

*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**

### **MISCELLANEOUS**

#### ***Section 53 – Fostering***

147. This section, in conjunction with section 7 and paragraph 1(5) of Schedule 4, ensure that it is an offence for a barred person to act as a local authority foster carer, foster carer employed by a voluntary organisation, or a person who fosters a child for reward or through the arrangements made by a person other than a member of the child’s family. Any organisation that arranges (and has the power to terminate) a placement will be required to check the carer’s status, and an offence will be committed if the check is not made or if the child is knowingly placed with a barred individual or someone who is not subject to monitoring. In these situations the carer will also commit an offence if he or she is not subject to monitoring. This will cover, for example, private fostering arrangements and host families provided by a language school. Sections 6(7) and 53(10) also ensure that the foster carer is able to take day to day decisions concerning their foster child, as would a parent, without being treated as a “regulated activity provider” and being required to check every individual who helps care for the child.
148. Paragraph 12 of Schedule 9 ensures that individuals are disqualified from private fostering if they are on the children’s barred list or they live with a person on the children’s barred list.

#### ***Section 54 – Devolution: alignment***

149. Section 54 provides a general power to make amendments to any legislation having regard to Scottish or Northern Ireland legislation equivalent to this Act.
150. The reference to “monitoring provision” in section 54 will allow for provision to be made in future so that a person who is subject to monitoring (or its equivalent) by Scottish Ministers, or who has made an application to become subject to monitoring under Northern Ireland legislation (see section 55), is also treated as if subject to monitoring in England and Wales. This will reduce the administrative burden of repeat applications for workers who cross borders within the UK.

#### ***Section 55 – Northern Ireland***

151. Section 55 is a technical provision that will only be relevant whilst the Northern Ireland Assembly continues to be suspended and section 1 of the Northern Ireland Act 2000 is in force. Whilst that is the case, an Order in Council making Northern Ireland legislation for purposes equivalent to those of this Act is subject to the negative resolution procedure.

**Section 56 – Devolution: Wales**

152. This section provides that certain secondary legislation-making powers in the Act, to the extent that they affect Wales, transfer to Welsh Ministers. These include:
  - a. setting the period within which a check must be made on a governor of an educational establishment, following his appointment;
  - b. defining the steps which must be taken when employing a person in controlled activity;
  - c. requiring local authorities to tell direct payments recipients about the vetting and barring scheme;
  - d. setting the date by which all checks with the barring scheme must have been made for the vulnerable groups workforce, where these are required.
153. This section also provides that the Secretary of State must obtain the agreement of Welsh Ministers before exercising secondary legislation-making powers that provide for:
  - a. the information to be provided by the National Assembly for Wales (in its capacity as a supervisory authority) when making referrals to the IBB;
  - b. the procedure for applications made by the Assembly (again in its capacity as a supervisory authority) to the Secretary of State for certain information;
  - c. changes to the status of the Assembly as a supervisory authority (to which requirements apply relating to the provision of information);
  - d. the status of the Assembly as an “interested supervisory authority” (eligible to be notified of certain information) to be altered.
154. The section also states that, in exercising other significant secondary legislation-making powers in the Act, the Secretary of State must consult Welsh Ministers.