

# **Transfers to Disclosure and Barring Service (DBS) Scheme 2012**

Presented to Parliament pursuant to section 90(6) of the  
Protection of Freedoms Act 2012

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# Transfers to Disclosure and Barring Service (DBS) Scheme 2012

Made 15<sup>th</sup> October 2012

Coming into force 1<sup>st</sup> December 2012

The Secretary of State makes the following Scheme in exercise of the powers conferred on her by section 90 of the Protection of Freedoms Act 2012.

## **CITATION AND COMMENCEMENT**

1. This Scheme may be cited as the Transfers to Disclosure and Barring Service Scheme 2012 and shall come into force on 1<sup>st</sup> December 2012.

## **INTERPRETATION**

2. In this Scheme -

“CRB” means the Criminal Records Bureau;

“DBS” means the Disclosure and Barring Service;

“ISA” means the Independent Safeguarding Authority;

“records” include written records and records conveying information by any other means;

“staff” means individuals who, immediately before the transfer date, are employed by ISA, or employed in the civil service and assigned to work in CRB, and who were notified in writing on or before 15<sup>th</sup> November 2012 that they would be transferred to DBS;

“the transfer date” means 1<sup>st</sup> December 2012.

## **TRANSFER OF STAFF**

3.-(1) Staff become employed by DBS on the transfer date and their contracts of employment with ISA or terms of employment in the civil service have effect from that date (subject to any necessary modifications) as the terms of their contracts of employment with DBS.

(2) On the transfer date all ISA's or the Secretary of State's rights, powers, duties and liabilities under or in connection with the contracts of employment of staff or their terms of employment in the civil service transfer to DBS.

(3) Any act or omission before the transfer date of, or in relation to, ISA or the Secretary of State in respect of those contracts or terms of employment is to be treated from the transfer date as an act or omission of or in relation to DBS.

(4) Paragraphs (2) and (3) do not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of, and sentenced for any offence.

(5) The period of employment of staff by ISA or in the civil service on the transfer date counts as a period of employment with DBS and transfer by operation of this Scheme does not break the continuity of the period of employment.

## **TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES**

- 4.-(1) On the transfer date, all the property (including, without limitation, assets and real property), rights and liabilities to which ISA was entitled or subject immediately before that date, transfer to the DBS.
- (2) On the transfer date all the property (including, without limitation assets and real property), rights and liabilities which relate to CRB and to which the Secretary of State was entitled or subject immediately before that date, transfer to the DBS.
- (3) Things done by or in relation to ISA or by the Secretary of State in relation to CRB are to be treated as done by or in relation to members of the staff of DBS and continued by or in relation to the members of staff of DBS from that date.
- (4) Accordingly, any legal proceedings by or against:
- (a) the Secretary of State acting through CRB and/or
  - (b) ISA

which are in existence immediately before the transfer date are to continue by or against DBS from that date.

- (5) The reference in this article to “liabilities” does not include any criminal liability.
- (6) In paragraphs 4(1) and 4(2) above “property and liabilities” includes, without limitation—
- (a) the obligation to prepare the outstanding annual report and accounts of ISA and to perform all statutory duties relating to the annual report and accounts; and
  - (b) the outstanding originating capital of ISA, equity and any loans made to it.

## **ACCESS TO RECORDS**

- 5.-(1) Where records owned by the Secretary of State immediately before the transfer date have transferred to the DBS as a result of this Order, the Secretary of State may, after providing reasonable notice—
- (a) inspect
  - (b) take, or be supplied with, copies of those records or any part of them.
- (2) The powers conferred by this article must be exercised during normal office hours.

## **GENERAL PROVISION**

6. The transfers of property, rights and liabilities given effect by this Order are not affected by any provision (of whatever nature).

Home Office  
October 2012

## **EXPLANATORY NOTE**

The Protection of Freedoms Act 2012 (“the Act”) provides for the abolition of the Independent Safeguarding Authority (“ISA”) and the establishment of the Disclosure and Barring Service (“DBS”). It also provides for the transfer of functions of the Secretary of State under or in connection with Part V of the Police Act 1997 (criminal records) to DBS.

Upon its abolition, ISA’s current functions under the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, will transfer to DBS pursuant to an order made by the Secretary of State under section 88 of the Act. The functions of the Secretary of State under Part V of the Police Act 1997 will similarly transfer.

As a consequence of ISA’s abolition and the transfer of its functions, together with the Secretary of State’s functions under Part V of the Police Act 1997, to DBS, specific legislative provision is required to deal with the transfer to DBS of staff, property, rights and liabilities of ISA or the Secretary of State. To that end, section 90 of the Act enables the Secretary of State to make a transfer scheme.

The Secretary of State makes this Scheme relying on the power in section 90 of the Act.

DBS will be established on 1<sup>st</sup> December 2012 (“the transfer date”). Article 3 of this Scheme makes provision in relation to the transfer of staff to DBS.

The ISA’s and the Secretary of State’s property, rights and liabilities will transfer to the DBS under article 4.

Article 5 makes provision about rights of access to records that will, as a result of this Scheme, transfer to the ownership of DBS on the transfer date.

Article 6 ensures that the transfers of property, rights and liabilities given effect by this Scheme are unaffected by any provision (of whatever nature) which would otherwise operate to prevent or restrict those transfers.







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