health;
 - (c) any disability he has.
- (6) Health care includes treatment, therapy or palliative care of any description.
- (7) A person is in lawful custody if he is—
- (a) detained in a prison (within the meaning of the Prison Act 1952 (c. 52));
 - (b) detained in a remand centre, young offender institution or secure training centre (as mentioned in section 43 of that Act);
 - (c) detained in an attendance centre (within the meaning of section 53(1) of that Act);
 - (d) a detained person (within the meaning of Part 8 of the Immigration and Asylum Act 1999 (c. 33)) who is detained in a removal centre or short-term holding facility (within the meaning of that Part) or in pursuance of escort arrangements made under section 156 of that Act.
- (8) The reference to a welfare service must be construed in accordance with section 16(5).
- (9) A person falls within this subsection if—
- (a) he has particular needs because of his age;
 - (b) he has any form of disability;
 - (c) he has a physical or mental problem of such description as is prescribed;
 - (d) she is an expectant or nursing mother in receipt of residential accommodation pursuant to arrangements made under section 21(1)(aa) of the National Assistance Act 1948 or care pursuant to paragraph 1 of Schedule 8 to the National Health Service Act 1977 (c. 49);
 - (e) he is a person of a prescribed description not falling within paragraphs (a) to (d).
- (10) A person requires assistance in the conduct of his own affairs if—
- (a) a lasting power of attorney is created in respect of him in accordance with section 9 of the Mental Capacity Act 2005 (c. 9) or an application is made under paragraph 4 of Schedule 1 to that Act for the registration of an instrument intended to create a lasting power of attorney in respect of him;
 - (b) an enduring power of attorney (within the meaning of Schedule 4 to that Act) in respect of him is registered in accordance with that Schedule or an application is made under that Schedule for the registration of an enduring power of attorney in respect of him;
 - (c) an order under section 16 of that Act has been made by the Court of Protection in relation to the making of decisions on his behalf, or such an order has been applied for;
 - (d) an independent mental capacity advocate is or is to be appointed in respect of him in pursuance of arrangements under section 35 of that Act;
 - (e) independent advocacy services (within the meaning of section 248 of the National Health Service Act 2006 (c. 41) or section 187 of the National Health Service (Wales) Act 2006 (c. 42)) are or are to be provided in respect of him;

- (f) a representative is or is to be appointed to receive payments on his behalf in pursuance of regulations made under the Social Security Administration Act 1992 (c. 5).
- (11) The Secretary of State may by order provide that a person specified in the order or of a description so specified who falls within subsection (1) is not to be treated as a vulnerable adult.

60 Interpretation

(1) In this Act—

“the adults' barred list” must be construed in accordance with section 2(1)(b);

“barred list” means the children’s barred list or the adults' barred list;

“child” means a person who has not attained the age of 18;

“the children’s barred list” must be construed in accordance with section 2(1)(a);

“educational institution” includes any training provider (within the meaning of Part 3 of the Education Act 2005 (c. 18)), whether or not the training provider would otherwise be regarded as an institution;

“employment agency” and “employment business” must be construed in accordance with the Employment Agencies Act 1973 (c. 35);

“personnel supplier” means—

(a) a person carrying on an employment agency or an employment business, or

(b) an educational institution which supplies to another person a student who is following a course at the institution, for the purpose of enabling the student to obtain experience of engaging in regulated or controlled activity;

“prescribed” means prescribed by regulations made by the Secretary of State;

“supervisory authority” must be construed in accordance with section 45(7);

“vulnerable adult” must be construed in accordance with section 59.

- (2) A reference (however expressed) to a person being barred must be construed in accordance with section 3.
- (3) A reference to a person being subject to monitoring in relation to a regulated activity must be construed in accordance with section 24.
- (4) Nothing in this Act affects any power to provide information that exists apart from this Act.

61 Orders and regulations

- (1) Any power under this Act to make orders or regulations is exercisable by statutory instrument.
- (2) Subject to subsections (3) and (4), orders or regulations under this Act are subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) An instrument containing provision made—
- (a) by order under section 5(3),
 - (b) by order under section 16(7)(b),
 - (c) by order under section 21(12),
 - (d) in regulations under section 22(4)(g),
 - (e) in regulations under section 23,
 - (f) by order under section 54(1) if it contains provision amending any Act or confers power to make subordinate legislation,
 - (g) under section 64(3),
 - (h) in regulations prescribing criteria for the purpose of paragraph 1, 2, 7 or 8 of Schedule 3,
 - (i) by order under paragraph 6 or 12 of Schedule 3, or
 - (j) by order under paragraph 14 of Schedule 5.
- must not be made unless a draft of the instrument is laid before and approved by a resolution of each House of Parliament.
- (4) Subsection (2) does not apply to an order made under section 65, including such an order which contains provision made under section 64 (except subsection (3) of that section).
- (5) A power to make an order or regulations may be exercised so as to make different provision for different purposes.

62 Transitional provision

Schedule 8 has effect.

63 Amendments and repeals

- (1) Schedule 9 contains amendments.
- (2) Schedule 10 contains repeals.

64 Supplementary, incidental, consequential &c. provision

- (1) Power to make subordinate legislation under this Act includes power to make—
 - (a) such supplementary, incidental or consequential provision, or
 - (b) such transitory, transitional or saving provision,as the person making the subordinate legislation thinks necessary or expedient.
- (2) The Secretary of State may by order may make such further provision as he considers appropriate—
 - (a) for the general purposes, or any particular purpose, of this Act;
 - (b) in consequence of any provision made by this Act;
 - (c) for giving full effect to this Act or any provision made by it.
- (3) Subordinate legislation under subsection (1) or (2) may amend, repeal, revoke or otherwise modify any enactment (including this Act).
- (4) References in this section to subordinate legislation are to an order or regulations under this Act.

(5) Nothing in this Act affects the generality of the power conferred by this section.

65 Commencement

This Act (except this section and section 55) comes into force on such day as the Secretary of State appoints by order.

66 Extent

- (1) Subject to subsections (2) to (4), the preceding provisions of this Act extend only to England and Wales.
- (2) Sections 1, 28, 29 and 55 and Schedule 1 and, so far as relating to those provisions, sections 59 to 61 and 65 also extend to Northern Ireland.
- (3) The amendment of an enactment in Schedule 9 has the same extent as the enactment amended, but the amendments made by paragraph 14 of that Schedule do not extend to Scotland.
- (4) Her Majesty may by Order in Council direct that this Act extends, with such modifications as appear to Her Majesty to be appropriate, to any of the Channel Islands or the Isle of Man.

67 Short title

This Act may be cited as the Safeguarding Vulnerable Groups Act 2006.