



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 5

SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.

### CHAPTER 1

SAFEGUARDING OF VULNERABLE GROUPS

*Other amendments relating to new arrangements: England and Wales*

#### 75 Professional bodies

(1) In section 41 of the Safeguarding Vulnerable Groups Act 2006 (registers: duty to refer)

- (a) in subsection (1)—
  - (i) for “must” substitute “may”, and
  - (ii) omit “prescribed”,
- (b) in subsection (4)—
  - (i) in paragraph (a), for “engaged or may engage” substitute “or has been, or might in future be, engaged”,
  - (ii) also in paragraph (a), omit “or controlled activity”, and
  - (iii) in paragraph (b) for “, 2, 7 or 8” substitute “or 7”,
- (c) in subsection (5) omit “prescribed”, and
- (d) in the heading for “duty” substitute “power”.

(2) Omit paragraph 9(2)(a) of Schedule 5 to the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 ([S.I. 2009/1182](#)) (which, if section 44(1) of the Act of 2006 were to come into force, would insert subsections (4A) to (4C) into section 41 of the Act of 2006).

---

*Status: This is the original version (as it was originally enacted).*

---

- (3) In section 43 of the Act of 2006 (registers: notice of barring etc.) for subsections (1) to (5) substitute—
- “(1) Subsection (2) applies if—
- (a) ISA knows or thinks that a person (A) appears on a relevant register, and
  - (b) either—
    - (i) A is included in a barred list, or
    - (ii) ISA is aware that A is subject to a relevant disqualification.
- (2) ISA must—
- (a) notify the keeper of the register of the circumstances mentioned in subsection (1)(b)(i) or (as the case may be) (ii), and
  - (b) in the case where A is included in a barred list, provide the keeper of the register with such of the information on which ISA relied in including A in the list as ISA considers—
    - (i) to be relevant to the exercise of any function of the keeper, and
    - (ii) otherwise appropriate to provide.
- (3) Subsection (4) applies if the keeper of a relevant register applies to ISA to ascertain in relation to a person (A) whether—
- (a) A is included in a barred list, or
  - (b) ISA is aware that A is subject to a relevant disqualification.
- (4) ISA must notify the keeper of the register as to whether the circumstances are as mentioned in subsection (3)(a) or (as the case may be) (b).
- (5) ISA may (whether on an application by the keeper or otherwise) provide to the keeper of a relevant register such relevant information as ISA considers appropriate.
- (5A) Subsection (5B) applies if—
- (a) a keeper of a register has applied to the Secretary of State to be notified in relation to a person (A) if—
    - (i) A is included in a barred list, or
    - (ii) the Secretary of State is aware that A is subject to a relevant disqualification, and
  - (b) the application has not been withdrawn.
- (5B) The Secretary of State must notify the keeper of the register if the circumstances are, or become, as mentioned in subsection (5A)(a)(i) or (as the case may be) (ii).
- (5C) For the purposes of subsection (5A)(b) an application is withdrawn if—
- (a) the keeper of the register notifies the Secretary of State that the keeper no longer wishes to be notified if the circumstances are, or become, as mentioned in subsection (5A)(a)(i) or (as the case may be) (ii) in relation to A, or
  - (b) the Secretary of State cancels the application on either of the following grounds—

- (i) that the keeper has not answered, within such reasonable period as was required by the Secretary of State, a request from the Secretary of State as to whether the keeper still wishes to be notified if the circumstances are, or become, as mentioned in subsection (5A)(a)(i) or (as the case may be) (ii), or
  - (ii) that A neither appears in the register nor is being considered for inclusion in the register.
- (5D) A keeper of a relevant register may apply for information under this section, or to be notified under this section, in relation to a person (A) only if—
  - (a) A appears in the register, or
  - (b) A is being considered for inclusion in the register.
- (5E) The duties in subsections (2), (4) and (5B) do not apply if ISA or (as the case may be) the Secretary of State is satisfied that the keeper of the register already has the information concerned.
- (5F) The Secretary of State may determine the form, manner and contents of an application for the purposes of this section.
- (5G) In this section relevant information is information—
  - (a) which—
    - (i) relates to the protection of children or vulnerable adults in general, or of any child or vulnerable adult in particular, and
    - (ii) is relevant to the exercise of any function of the keeper of the register, but
  - (b) which is not—
    - (i) information that the circumstances are as mentioned in subsection (1)(b)(i) or (ii) in relation to a person,
    - (ii) any information provided under subsection (2)(b), or
    - (iii) information falling within paragraph 19(5) of Schedule 3.
- (5H) The Secretary of State may by order amend subsection (5G).”
- (4) In section 43(6)(a) of the Act of 2006 (meaning of “relevant register”) omit “of entry 1 or 8”.
- (5) In the heading of section 43 of that Act for “notice of barring and cessation of monitoring” substitute “provision of barring information to keepers of registers”.
- (6) Omit section 44 of that Act (registers: power to apply for vetting information).