

*These notes refer to the Safeguarding Vulnerable Groups Act 2006 (c.47) which received Royal Assent on 8 November 2006*

# **SAFEGUARDING VULNERABLE GROUPS ACT 2006**

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## **EXPLANATORY NOTES**

### **PROFESSIONAL BODIES AND SUPERVISORY AUTHORITIES**

132. Sections 41 to 44 make provision regarding the professional bodies, and the relevant registers which they keep, listed in section 41(7). Sections 45 to 50 make provision for supervisory authorities, as listed in section 45(7).

#### ***Section 41: Registers: duty to refer***

133. This section sets out circumstances in which a professional body whose register is specified in section 41(7) is under a duty to provide prescribed information to the IBB. Broadly, these circumstances are that the professional body thinks that:
- a. an individual who appears on its register or list satisfies any of the criteria under which he could be barred or considered for barring under Schedule 3,
  - b. the individual is engaged or may engage in a regulated or controlled activity, and
  - c. the IBB may consider it appropriate for the individual to be included in a barred list.
134. This section also provides professional bodies with a power to refer information to the IBB. This power applies where the professional body thinks that a person has engaged in relevant conduct before commencement of the section, that the information may lead to the person's inclusion in a barred list and that the person is engaged or may engage in regulated or controlled activity.

#### ***Section 43: Registers: notice of barring and cessation of monitoring***

135. This section makes provision for the sharing of information by the Secretary of State and the IBB with the General Teaching Councils for England and Wales, the General Social Care Council and the Care Council for Wales. The section places a duty on the Secretary of State to inform the body if an individual that he thinks is on the body's register becomes barred. In this case, the Secretary of State must also require the IBB to provide the body with all the information on which the IBB relied in coming to its decision to bar. This will enable the body to make a decision about whether to remove an individual from its register or place conditions on the individual's registration. Similarly the Secretary of State must inform these professional or regulatory bodies if an individual that he thinks is on the register ceases to be subject to monitoring.
136. The IBB must also provide the General Teaching Councils for England and Wales, the General Social Care Council and the Care Council for Wales with relevant information that it holds about an individual who it thinks is on the body's register. This applies regardless of whether the information has led the IBB to bar the individual. For this duty to be invoked, the information must be relevant to the protection of children or

vulnerable adults and to the exercise of the functions of the body concerned. The duty does not apply to:

- a. information that the IBB must not consider in making a barring decision because the police do not think that it would be in the interests of the prevention or detection of crime to disclose it to the person whom the IBB is considering barring;
- b. information that a person has been included on a barred list or an equivalent Northern Ireland or Scottish list; the information leading to such inclusion; or information that a person has otherwise ceased to be subject to monitoring. Section 43(2) already ensures that this information is provided to the General Teaching Councils in England and Wales, the General Social Care Council and the Care Council for Wales.

***Section 44: Registers: power to apply for vetting information***

137. This section provides that the Secretary of State must provide, on request, the General Teaching Councils for England and Wales, the General Social Care Council and the Care Council for Wales with information about a person who appears on the body's register or whom the body is considering including on its register. The information that the Secretary of State must provide is:
- a. whether the person is barred,
  - b. whether the person is being considered for barring at the IBB's discretion,
  - c. whether the person is subject to monitoring,
  - d. if the person is subject to monitoring, whether the Secretary of State has (i) notified the person whether the enquiries required under Section 24(3) have produced any disclosable information and provided that information to him and (ii) issued an enhanced criminal records certificate in relation to the person following a simultaneous application both for such a certificate and to become subject to monitoring. Obviously the Secretary of State will not be able to provide such notification until all the relevant information has been obtained about an individual.

***Section 45: Supervisory authorities: duty to refer***

138. This section relates to the authorities that are set out in subsection (7). The section provides for the circumstances when such a supervisory authority is under a duty to provide prescribed information to the IBB. Broadly, these circumstances are that the supervisory authority thinks that:
- a. the individual satisfies any of the criteria under which he could be barred or considered for barring under Schedule 3,
  - b. the individual is engaged, or may engage, in a regulated or controlled activity, and
  - c. the IBB may consider it appropriate for the individual to be included in a barred list.
139. This section allows for the list of supervisory authorities to be amended in the future.
140. This section also provides a supervisory authority with a power to refer prescribed information to the IBB. This power applies where supervisory authority thinks that a person has engaged in relevant conduct before commencement of the section, that the information may lead to the person's inclusion in a barred list and that the person is engaged or may engage in regulated or controlled activity.

***Section 47: supervisory authorities: power to apply for vetting information***

141. This section provides that, on the request of a supervisory authority, the Secretary of State must provide it with information required in connection with its functions. The information that the Secretary of State must provide is:
- d. whether the person is barred,
  - e. whether the person is being considered for barring at the IBB's discretion, rather than as a result of fulfilling a criterion for automatic barring,
  - f. whether the person is subject to monitoring,
  - g. if the person is subject to monitoring, whether the Secretary of State has finished obtaining all the relevant information about the person as specified in section 24(3) and notified him in accordance with section 24(4). (See comments above regarding barring in the commentary on section 44).

***Section 48: Supervisory authorities: notification of barring etc in respect of children***

142. This section provides the mechanism for supervisory authorities to be notified when a person is newly included on the children's barred list or an equivalent list in Scotland or Northern Ireland, or a person ceases to be subject to monitoring in relation to regulated activity relating to children. If a supervisory authority wants to be notified in future if the person is barred or ceases to be subject to monitoring it must register an interest in that person by making an application to the Secretary of State (section 48(3)(a)). A supervisory authority may later withdraw its application in relation to the person (section 48(3)(b)). It may only register an interest in a person where it needs to be notified of changes in that person's circumstances in connection with its functions (section 48(4)).

***Section 49: Supervisory authorities: notification of barring etc in respect of vulnerable adults***

143. This section is equivalent to section 48, but in relation to vulnerable adults.

***Section 50: Provision of information to supervisory authorities***

144. Under this section the IBB must provide a supervisory authority with relevant information that it holds about an individual. This applies regardless of whether the information has led the IBB to bar the individual. Relevant information is defined as information which relates to the protection of children or vulnerable adults and which is relevant to the exercise of the functions of the authority concerned. The section does not apply to:
- a. information that the IBB must not consider in making a barring decision because the police do not think that it would be in the interests of the prevention or detection of crime to disclose to the person whom the IBB is considering barring;
  - b. information that a person has been included on a barred list or an equivalent Northern Ireland or Scottish list, or has otherwise ceased to be subject to monitoring. Sections 48 and 49 already ensure that this information is provided to supervisory authorities.