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STATUTORY INSTRUMENTS

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**2010 No. 1154**

**The Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Devolution and Miscellaneous Provisions) Order 2010**

**Regulated activity: children**

3.—(1) Paragraph 1 (general) is amended as follows.

(2) After sub-paragraph (9) insert—

“(9A) The exercise of a function so far as the function—

- (a) relates to any of the matters mentioned in sub-paragraph (9B),
- (b) gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children, and
- (c) is not a function which falls within sub-paragraph (9C),

is a regulated activity relating to children.

(9B) The matters in this sub-paragraph are—

- (a) an inspection under section 10B of the Employment and Training Act 1973<sup>(1)</sup> (inspection of careers services in England);
- (b) the exercise of a power under section 79U(3) of the Children Act 1989<sup>(2)</sup> (powers of inspection etc on entry onto childminding or day care premises in Wales or premises on which childminding or day care is suspected to be taking place);
- (c) any step taken for the purposes of section 87(3) of that Act<sup>(3)</sup> (welfare of children in boarding schools and colleges);
- (d) an inspection under section 87(6) of that Act (inspection of boarding school or college);

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(1) 1973 c. 50. Section 10B was inserted by section 122 of the Learning and Skills Act 2000 (c. 21) and was amended by the Education Act 2005 (c. 18), Schedule 9, paragraphs 2(1) to (3) and by the Education and Inspections Act 2006 (c. 40), Schedule 14, paragraph 4(a) to (c) and Schedule 18, Part 5.

(2) 1989 c. 41. Section 79U was inserted by the Care Standards Act 2000 (c. 14), section 79(1) and was amended by the Education Act 2002 (c. 32), Schedule 13, paragraphs 5(1), (2), (5), (6) and (7) and Schedule 22, Part 3 and by the Childcare Act 2006 (c. 21), Schedule 2, paragraph 6 and Schedule 3, Part 2.

(3) Section 87 was amended by the Care Standards Act 2000 (c. 14), section 105(1) to (4) and by the Education and Inspections Act 2006 (c. 40), Schedule 14, paragraphs 6 and 16. As originally enacted, functions under section 87 were conferred on local authorities and the Secretary of State. The functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred under S.I. 1999/672 to the National Assembly for Wales and, in accordance with the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30, the functions of the Assembly are transferred to the Welsh Ministers. Section 105 of the Care Standards Act 2000 transferred the functions of local authorities under section 87, so far as exercisable in relation to England, to the National Care Standards Commission and, so far as exercisable in relation to Wales, to the National Assembly for Wales. The functions of the National Care Standards Commission were then transferred to the National Commission for Social Care Inspection by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), section 110 and Schedule 9, paragraph 10(1) and (3) and these functions were further transferred to Her Majesty's Chief Inspector for Education, Children's Services and Skills by the 2006 Act, Schedule 14, paragraphs 9, 16(1), (2) and (5) and Schedule 18, Part 5.

- (e) any step taken by a person appointed under section 87A(1) of that Act(4) (appointment as an inspector of boarding schools and colleges)—
  - (i) for the purposes of an agreement made in accordance with section 87A(2) of that Act, or
  - (ii) in order to comply with any requirement imposed on the person under section 87B of that Act(5);
- (f) an inspection under section 18B or 18C of the Education Act 1994(6) (inspection of teacher training);
- (g) an inspection under section 38 of the Education Act 1997(7) (inspection of local education authorities in Wales);
- (h) an inspection under section 31 of the Care Standards Act 2000(8) (inspections of establishments and agencies or the inspection of premises suspected as being used as an establishment or agency) of a residential family centre, a fostering agency, a voluntary adoption agency or an adoption support agency (each of which has the meaning given in section 4 of that Act(9));
- (i) an inspection under Part 4 of the Learning and Skills Act 2000(10) (inspection of education and training within the remit of Her Majesty’s Chief Inspector of Education and Training in Wales);
- (j) a review or investigation under section 94 of the Health and Social Care (Community Health and Standards) Act 2003(11) (review or investigation of the discharge of social services functions by local authorities in Wales);
- (k) a review or investigation under section 94 of that Act as applied by section 30 of the Children Act 2004(12) (review or investigation of the functions of children’s services authorities in Wales);
- (l) an inspection under section 28 of the Education Act 2005(13) (duty of Her Majesty’s Chief Inspector of Education and Training in Wales to arrange regular inspections of certain schools);

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- (4) Sections 87A and 87B were inserted by the Deregulation and Contracting Out Act 1994 (c. 40), section 38. Section 87A was substituted by the Care Standards Act 2000 (c. 14), section 106(1). Section 87B was amended by section 106(2) of the Care Standards Act 2000. The functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 and are now exercisable by the Welsh Ministers – see previous footnote.
  - (5) See footnote (d) above.
  - (6) 1994 c. 30. Sections 18A and 18B were inserted by the Education Act 2005 (c. 18), Schedule 14, paragraph 13. Section 18B was amended by the Education and Inspections Act 2006 (c. 40), Schedule 14, paragraph 19(1), (2), (3), (6) and (7) and the Education and Skills Act 2008 (c. 25), section 167.
  - (7) 1997 c. 44. Section 38 was amended by the Children Act 2004 (c. 31), section 51 and the Education Act 2005 (c. 18), Schedule 9, paragraph 11. Further amendments were made by the Education and Inspections Act 2006 (c. 40), Schedule 14, paragraphs 20, 22(1) to (4) and Schedule 18, Part 5, the Childcare Act 2006 (c. 21), Schedule 2, paragraph 28 and the Learning and Skills Act 2000 (c. 21), section 73(1) and (3)(a). The functions of secretary of State under section 38 were transferred to the National Assembly for Wales under S.I. 1999/672 and subsequently transferred by the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30.
  - (8) 2000 c. 14.
  - (9) Section 4 of the Care Standards Act 2000 (c. 14) was amended by the Adoption and Children Act 2002, section 8(3) and Schedule 3, paragraphs 103 and 104 and by the Health and Social Care Act 2008 (c. 14), Schedule 5, Part 1, paragraphs 1 and 5(1) to (3).
  - (10) 2000 c. 21. Part 4 of the Act was amended by S.I. 2005/3238 (amendments to sections 75, 77, 83 and 84) and by the Education Act 2005 (c. 18), Schedule 9, paragraphs 24 and 25 (amendments to sections 75 and 86 respectively) and section 81 was repealed by Schedule 19, Part 1 of that Act. Further amendments were made to section 82 by the Education and Inspections Act 2006 (c. 40), Schedule 14, paragraphs 55 and 57(1) to (5) and to section 83 by the Education Act 2002 (c. 32), section 178(1) and (4).
  - (11) 2003 c. 43.
  - (12) 2004 c. 31.
  - (13) 2005 c. 18. Section 28 was amended by S.I. 2005/3238 and is further amended by the Education and Skills Act 2008 (c. 25), Schedule 1, Part 1, paragraphs 25 and 27 but the amendments made by the 2008 Act are not yet in force.

- (m) an inspection under section 48 or 50 of that Act(**14**) (inspection of religious education);
- (n) an inspection under section 51 of that Act(**15**) (power of local education authorities to inspect maintained school for specific purpose);
- (o) an inspection under section 55 of that Act(**16**) (inspection of careers services in Wales);
- (p) the exercise of a power under section 77(4) of the Childcare Act 2006(**17**) (powers of inspection etc on entry onto premises in accordance with section 77 of that Act);
- (q) an inspection under section 118, 124, 125, 126 or 128 of the Education and Inspections Act 2006(**18**) (inspection of further education and training etc);
- (r) an inspection under section 136 or a review under section 138 of that Act(**19**) (inspections and annual reviews of local authorities in England);
- (s) an inspection under section 143 of that Act (inspection of the functions of the Children and Family Court Advisory and Support Service);
- (t) an inspection under section 146 of that Act (inspection of secure training centres).

(9C) The exercise of a function to which sub-paragraph (10)(**20**) applies so far as the function—

- (a) relates to the inspection of an establishment mentioned in paragraph 3(1)(**21**), and
- (b) gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children,

is a regulated activity relating to children.”

(3) In sub-paragraph (10) for “The exercise” to “children” substitute “This sub-paragraph applies to a function of”.

(4) For sub-paragraph (11)(**22**) substitute—

“(11) The exercise of a function of the Welsh Ministers so far as the function—

- (a) relates to the inspection of an establishment, agency or body falling within sub-paragraph (12), and
- (b) gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children,

is a regulated activity relating to children.”

(5) After sub-paragraph (12) insert—

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(14) Sections 48 and 50 are extended to pupil referral units by [S.I. 2007/1069](#) (Wales) and [S.I. 2007/2979](#) (England).  
(15) Section 51 is extended to pupil referral units by [S.I. 2007/1069](#) (Wales) and [S.I. 2007/2979](#).  
(16) Section 55 is extended to pupil referral units by [S.I. 2007/1069](#) (Wales) and [S.I. 2007/2979](#).  
(17) [2006 c. 21](#). Section 77 was amended by the Education and Inspections Act 2006 ([c. 40](#)), Schedule 14, paragraphs 108, 113(1) to (4) and Schedule 18, Part 5.  
(18) [2006 c. 40](#).  
(19) By virtue of section 147(2), inspections under section 136 also include inspections of premises used by local authorities in connection with their fostering and adoption functions.  
(20) Sub-paragraph (10) was amended by the Education and Skills Act 2008 ([c. 25](#)), Schedule 1, Part 1, paragraphs 41(1) to (4) but the amendments are not yet in force. Amendments to this sub-paragraph were also made by the Health and Social Care Act 2008 ([c. 14](#)), Schedule 5, Part 3, Paragraphs 92(1) and (2) and Schedule 15, Part 1 and by [S.I. 2009/2610](#).  
(21) Paragraph 3(1) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 ([c. 22](#)), section 200.  
(22) Sub-paragraph (11) was amended by [S.I. 2009/2610](#).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“(12A) Accessing a database established in pursuance of section 12(1)(a) or (b) or 29(1)(a) or (b) of the Children Act 2004 (information databases) is a regulated activity relating to children.”

(6) In sub-paragraph (13A)(23) for “relates” to the end of paragraph (b) substitute—

“(a) relates to the inspection of anything which is listed in section 60(1) of the Health and Social Care Act 2008(24) and involves the provision of any form of treatment or therapy for children, and

(b) gives the person exercising the function the opportunity, in consequence of anything the person is permitted or required to do in the exercise of that function, to have contact with children.”.

(7) In sub-paragraph (14)(25) for “(10)” substitute “(9C)”.

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(23) Sub-paragraph (13A) was inserted by the Health and Social Care Act 2008 (c. 14), Schedule 5, Part 3, paragraphs 92(1) and (4).

(24) 2008 c. 14.

(25) Sub-paragraph (14) was amended by the Health and Social Care Act 2008 (c. 14), Schedule 5, Part 3, paragraphs 94(1) and (5).