
STATUTORY INSTRUMENTS

2012 No. 3006

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES
CHILDREN AND YOUNG
PERSONS, NORTHERN IRELAND
POLICE, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, NORTHERN IRELAND**

The Protection of Freedoms Act 2012 (Disclosure and
Barring Service Transfer of Functions) Order 2012

Made - - - - - *29th November 2012*

Coming into force - - - - - *1st December 2012*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 88 and 89 of the Protection of Freedoms Act 2012⁽¹⁾

A draft of this Order was laid before Parliament in accordance with section 89(2) of the Protection of Freedoms Act 2012 and was approved by resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 and shall come into force on 1st December 2012.

(2) Subject to paragraphs (3), (4), (5) and (6), this Order extends to England and Wales and Northern Ireland.

(3) The amendments to any enactment made by this Order, subject to paragraphs (4), (5) and (6), have the same extent as the enactment amended.

(4) Subject to paragraph (5), the amendments made to the Police Act 1997⁽²⁾ extend to England and Wales only.

(5) The amendments made to the Police Act 1997 by articles 13(2)(c), 52 and 53 extend to Northern Ireland only.

(6) In article 73 the removal of paragraph (f) in the table in section 56(6) of the Data Protection Act 1998⁽³⁾ extends to England and Wales only.

(7) In this Order—

“the 1997 Act” means the Police Act 1997;

“the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006⁽⁴⁾;

“the 2007 Order” means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007⁽⁵⁾;

“the 2008 Northern Ireland Transitional Provisions Order” means the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008⁽⁶⁾;

“the 2008 Transitional Provisions Order” means the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008⁽⁷⁾;

“the 2012 Act” means the Protection of Freedoms Act 2012;

“DBS” means the Disclosure and Barring Service;

“ISA” means the Independent Safeguarding Authority;

“the principal enactments” means the 2006 Act, the 2007 Order, the 2008 Northern Ireland Transitional Provisions Order and the 2008 Transitional Provisions Order.

(2) 1997 c. 50.

(3) 1998 c. 29.

(4) 2006 c. 47.

(5) S.I. 2007/1351 (N.I. 11).

(6) S.R. 2008/200.

(7) S.I. 2008/473.

PART 2

Transfer of the Independent Safeguarding Authority's functions

CHAPTER 1

Transfer of ISA's functions

Transfer of ISA's functions

2. All of ISA's functions except for the function of establishing the children's barred list and the adults' barred list under section 2 of the 2006 Act and Article 6 of the 2007 Order are transferred to DBS.

CHAPTER 2

Consequential amendments to the principal enactments

Consequential amendments to the 2006 Act

3. In the following provisions of the 2006 Act for "ISA", in each place where it occurs, substitute "DBS"—

- (a) sections 2 and 4;
- (b) sections 35 to 42;
- (c) section 43 (including section 43(1) and (2) as substituted by section 75(3) of the 2012 Act);
- (d) sections 45 to 47;
- (e) sections 50 and 50A(8);
- (f) the following paragraphs of Schedule 3—
 - (i) paragraphs 2 to 5;
 - (ii) paragraph 5A(9);
 - (iii) paragraph 6 (including the reference to ISA inserted by section 74(2) of the 2012 Act);
 - (iv) paragraphs 8 to 11;
 - (v) paragraph 11A(10);
 - (vi) paragraph 12 (including the reference to ISA inserted by section 74(4) of the 2012 Act);
 - (vii) paragraphs 13 to 21;
 - (viii) paragraphs 22A(11) and 23;
 - (ix) paragraph 25;
- (g) the table in paragraph 1 of Schedule 7;
- (h) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 8.

4. In section 2 omit "establish and".

5. In section 60(1) after the definition of "the children's barred list" insert—

(8) Section 50A was inserted by section 88 of the Policing and Crime Act 2009 (c. 26) and amended by sections 77 and 115(1) of, and paragraphs 43 and 65 of Schedule 9 to, the 2012 Act.
(9) Paragraph 5A was inserted by section 74(1) of the 2012 Act.
(10) Paragraph 11A was inserted by section 74(3) of the 2012 Act.
(11) Paragraph 22A was inserted by S.I. 2011/565.

““DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;”

Consequential amendments to the 2007 Order

6. In the following provisions of the 2007 Order for “ISA”, in each place where it occurs, substitute “DBS”—

- (a) Articles 2, 6 and 8;
- (b) Articles 37 to 44;
- (c) Article 45 (including Article 45(1) and (2) as substituted by paragraph 12(2) of Schedule 7 to the 2012 Act);
- (d) Articles 47 to 49;
- (e) Articles 52 and 52A(12);
- (f) the following paragraphs of Schedule 1—
 - (i) paragraphs 2 to 5;
 - (ii) paragraph 5A(13);
 - (iii) paragraph 6 (including the reference to ISA inserted by paragraph 11(2) of Schedule 7 to the 2012 Act);
 - (iv) paragraphs 8 to 11;
 - (v) paragraph 11A(14);
 - (vi) paragraph 12 (including the reference to ISA inserted by paragraph 11(4) of Schedule 7 to the 2012 Act);
 - (vii) paragraphs 13 to 21;
 - (viii) paragraphs 22A(15) and 23;
 - (ix) paragraph 25;
- (g) paragraphs 1 (including the heading), 2(2) and 3(2) of Schedule 6.

7. For Article 5 substitute—

“Disclosure and Barring Service

5. In this Order references to DBS are references to the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012.”

8. In Article 6 omit “establish and”.

Consequential amendments to the 2008 Northern Ireland Transitional Provisions Order

9. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for “IBB”(16) substitute “DBS”—

- (a) article 3(2), (4) and (5);

(12) Article 52A was inserted by section 91 of the Policing and Crime Act 2009 and amended by sections 78 and 115(1) of, and paragraph 14 of Schedule 7 and paragraphs 75 and 97 of Schedule 9 to the 2012 Act.

(13) Paragraph 5A was inserted by paragraph 11(1) of Schedule 7 to the 2012 Act.

(14) Paragraph 11A was inserted by paragraph 11(3) of Schedule 7 to the 2012 Act.

(15) Paragraph 22A was inserted by [S.I. 2010/2660](#).

(16) The Independent Barring Board was the original name of the Independent Safeguarding Authority as established by section 1 of the Safeguarding Vulnerable Groups Act 2006. The Independent Barring Board, or IBB, was renamed the Independent Safeguarding Authority by section 81 of the Policing and Crime Act 2009.

- (b) article 4(2);
- (c) article 5(2), (4) and (5);
- (d) article 6(2).

10. In the following provisions of the 2008 Northern Ireland Transitional Provisions Order for “IBB” substitute “IBB, ISA or DBS, as the case may be”—

- (a) article 3(1)(c);
- (b) article 4(1)(c);
- (c) article 5(1)(c);
- (d) article 6(1)(c).

Consequential amendments to the 2008 Transitional Provisions Order

11. In the following provisions of the 2008 Transitional Provisions Order for “IBB” substitute “DBS”—

- (a) article 2(2), (4) and (5);
- (b) article 3(2);
- (c) article 4(2), (4) and (5).

12. In the following provisions of the 2008 Transitional Provisions Order for “IBB” substitute “IBB, ISA or DBS, as the case may be”—

- (a) article 2(1)(c);
- (b) article 3(1)(c);
- (c) article 4(1)(c).

CHAPTER 3

Consequential amendments to other enactments

Consequential amendments to other enactments

13.—(1) For the words in the left-hand column of the table, wherever they appear in the provisions of the Acts of Parliament mentioned in paragraph (2) or the subordinate legislation mentioned in paragraph (3), substitute the corresponding words in the right-hand column of the table.

<i>Existing words</i>	<i>Substitution</i>
“Independent Barring Board”	“Disclosure and Barring Service”
“IBB”	“DBS”
“Independent Safeguarding Authority”	“Disclosure and Barring Service”
“ISA”	“DBS”
“the Authority”	“the Service”
“the Board”	“the Service”

- (2) The provisions of the Acts of Parliament are—
- (a) sections 7(2) and 11(1) and (2A) of the Police Pensions Act 1976**(17)**;
 - (b) section 97(1) of the Police Act 1996**(18)**;
 - (c) section 119(1A) of the 1997 Act**(19)**;
 - (d) paragraph 1(4) of Schedule 2 to the Teaching and Higher Education Act 1998**(20)**;
 - (e) in the Education Act 2002**(21)**, section 167C (both as inserted by the Education and Inspections Act 2006**(22)** and as substituted by the Education and Skills Act 2008**(23)**) and paragraph 2(4) of Schedule 11A**(24)**;
 - (f) section 171(1)(b) of the Education and Inspections Act 2006;
 - (g) sections 130(4) and (5) and 141(1)(b) of the Education and Skills Act 2008.
- (3) The subordinate legislation is—
- (a) rule 2A(h)(i) of the Schedule to the General Optical Council (Committee Constitution Rules) Order of Council 2005**(25)**;
 - (b) regulations 1, 2, 3 and 4 of the Safeguarding Vulnerable Groups Act 2006 (Barred List Prescribed Information) Regulations 2008**(26)**;
 - (c) regulations 3(1) and 4 of the Safeguarding Vulnerable Groups (Prescribed Criteria) (Transitional Provisions) Regulations (Northern Ireland) 2008**(27)**;
 - (d) regulations 3, 4 and 5 of the Safeguarding Vulnerable Groups (Barred List Prescribed Information) Regulations (Northern Ireland) 2008**(28)**;
 - (e) regulations 3 to 12 of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008**(29)**;
 - (f) regulations 2 to 11 of the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008**(30)**;
 - (g) regulations 2(1) and 3 of the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria) (Transitional Provisions) Regulations 2008**(31)**;
 - (h) article 5(h)(i) of the Nursing and Midwifery Council (Constitution) Order 2008**(32)**;
 - (i) article 5(h)(i) of the General Medical Council (Constitution) Order 2008**(33)**;
 - (j) regulation 2(h)(i) of the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008**(34)**;

(17) 1976 c. 35. Sections 7(2)(cg), 11(1)(bg) and 11(2A)(g) were inserted by section 63(1) of, and paragraph 11 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.

(18) 1996 c. 16. Section 97(1)(ch) was inserted by section 62(1) of, and paragraph 13(1) and (2) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.

(19) Section 119(1A) was inserted by section 112(1) of, and paragraph 118 of Schedule 7 to, the Policing and Crime Act 2009.

(20) 1998 c. 30.

(21) 2002 c. 32.

(22) 2006 c. 40.

(23) 2008 c. 25.

(24) Schedule 11A was inserted by the Education Act 2011 (c. 21).

(25) S.I. 2005/1474. Rule 2A was inserted by S.I. 2008/3113.

(26) S.I. 2008/16.

(27) S.R. 2008/201.

(28) S.R. 2008/202.

(29) S.R. 2008/203.

(30) S.I. 2008/474.

(31) S.I. 2008/1062.

(32) S.I. 2008/2553.

(33) S.I. 2008/2554.

(34) S.I. 2008/2927.

- (k) article 5(h)(i) of the General Chiropractic Council (Constitution) Order 2008**(35)**;
- (l) rule 8(h)(i) of the Schedule to the Nursing and Midwifery Council (Midwifery and Practice Committees) (Constitution) Rules Order of Council 2008**(36)**;
- (m) regulations 2, 3 and 13 of, and the headings before regulations 6 and 13 of, and paragraphs 5, 6 and 10 of the Schedule to, the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008**(37)**;
- (n) paragraph 12(f) of the Schedule to the General Chiropractic Council (Constitution of the Statutory Committees) Rules Order of Council 2009**(38)**;
- (o) regulations 2 and 13 of, and the heading before regulation 13 of, and paragraphs 5, 6 and 10 of the Schedule to, the Safeguarding Vulnerable Groups (Prescribed Information) Regulations (Northern Ireland) 2009**(39)**;
- (p) article 5(h)(i) of the General Osteopathic Council (Constitution) Order 2009**(40)**;
- (q) articles 4, 5, 6 and 7 of the Safeguarding Vulnerable Groups (Commencement No. 5, Transitional Provisions and Savings) Order (Northern Ireland) 2009**(41)**;
- (r) article 5(h)(i) of the General Optical Council (Constitution) Order 2009**(42)**;
- (s) paragraph 12(h)(i) of the Schedule to the General Osteopathic Council (Constitution of the Statutory Committee) Rules Order of Council 2009**(43)**;
- (t) article 5(h)(i) of the Health Professions Council (Constitution) Order 2009**(44)**;
- (u) paragraph 6(h)(i) of the Schedule to the Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules Order of Council 2009**(45)**;
- (v) article 5(h)(i) of the General Dental Council (Constitution) Order 2009**(46)**;
- (w) rule 6(i)(i) of the Schedule to the General Dental Council (Constitution of Committees) Rules Order of Council 2009**(47)**;
- (x) articles 3, 5, 6 and 7 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings) Order 2009**(48)**;
- (y) article 3 of the Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 6 and Safeguarding Vulnerable Groups (2007 Order) (Commencement No. 5, Transitional Provisions and Savings) (Amendment)) Order (Northern Ireland) 2010**(49)**;
- (z) article 51(m) of the Pharmacy Order 2010**(50)**;
- (aa) article 5(i)(i) of the General Pharmaceutical Council (Constitution) Order 2010**(51)**;

(35) [S.I. 2008/3047](#).

(36) [S.I. 2008/3148](#).

(37) [S.I. 2008/3265](#).

(38) [S.I. 2009/26](#).

(39) [S.R. 2009/40](#).

(40) [S.I. 2009/263](#).

(41) [S.R. 2009/346](#).

(42) [S.I. 2009/442](#).

(43) [S.I. 2009/468](#).

(44) [S.I. 2009/1345](#).

(45) [S.I. 2009/1355](#).

(46) [S.I. 2009/1808](#).

(47) [S.I. 2009/1813](#).

(48) [S.I. 2009/2611](#) as amended by [S.I. 2010/1101](#).

(49) [S.R. 2010/145](#).

(50) [S.I. 2010/231](#).

(51) [S.I. 2010/300](#).

- (bb) articles 2 and 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No. 6, Transitional Provisions and Savings (Amendment)) and (Commencement No. 7) Order 2010(**52**);
- (cc) rule 8(6) of the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010(**53**);
- (dd) rule 24(6) of the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010(**54**);
- (ee) articles 6, 8, 9, 10, 12, 14 and 16 of the Protection of Freedoms Act 2012 (Commencement No. 3) Order 2012(**55**).

Consequential amendment to the Parliamentary Commissioner Act 1967

14. In Schedule 2 to the Parliamentary Commissioner Act 1967(**56**) omit “Independent Safeguarding Authority”.

Consequential amendment to the Superannuation Act 1972

15. In Schedule 1 to the Superannuation Act 1972(**57**) omit “Employment by the Independent Safeguarding Authority”.

Consequential amendment to the Data Protection Act 1998

16. In entry 4 in the table in section 56(6) of the Data Protection Act 1998(**58**) for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”.

Consequential amendment to the Freedom of Information Act 2000

17. In Part 6 of Schedule 1 to the Freedom of Information Act 2000(**59**) omit “The Independent Safeguarding Authority”.

Consequential amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

18. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**60**) is amended as follows.

19. In article 3(a)(ii) for “40, 43 or 44” substitute “38, 40 or 43”.

20.—(1) Part II of Schedule 1 is amended as follows.

(2) In paragraph 38—

- (a) for “Independent Barring Board” substitute “Disclosure and Barring Service”;
- (b) after “Service” insert “, and any other work in the Disclosure and Barring Service”.

(52) [S.I. 2010/1101](#).

(53) [S.I. 2010/1614](#).

(54) [S.I. 2010/1615](#).

(55) [S.I. 2012/2234](#).

(56) [1967 c. 13](#). Schedule 2 was substituted by [S.I. 2011/2986](#).

(57) [1972 c. 11](#). The entry in relation to the Independent Barring Board was inserted by paragraph 3(4) of Schedule 1 to the Safeguarding Vulnerable Groups Act 2006 and amended by section 81(3)(a) of the Policing and Crime Act 2009.

(58) [1998 c. 29](#). Entry 4 was inserted by section 63(1) of, and paragraph 15 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 and amended by [S.I. 2007/1351](#) and section 81(3)(i) of the Policing and Crime Act 2009.

(59) [2000 c. 36](#). The entry in relation to the Independent Safeguarding Authority was inserted by [S.I. 2011/1041](#).

(60) [S.I. 1975/1023](#); paragraph 38 was inserted by [S.I. 2007/2149](#).

(3) Omit paragraph 44.

Consequential amendments to the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001

21. The General Teaching Council for Wales (Disciplinary Functions) Regulations 2001(**61**) are amended as follows.

22. In regulation 9(1)(c)(**62**)—

- (a) for “Independent Barring Board, established under section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute “Disclosure and Barring Service, established by section 87(1) of the Protection of Freedoms Act 2012”;
- (b) for “that Act” substitute “the Safeguarding Vulnerable Groups Act 2006”.

23. In regulation 9(1)(c), in the Welsh language text of those Regulations (Rheoliadau Cyngor Addysgu Cyffredinol Cymru (Swyddogaethau Disgyblu) 2001),—

- (a) for “Bwrdd Gwahardd Annibynnol, a sefydlwyd o dan adran 1 o Ddeddf Diogelu Grwpiau Hyglwyf 2006” substitute “Gwasanaeth Datgelu a Gwahardd, a sefydlwyd o dan adran 87(1) o Ddeddf Diogelu Rhyddid 2012”;
- (b) for “o’r Ddeddf honno” substitute “o Ddeddf Diogelu Grwpiau Hyglwyf 2006”.

Consequential amendments to the Education (Supply of Information) (Wales) Regulations 2009

24. The Education (Supply of Information) (Wales) Regulations 2009(**63**) are amended as follows.

25. In regulation 1(3) for “Independent Barring Board” substitute “Disclosure and Barring Service”.

26. In regulation 1(3), in the Welsh language text of those Regulations (Rheoliadau Addysg (Cyflenwi Gwybodaeth) (Cymru) 2009), for “Bwrdd Gwahardd Annibynnol” substitute “Gwasanaeth Datgelu a Gwahardd”.

Consequential amendments to the Protection of Vulnerable Groups (Scotland) Act 2007 (Consequential Provisions) Order 2010

27. The Protection of Vulnerable Groups (Scotland) Act 2007 (Consequential Provisions) Order 2010(**64**) is amended as follows.

28. In article 2 for the definition of “Independent Safeguarding Authority” substitute—

““Disclosure and Barring Service” and “DBS” mean the body established by section 87(1) of the Protection of Freedoms Act 2012;”

29. In articles 18, 19 and 20, and the subject heading before articles 11 and 18, for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service” and for “ISA” substitute “DBS”.

(61) S.I. 2001/1424 (W. 99).

(62) Regulation 9(1)(c) was inserted by S.I. 2009/2161.

(63) S.I. 2009/1350 (W. 126).

(64) S.I. 2010/2660.

Consequential amendments to the Family Procedure Rules 2010

30.—(1) The Family Procedure Rules 2010⁽⁶⁵⁾ are amended as follows.

(2) In rule 2.3(1)⁽⁶⁶⁾ in the definition of “professional acting in furtherance of the protection of children” in sub-paragraph (e)⁽⁶⁷⁾—

- (a) for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”; and
- (b) for “section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute “section 87(1) of the Protection of Freedoms Act 2012”.

Consequential amendments to the Fostering Services (England) Regulations 2011

31. The Fostering Services (England) Regulations 2011⁽⁶⁸⁾ are amended as follows.

32. In regulation 2(1) for ““Independent Safeguarding Authority” has the meaning given in section 1 of the Safeguarding Vulnerable Groups Act 2006” substitute ““Disclosure and Barring Service” means the body established by section 87(1) of the Protection of Freedoms Act 2012”.

33. In Schedule 7 for “Independent Safeguarding Authority” substitute “Disclosure and Barring Service”.

CHAPTER 4

Supplemental provisions

Further references to ISA and DBS

34. Any reference (other than those dealt with by Chapters 2 and 3 of this Part) to the Independent Safeguarding Authority (including references to the Independent Barring Board, which are to be treated as references to the Independent Safeguarding Authority by virtue of section 81(5) of the Policing and Crime Act 2009) in any enactment passed or made before the commencement of this Order is to be read as a reference to the Disclosure and Barring Service.

35. Any reference to the Disclosure and Barring Service which arises by virtue of this Order is to be read—

- (a) in relation to times before the commencement of section 81 of the Policing and Crime Act 2009, as a reference to the Independent Barring Board, and
- (b) in relation to times after the commencement of that section but before the commencement of this Order, as a reference to the Independent Safeguarding Authority.

⁽⁶⁵⁾ [S.I. 2010/2955](#).

⁽⁶⁶⁾ Rule 2.3(1) was amended by [S.I. 2011/1328](#), [S.I. 2011/1329](#) and [S.I. 2012/679](#).

⁽⁶⁷⁾ Sub-paragraph (e) was inserted by [S.I. 2012/679](#).

⁽⁶⁸⁾ [S.I. 2011/581](#).

PART 3

Transfer of the Secretary of State's functions

CHAPTER 1

Transfer of the Secretary of State's functions under Part 5 of the 1997 Act

Amendment of Part 5 of the 1997 Act

36. The 1997 Act is amended as follows.

37. In the following provisions for “the Secretary of State” and “The Secretary of State”, in each place where it occurs, substitute “DBS”—

- (a) section 112(1) (but not paragraph (b) of subsection (1)) and (4);
- (b) section 113A(1), (2A), (4), (5) and (9)(**69**);
- (c) section 113B(1), (2A), (4), (6), (7), (8), (9) and (12)(**70**);
- (d) section 113E(2) and (4)(**71**);
- (e) section 114(1) (but not paragraph (b) of subsection (1));
- (f) section 116(1) (but not paragraph (b) of subsection (1));
- (g) section 116A(1), (2), (4), (5) and (7)(**72**);
- (h) section 117(1), (1A), (1B) and (2)(**73**);
- (i) section 117A(5) and (6)(**74**);
- (j) section 118(1), (2), (2ZA), (2A) (but not paragraph (d) of subsection (2A)), (3A) and (3B)(**75**);
- (k) section 119(1), (1B), (3), (4), (5) and (8)(**76**);
- (l) section 119B(5)(ca)(**77**);
- (m) section 120(1), (2), (5) and (6);
- (n) section 120ZA(2), (3) and (4)(**78**);

(69) Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008 (c. 4), S.I. 2009/203, and sections 79(2), 80(1) and 115(1) and (2) of, and paragraphs 35 and 36 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012.

(70) Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 and amended by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006, section 50 of the Criminal Justice and Immigration Act 2008, S.I. 2009/203, and sections 79(2), 80(1), 82 and 115(1) and (2) of, and paragraphs 35 and 37 of Schedule 9 and Parts 5 and 6 of Schedule 10 to, the Protection of Freedoms Act 2012.

(71) Section 113E was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005.

(72) Section 116A was prospectively inserted by section 83 of the Protection of Freedoms Act 2012.

(73) Section 117(1A) was inserted by section 82(4) of the Protection of Freedoms Act; section 117(1B) was prospectively inserted by section 115(1) of, and paragraphs 104 and 108 of Schedule 9 to, the Protection of Freedoms Act 2012.

(74) Section 117A was inserted by section 82(5) of the Protection of Freedoms Act 2012.

(75) Section 118(2ZA) was prospectively inserted by section 85 of the Policing and Crime Act 2009; section 118(2A) was inserted by section 164 of the Serious Organised Crime and Police Act 2005; section 118(3A) and (3B) was prospectively inserted by section 115(1) of, and paragraphs 104 and 109(1) and (3) of Schedule 9 to, the Protection of Freedoms Act 2012.

(76) Section 119(1B) was inserted by section 63(1) of, and paragraph 14 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006.

(77) Section 119B was inserted by section 28 of the Safeguarding Vulnerable Groups Act 2006; section 119B(5)(ca) was prospectively inserted by section 115(1) of, and paragraphs 104 and 111 of Schedule 9 to, the Protection of Freedoms Act 2012.

(78) Section 120ZA was inserted by section 328 of, and paragraph 1 and 7 of Schedule 35 to, the Criminal Justice Act 2003 (c. 44) and amended by section 163(3) of, and paragraphs 1 and 7 of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 and S.I. 2009/203.

- (o) section 120A(1), (2), (3) and (4)(79);
 - (p) section 120AA(1), (2), (3) and (6)(80);
 - (q) section 120AB(1), (2), (3), (4), (5), (6) and (8)(81);
 - (r) section 120AC(1), (3), (4), (5), (6) and (7)(82);
 - (s) section 120AD(1) and (2)(83);
 - (t) section 122(3), (3A) and (3B)(84);
 - (u) section 124A(1)(85);
 - (v) section 125B(1)(86).
- 38.** In section 113A(5)—
- (a) in paragraph (a) for “his” substitute “its”; and
 - (b) in paragraph (b) for “him” substitute “it”.
- 39.** In section 113B—
- (a) in subsection (7) for “his” substitute “its”; and
 - (b) in subsection (8) for “he” substitute “it”.
- 40.** In section 117(2) for “he” in both places where it occurs substitute “it”.
- 41.** In section 118—
- (a) in subsection (1) for “he” substitute “it”; and
 - (b) in subsection (2A) for “he” substitute “it”.
- 42.** In section 119—
- (a) in subsection (1) for “him” substitute “it”;
 - (b) in subsection (1B) for “he” substitute “it”;
 - (c) in subsection (3) for “he” substitute “the Secretary of State”;
 - (d) in subsection (4)—
 - (i) for “him” substitute “it”; and
 - (ii) for “his” substitute “its”; and
 - (e) in subsection (5) for “him” substitute “it”.
- 43.** In section 120(2)(a) for “him” substitute “it”.
- 44.** In section 120A(1) for “him” substitute “it”.

(79) Section 120A was inserted by section 134(1) of the Criminal Justice and Police Act 2001 (c. 16) and amended by S.I. 2009/203, sections 163(3) and 165(2) of, and paragraphs 1 and 8 of Schedule 14 to, the Serious Organised Crime and Police Act 2005, section 96 of the Policing and Crime Act 2009 and section 115(1) and (2) of, and paragraphs 35 and 42 to Schedule 9 and Part 5 of Schedule 10 to, the Protection of Freedoms Act 2012.

(80) Section 120AA was inserted by section 328 of, and paragraphs 1 and 9 of Schedule 35 to, the Criminal Justice Act 2003 and amended by S.I. 2009/203 and section 81 of the Protection of Freedoms Act 2012.

(81) Section 120AB was inserted by section 328 of, and paragraphs 1 and 9 of Schedule 35 to, the Criminal Justice Act 2003 and amended by S.I. 2009/203.

(82) Section 120AC was prospectively inserted by section 79(3) of the Protection of Freedoms Act 2012.

(83) Section 120AD was prospectively inserted by section 79(3) of the Protection of Freedoms Act 2012.

(84) Section 122(3A) and (3B) was inserted by section 29(1) and (4) of the Safeguarding Vulnerable Groups Act 2006.

(85) Section 124A was inserted by section 328 of, and paragraphs 1 and 11 of Schedule 35 to, the Criminal Justice Act 2003 and amended by section 165(3) of the Serious Organised Crime and Police Act 2005 and was prospectively amended by section 115(1) and (2) of, and paragraphs 104 and 116 of Schedule 9 to and Part 6 of Schedule 10 to, the Protection of Freedoms Act 2012.

(86) Section 125B was inserted by section 97(1) of the Policing and Crime Act 2009 and prospectively amended by section 115(1) of, and paragraphs 104 and 117 of Schedule 9 to, the Protection of Freedoms Act 2012.

45. In section 120AB—

- (a) in subsection (1) for “his” substitute “its”; and
- (b) in subsection (4)(b) for “he” substitute “it”.

46. In section 122(3B) for “he” substitute “it”.

47. In section 126(1) after the definition of “chief officer” insert—

““DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;”

CHAPTER 2

Transfer of the Secretary of State’s functions under the 2006 Act

48. In the following provisions of the 2006 Act for “the Secretary of State” and “The Secretary of State”, in each place where it occurs, substitute “DBS”—

- (a) section 30A(1), (6) and (7)(**87**);
- (b) section 30B(1), (2), (5), (9) and (10)(**88**);
- (c) section 33(3), (3A), (3D), (4) and (5)(**89**);
- (d) section 43(1), (2), (5A), (5B), (5C), and (5F)(**90**);
- (e) section 47(7);
- (f) section 48(1), (2), (2A), (3), (4), (5) and (8)(**91**);
- (g) section 49(1), (2), (2A), (3), (4), (5) and (8)(**92**);
- (h) section 50(5)(**93**);
- (i) paragraphs 19(7) and 22 of Schedule 3.

CHAPTER 3

Transfer of the Secretary of State’s functions under the 2007 Order

49. In the following provisions of the 2007 Order for “the Secretary of State” and “The Secretary of State”, in each place where it occurs, substitute “DBS”—

- (a) Article 32A(1), (6) and (7)(**94**);
- (b) Article 32B(1), (2), (5), (9) and (10)(**95**);
- (c) Article 35(3), (3A), (3D), (4) and (5)(**96**);
- (d) Article 45(1), (2), (5A), (5B), (5C), and (5F)(**97**);
- (e) Article 49(7);

(87) Section 30A was prospectively inserted by section 72(1) of the Protection of Freedoms Act 2012.

(88) Section 30B was prospectively inserted by section 72(1) of the Protection of Freedoms Act 2012.

(89) Section 33(3A) and (3D) was prospectively inserted by section 72(2) of the Protection of Freedoms Act 2012.

(90) Section 43 was prospectively amended by section 75(3) of the Protection of Freedoms Act 2012.

(91) Section 48(2A) was prospectively inserted by section 76(3) of the Protection of Freedoms Act 2012.

(92) Section 49(2A) was prospectively inserted by section 74(4) of the Protection of Freedoms Act 2012.

(93) Section 50(5) was inserted by section 76(5)(c) of the Protection of Freedoms Act 2012.

(94) Article 32A was prospectively inserted by section 78 of, and paragraph 9(1) of Schedule 7 to, the Protection of Freedoms Act 2012.

(95) Article 32B was prospectively inserted by section 78 of, and paragraph 9(1) of Schedule 7 to, the Protection of Freedoms Act 2012.

(96) Article 35(3A) and (3D) was prospectively inserted by section 78 of, and paragraph 9(2) of Schedule 7 to, the Protection of Freedoms Act 2012.

(97) Article 45 was prospectively amended by section 78 of, and paragraph 12(2) and (3) of Schedule 7 to, the Protection of Freedoms Act 2012.

- (f) Article 50(1), (2), (2A), (3), (4), (5) and (8)(98);
- (g) Article 51(1), (2), (2A), (3), (4), (5) and (8)(99);
- (h) Article 52(5)(100);
- (i) paragraph 22 of Schedule 1.

CHAPTER 4

Consequential amendments to the 1997 Act, the 2006 Act and the 2007 Order

Consequential amendments to the 1997 Act in England and Wales

- 50.**—(1) Section 119 of the 1997 Act is amended as follows—
- (2) Omit subsection (1A).
 - (3) After subsection (4) insert—
 - “(4A) DBS may require the Secretary of State to provide it with the information and advice specified in section 113CD(2) to (6) for the purpose of enabling DBS to carry out its functions under section 113CD.”.
- 51.** Omit section 122A(101) of the 1997 Act.

Consequential amendments to the 1997 Act in Northern Ireland

- 52.**—(1) Section 119 of the 1997 Act is amended as follows.
- (2) After subsection (1) insert—
 - “(1ZA) Any person who holds records of convictions or cautions for the use of police forces generally must make those records available to the Disclosure and Barring Service for the purpose of enabling it to carry out its functions under paragraph 1, 2, 7 or 8 of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.”
 - (3) In subsection (5)—
 - (a) after “Secretary of State” insert “or the Disclosure and Barring Service”, and
 - (b) after “him” insert “or it”.
 - (4) Omit subsection (8)(d).
- 53.** In section 126A of the 1997 Act omit—
- (a) subsections (2)(b) and (3), and
 - (b) in subsection (2)(d) “section 119 or”.

Consequential amendments to the 2006 Act

- 54.** In section 43(5E) of the 2006 Act omit “or (as the case may be) the Secretary of State”.
- 55.** Schedule 3 to the 2006 Act is amended as follows.
- 56.** For sub-paragraphs (2) and (3) of paragraph 1 substitute—

(98) Article 50(2A) was prospectively inserted by section 78 of, and paragraph 13(3) of Schedule 7 to, the Protection of Freedoms Act 2012.

(99) Article 51(2A) was prospectively inserted by section 78 of, and paragraph 13(4) of Schedule 7 to, the Protection of Freedoms Act 2012.

(100) Article 52(5) was inserted by section 78 of, and paragraph 13(5)(c) of Schedule 7 to, the Protection of Freedoms Act 2012.

(101) Section 122A was inserted by section 328 of, and paragraphs 1 and 10 of Schedule 25 to, the Criminal Justice Act 2003.

- “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the children’s barred list.”
57. For sub-paragraphs (2) and (3) of paragraph 2 substitute—
- “(2) Sub-paragraph (4) applies if it appears to DBS that—
- (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to children.”
58. For sub-paragraphs (2) and (3) of paragraph 7 substitute—
- “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the adults’ barred list.”
59. For sub-paragraphs (2) and (3) of paragraph 8 substitute—
- “(2) Sub-paragraph (4) applies if it appears to DBS that—
- (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to vulnerable adults.”
60. Omit paragraph 19(8).
61. Omit paragraph 20(2).

Consequential amendments to the 2007 Order

62. In Article 45(5E) of the 2007 Order omit “or (as the case may be) the Secretary of State”.
63. Schedule 1 to the 2007 Order is amended as follows.
64. For sub-paragraphs (2) and (3) of paragraph 1 substitute—
- “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the children’s barred list.”
65. For sub-paragraphs (2) and (3) of paragraph 2 substitute—
- “(2) Sub-paragraph (4) applies if it appears to DBS that—
- (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to children.”
66. For sub-paragraphs (2) and (3) of paragraph 7 substitute—
- “(2) If DBS is satisfied that this paragraph applies to a person, it must include the person in the adults’ barred list.”
67. For sub-paragraphs (2) and (3) of paragraph 8 substitute—
- “(2) Sub-paragraph (4) applies if it appears to DBS that—
- (a) this paragraph applies to a person, and
 - (b) the person is or has been, or might in future be, engaged in regulated activity relating to vulnerable adults.”
68. Omit paragraph 20(3).

CHAPTER 5

Consequential amendments to other enactments

Consequential amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

69. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 is amended as follows.
70. In article 3(l)(102) for “Secretary of State” substitute “Disclosure and Barring Service”.
71. In Part II of Schedule 1 omit paragraph 44(103).

Consequential amendments to the Data Protection Act 1998

72. The Data Protection Act 1998(104) is amended as follows.
73. In entry 2 in the table in section 56(6) omit paragraphs (f) and (g).
74. In entry 4 in the table in section 56(6)—
- (a) before “Its functions” insert “(a)”;
 - (b) after “Order 2007” insert—
“ (b) Its functions under Part 5 of the Police Act 1997.”
75. In section 75(4) omit “by the Secretary of State”.

Consequential amendments to the Police Act 1997 (Criminal Records) Regulations 2002

76. The Police Act 1997 (Criminal Records) Regulations 2002(105) are amended as follows.
77. In regulation 5A(106) omit paragraph (z).
78. In regulation 11(1), (1)(b), (2), (2A)(107), (3) and (4) for “Secretary of State” substitute “Disclosure and Barring Service”.

Consequential amendments to the Independent Schools (Provision of Information) (Wales) Regulations 2003

79. The Independent Schools (Provision of Information) (Wales) Regulations 2003(108) are amended as follows.
80. In paragraph 3(16) of the Schedule for “Criminal Records Bureau” substitute “Disclosure and Barring Service”.
81. In paragraphs 7(d) and 10(d) of the Schedule for “Secretary of State” substitute “Disclosure and Barring Service”.
82. In paragraph 3(16) of the Schedule, in the Welsh language text of those Regulations (Rheoliadau Ysgolion Annibynnol (Darparu Gwybodaeth) (Cymru) 2003), for “Swyddfa Cofnodion Troseddol” substitute “Gwasanaeth Datgelu a Gwahardd”.

(102) Article 3(l) was inserted by [S.I. 2007/2149](#).

(103) Paragraph 44 was inserted by [S.I. 2009/1818](#).

(104) Entry 2(g) and entry 4 were inserted by section 63(1) of, and paragraph 15 of Schedule 9 to, the 2006 Act and entry 4 was amended by Article 60(1) of, and paragraph 4 of Schedule 7 to, the 2007 Order.

(105) [S.I. 2002/233](#).

(106) Regulation 5A was inserted by [S.I. 2006/748](#) and paragraph (z) was inserted by [S.I. 2009/1882](#).

(107) Paragraph (2A) was inserted by [S.I. 2009/460](#).

(108) [S.I. 2003/3230 \(W. 310\)](#). Paragraphs 7(d) and 10(d) of the English language text and paragraphs 7(ch) and 10(ch) of the Welsh language text were substituted by [S.I. 2007/947 \(W. 81\)](#).

83. In paragraphs 7(ch) and 10(ch) of the Schedule, in the Welsh language text for “Ysgrifennydd Gwladol” substitute “Gwasanaeth Datgelu a Gwahardd”.

Consequential amendments to the Pensions Act 2004

84. At the end of the table in Schedule 3 to the Pensions Act 2004(109)insert—

“Disclosure and Barring Service	Functions under Part 5 of the Police Act 1997”
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85. At the end of the table in Schedule 8 to the Pensions Act 2004 insert—

“Disclosure and Barring Service	Functions under Part 5 of the Police Act 1997”
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Consequential amendments to the Police Act 1997 (Criminal Records) (Registration) Regulations 2006

86. The Police Act 1997 (Criminal Records) (Registration) Regulations 2006(110) are amended as follows.

87. In regulation 2 after the definition of the “1997 Act” insert—

““DBS” means the Disclosure and Barring Service established by section 87(1) of the Protection of Freedoms Act 2012;”

88. In the following provisions for “the Secretary of State” substitute “DBS”—

- (a) regulation 2;
- (b) regulation 3(1)(a), (1)(e)(ii) and (1)(f)(i);
- (c) regulation 4(2), (3), (4) and (5);
- (d) regulation 7(b), (c), (d)(i), (e), (e)(i), (f), (g)(iii), (j), (k) and (m);
- (e) regulation 8(1), (2) and (4);
- (f) regulation 9;
- (g) regulation 10(1), (2) and (3).

Consequential amendments to the Local Authority Adoption Service (Wales) Regulations 2007

89. The Local Authority Adoption Service (Wales) Regulations 2007(111) are amended as follows.

90. In regulation 16(3)(e) for “CRB” each time it occurs substitute “Disclosure and Barring Service”.

91. In paragraph 5 of Schedule 4 for “Criminal Records Bureau” substitute “Disclosure and Barring Service”.

92. In regulation 16(3)(d), in the Welsh language text of those Regulations (Rheoliadau Gwasanaeth Mabwysiadu Awdurdodau Lleol (Cymru) 2007), for “SCT (CRB)” each time it occurs substitute “Gwasanaeth Datgelu a Gwahardd”.

(109)2004 c. 35.

(110)S.I. 2006/750 as amended by S.I. 2009/203.

(111)S.I. 2007/1357 (W. 128).

93. In paragraph 5 of Schedule 4, in the Welsh language text, for “Swyddfa Cofnodion Troseddol” substitute “Gwasanaeth Datgelu a Gwahardd”.

Consequential amendments to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007

94. In Part 1 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(112) for “Criminal Records Bureau” substitute “Disclosure and Barring Service”.

Consequential amendments to the Special Educational Needs Tribunal for Wales Regulations 2012

95. The Special Educational Needs Tribunal for Wales Regulations 2012(113) are amended as follows.

96. In regulation 66(4) for “Criminal Records Bureau” substitute “Disclosure and Barring Service”.

97. In regulation 66(4), in the Welsh language text of those Regulations (Rheoliadau Tribiwnlys Anghenion Addysgol Arbennig Cymru 2012), for “Swyddfa Cofnodion Troseddol” substitute “Gwasanaeth Datgelu a Gwahardd”.

CHAPTER 6

Supplemental provisions

Supplemental provisions relating to Secretary of State functions

98. Anything which is being done by or in relation to the Secretary of State, when the Secretary of State’s functions under Part 5 of the 1997 Act, the 2006 Act and the 2007 Order are transferred to DBS by this Order, may, so far as it relates to those functions, be continued by, or in relation to, DBS.

99. Anything done before the coming into force of this Order by or in relation to the Secretary of State under Part 5 of the 1997 Act, the 2006 Act and the 2007 Order, in relation to a function of the Secretary of State transferred to DBS by this Order, has effect, so far as necessary for continuing its effect after those functions are transferred by this Order, as if done by, or in relation to, DBS.

100. Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of the transfer of a function of the Secretary of State to DBS by this Order, as if references to the Secretary of State were or included references to DBS.

PART 4

Transitional provisions

Appeals and legal proceedings

101. Any appeal under section 4 of the 2006 Act, under article 8 of the 2007 Order or resulting from any decision made under the 2008 Northern Ireland Transitional Provisions Order or the 2008 Transitional Provisions Order, or any other legal proceedings being taken against ISA (or any further appeal or other legal proceedings which may be taken by ISA) at the time ISA’s functions are

(112) S.I. 2007/3544 as amended by S.I. 2009/2981.

(113) S.I. 2012/322 (W. 53).

transferred by this Order to DBS shall, from that time, lie against (or may be taken by, as the case may be) DBS.

102.—(1) DBS shall be substituted as the respondent (or the appellant, or as any other party, as the case may be) in any legal proceedings against or brought by ISA which are not completed at the time ISA's functions are transferred by this Order to DBS.

(2) The substitution of DBS as the respondent (or the appellant, or as any other party, as the case may be) shall not affect the operation of any time limits in any such legal proceedings.

Information

103. Any information which is held by ISA at the time ISA's functions are transferred by this Order to DBS shall, at that time, be transferred to DBS.

Representations

104.—(1) Any representations which can be made to ISA under paragraph 2, 3, 5, 8, 9, 11, 16 or 17 of Schedule 3 to the 2006 Act, under paragraph 2, 3, 5, 8, 9, 11, 16 or 17 of Schedule 1 to the 2007 Order or under the 2008 Northern Ireland Transitional Provisions Order or the 2008 Transitional Provisions Order at the time ISA's functions are transferred by this Order to DBS may, from that time, be made to DBS.

(2) No person need, as a result of the transfer of ISA's functions to DBS, re-submit any representations that they have previously submitted to ISA.

105.—(1) Any representations which can be made to the Secretary of State under section 120AB of the 1997 Act at the time the Secretary of State's functions under that section are transferred to DBS by this Order may, from that time, be made to DBS.

(2) No person need, as a result of the transfer of the Secretary of State's functions to DBS, re-submit any representations that they have previously submitted to the Secretary of State.

Reviews

106. Any reviews being carried out by ISA under paragraph 18 or 18A of Schedule 3 to the 2006 Act, paragraph 18 or 18A of Schedule 1 to the 2007 Order or articles 7 and 8 of the Protection of Freedoms Act 2012 (Commencement No. 3) Order 2012(**114**) at the time ISA's functions under the 2006 Act and the 2007 Order are transferred to DBS by this Order shall, from that time, be carried out by DBS.

107. Any application for a review received by ISA prior to the time ISA's functions are transferred by this Order to DBS shall, from that time, be considered by DBS.

Report and accounts

108.—(1) DBS must prepare reports and accounts in relation to ISA's final financial year in accordance with paragraphs 9 and 12 of Schedule 1 to the 2006 Act (despite the repeal of that Schedule by article 125).

(2) For that purpose ISA's final financial year is the period 1st April 2012 to 30th November 2012.

Advice

109. Any request for advice that is made to ISA by the Secretary of State under paragraph 1 of Schedule 8 to the 2006 Act or made to ISA by the Northern Ireland Department of Health, Social Services and Public Safety or the Northern Ireland Department of Education under paragraph 1 of Schedule 6 to the 2007 Order prior to ISA's functions under the 2006 Act and the 2007 Order being transferred to DBS by this Order, shall be complied with by DBS.

Registration

110. Any person who is a registered person under sections 120 and 120ZA of the 1997 Act at the time the function of maintaining the register under section 120 of the 1997 Act is transferred from the Secretary of State to DBS by this Order shall have their registration transferred to the register maintained by DBS under section 120 of the 1997 Act.

PART 5

Dissolution of the Independent Safeguarding Authority

Dissolution of ISA

111. ISA is dissolved immediately after its functions are transferred to DBS by article 2 of this Order.

112. Section 1 of, and Schedules 1 and 2 to, the 2006 Act cease to have effect.

Home Office
29th November 2012

Taylor of Holbeach
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Part 2 of this Order transfers the functions of the Independent Safeguarding Authority (“ISA”) under the Safeguarding Vulnerable Groups Act 2006 (“the 2006 Act”), the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (“the 2007 Order”), the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008 (“the 2008 Transitional Provisions Order”) and the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) (“the 2008 Northern Ireland Transitional Provisions Order”) to the Disclosure and Barring Service (“DBS”) which is established under section 87(1) of the Protection of Freedoms Act 2012. The ISA was originally called the Independent Barring Board, but it was renamed the Independent Safeguarding Authority by virtue of section 81 of the Policing and Crime Act 2009.

The ISA is the body in England, Wales and Northern Ireland which is responsible for maintaining the barred lists under section 2 of and Schedule 3 to the 2006 Act and Article 6 of and Schedule 1 to the 2007 Order. The children’s barred list is a list of those persons who are barred from engaging in regulated activity relating to children; the adults’ barred list is a list of those persons who are barred from engaging in regulated activity relating to vulnerable adults. The ISA also has functions in relation to exchanging information with providers of regulated activity (frequently the employer), personnel supplies (for example agencies), local authorities, professional bodies (for example the General Medical Council), supervisory authorities (for example Her Majesty’s Chief Inspector of Schools in England) and the police.

The ISA also has functions under the 2008 Transitional Provisions Order and the 2008 Northern Ireland Transitional Provisions Order which set out the system whereby the ISA considers any person for barring who was included in the predecessor lists. The predecessor lists in England and Wales are those kept under section 1 of the Protection of Children Act 1999 (c. 14), section 81 of the Care Standards Act 2000 (c. 14) and those persons subject to a direction under section 142 of the Education Act 2002 (c. 32). The predecessor lists in Northern Ireland are those kept under Articles 3 and 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417 (N.I. 4)) (“the 2003 Order”) and the list kept for the purposes of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007 (S.R. 2007/288). The 2008 Transitional Provisions Order also sets out the system whereby the ISA considers any person for barring who was subject to a disqualification order under sections 28, 29 of 29A of the Criminal Justice and Court Service Act 2000 (c. 43). The 2008 Northern Ireland Transitional Provisions Order also sets out the system whereby the ISA considers any person for barring who was subject to a disqualification order under Articles 23 or 24 of the 2003 Order. There are still some persons who are being considered or are yet to be considered under the 2008 Northern Ireland Transitional Provisions Order and the 2008 Transitional Provisions Order.

All the ISA’s functions under the 2006 Act, the 2007 Order, the 2008 Transitional Provisions Order and the 2008 Northern Ireland Transitional Provisions Order, with the exception of the obligation to establish the barred lists, are transferred to the DBS under article 2 of this Order.

Chapter 2 makes amendments to the principal enactments which are consequential on this transfer of functions and Chapter 3 makes amendments to other enactments which are consequential on this transfer of functions. Chapter 4 makes supplemental provision.

Part 3 of this Order transfers the functions of the Secretary of State in England and Wales which are exercised by the Criminal Records Bureau under Part 5 of the Police Act 1997 to the Disclosure and Barring Service. The functions of Access Northern Ireland, which operates on behalf of the

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Northern Ireland Department of Justice under Part 5 of the 1997 Act, are not being transferred to the DBS. Articles 35 to 46 do this by amending Part 5 of the 1997 Act. Functions such as making regulations (for example under section 113B(2) of the 1997 Act) or issuing guidance (for example under section 113B(4A) of the 1997 Act) remain with the Secretary of State. The CRB also carries out functions under the 2006 Act and the 2007 Order, mainly in relation to sharing information with bodies including professional bodies and supervisory authorities. These functions are transferred to the DBS under articles 47 and 48 of this Order. Chapter 4 makes amendments to the main enactments which are consequential on this transfer of functions and Chapter 5 makes amendments to other enactments which are consequential on this transfer of functions. Chapter 6 makes supplemental provision.

Part 4 of this Order contains transitional provisions in light of the transfer of functions to the DBS. Articles 101 and 102 ensure that litigation which was being dealt with by the ISA will subsequently be dealt with by the DBS. Article 103 ensures that all information held by the ISA (for example, case files) will be passed to the DBS. Article 104 ensures that any representations made to the ISA and not yet dealt with at the time functions are transferred will be dealt with by the DBS and article 105 makes similar provision for representations made to the Secretary of State. Articles 106 and 107 ensure that any reviews being carried out, or any applications for reviews received, by the ISA at the time functions are transferred will be dealt with by the DBS. Article 108 provides that the DBS will take over the functions of preparing accounts and reports from the ISA at the time functions are transferred. Article 109 ensures that advice requested from the ISA in relation to predecessor lists will be dealt with by DBS when functions are transferred. Article 110 provides that any person registered with the CRB, for the purpose of counter-signing or transmitting applications under Part 5 of the 1997 Act, will have their registration automatically transferred to the DBS at the time functions are transferred.

Having transferred the ISA's functions to the DBS, Part 5 of this Order dissolves the ISA under section 88(3) of the Protection of Freedoms Act 2012.