

# PROTECTION OF FREEDOMS ACT 2012

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 5: Safeguarding vulnerable groups, criminal records etc.**

#### *Chapter 1: Safeguarding of vulnerable groups*

#### *Schedule 7: Safeguarding of vulnerable groups: Northern Ireland*

319. *Paragraph 1* replicates the provisions in section 64, which limit the scope of regulated activity in relation to children. However, unlike in England and Wales, the following activities are retained within the scope of regulated activity:
- the work of education, health, social care and justice inspectorates;
  - the activities of Guardians Ad Litem; and
  - the function of a controller appointed in respect of a child under Article 101 of the [Mental Health \(NI\) Order 1986](#).
320. A children's hospital is also being retained as a specified establishment (there is only one dedicated children's hospital in Northern Ireland) and accordingly persons working in such an establishment would come within the scope of regulated activity.
321. *Paragraph 2* replicates the changes to the definition of vulnerable adults as provided for in section 65.
322. *Paragraph 3* replicates the provisions in section 66, which limit the scope of regulated activity in relation to vulnerable adults, with some adjustment to reflect differences in Northern Ireland legislation. *Paragraph 4* replicates the provisions in section 67 (alteration of test for barring decisions) so that decision-making by the ISA will be conducted consistently across England, Wales and Northern Ireland.
323. *Paragraph 5* abolishes controlled activity in Northern Ireland in line with the position in England and Wales provided for in section 68 and *paragraph 6* replicates section 69 by abolishing monitoring under the vetting and barring scheme in Northern Ireland.
324. *Paragraphs 7* and *8* replicate the provisions of sections 70 and 71, which will alter the way barring decision-making by the ISA will be undertaken and reviewed. *Paragraph 9* replicates section 72 (information about barring decisions) by inserting new Articles 32A and 32B into the SVGO. These new Articles make statutory provision for the introduction of new reactive and proactive barred list notification mechanisms in Northern Ireland.
325. *Paragraph 10* places a statutory duty on employers, volunteer managers and personnel suppliers to check whether an individual is barred prior to being permitted to engage in

*These notes refer to the Protection of Freedoms Act  
2012 (c.9) which received Royal Assent on 1 May 2012*

regulated activity with children or vulnerable adults in Northern Ireland, as is set out in section 73.

326. *Paragraph 11* makes reciprocal provision to section 74 by preventing duplicate inclusion in Northern Ireland, England and Wales, and Scotland barred lists and enabling the ISA to remove a person from a barred list if it knows that a person is included in a corresponding barred list.
327. *Paragraphs 12 and 13* replicate the provisions of sections 75 and 76 respectively. These paragraphs provide for information flows between the ISA and professional bodies and regulation and inspection bodies in Northern Ireland. The requirement for professional bodies and regulation and inspection bodies to refer matters to the ISA is also replaced with a power to refer.
328. *Paragraph 14* replicates section 77 by making equivalent minor amendments to the SVGO and omitting section 90(2) of the 2009 Act. Included in the minor amendments is provision for the police, prisons and Probation Board for Northern Ireland to obtain barred list information from the ISA.