

GARDA VETTING IN THE NATIONAL VETTING BUREAU (CHILDREN AND VULNERABLE PERSONS) ACT, 2012 - 2016

Section 3 Exclusions - RISK ASSESSMENT:

Section 3 - Exceptions of situations that fall outside of the remit of the vetting legislation

The exceptions to the vetting legislation involve relevant work or activities undertaken in the course of:

1. A family relationship (whether for commercial consideration, or not)
2. A personal relationship (so long as not for commercial consideration)
- 3. Occasional assistance by an individual (for no commercial consideration, and not in 5 specified activities).**

Section 3(1) (c)

This Act shall not apply to any of the following, namely:

(c) the giving of assistance by an individual –

(i) on an occasional basis, and

(ii) for no commercial consideration

*at a school, sport or community event or activity, other than where such assistance includes the **coaching, mentoring, counselling, teaching or training** of children or vulnerable persons.*

S.3(1) (c) is a crucial part of the legislation.

- Giving of assistance
- By an individual
- On an occasional basis and
- For no commercial consideration
- At a school or
- At a sports event or sports activity or
- At a community event or community activity.

- Other than (which means ‘except when’)

Such ‘other than’ assistance (which is precluded) includes anything that can be interpreted as Coaching or Mentoring or Counselling or Teaching or Training children or vulnerable persons.

“For no commercial consideration”

1. What’s consideration?

At law for a contract to come into existence, there need to be 3 general elements in place

- (i) An Offer
- (ii) Acceptance by an offer
- (iii) Consideration i.e. something passing from the person accepting the offer, to the person making the offer.

Consideration includes not merely money, and in the legislation it not merely for ‘consideration’ but for ‘commercial consideration’.

So if money – or something else that can be classified as commercial consideration – is being exchanged, then were relevant work or activities are being carried out, the S3(1) (c) falls away, and the vetting legislation shall kick into effect.

So, under the legislation, where an individual occasionally gives assistance for no commercial consideration at a school, or a sports/community event or activity, then strictly so long as that assistance avoids (1) coaching, (2) mentoring, (3) counselling, (4) teaching or (5) training children or vulnerable persons, then that individual would not be required to go through the vetting legislation.