STATUTORY RULES OF NORTHERN IRELAND

2008 No. 249

HEALTH AND PERSONAL SOCIAL SERVICES

The Care Tribunal (Amendment) Regulations (Northern Ireland) 2008

Made - - - -	*10th June 2008*
Coming into operation	*21st July 2008*

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by Articles 44(2) and (3) and 48 (2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**1**).

Citation and commencement

1. These Regulations may be cited as the Care Tribunal (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 21st July 2008.

Amendment of the Care Tribunal Regulations (Northern Ireland) 2005

2.—(1) The Care Tribunal Regulations (Northern Ireland) 2005(**2**) shall be amended in accordance with paragraph (2).

(2) In regulation 1(2)—

(a) after the definition of "the 1986 Order" insert—

> ""the 2007 Order" means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**3**);
>
> "the 2008 Order" means the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008(**4**);"

(b) after the definition of the "the 2001 Act" insert—

> ""the adults' barred list" has the same meaning as in Article 2(2) of the 2007 Order;
>
> "the children's barred list" has the same meaning as in Article 2(2) of the 2007 Order;"

(**1**) S.I. 2003 No.431 (N.I.9)
(**2**) S.R. 2005 No. 178 as amended by S.R. 2006 No. 342
(**3**) S.I.2007 No. 1351 (N.I.11)
(**4**) S.I. 2008 No. 200

(c) in the definition of "application for leave" immediately after the word "means" insert "except in cases to which regulation 4(7) applies,"

(d) at the end of the definition of "case" insert new sub-paragraph—

"(i) an appeal pursuant to Articles 3(6) or 5(6) of the 2008 Order, or under Article 8(1)(b) of the 2007 Order, pursuant to Article 4(2) of the 2008 Order;"

(e) in the definition of "HSS Board" insert "Social" before the first reference to "Services".

(f) at the end of the definition of "the respondent" insert new sub-paragraph—

in relation to an application for leave to appeal in a case to which regulation 4(7) applies, or an appeal under—

(i) Article 3(6) or 5(6) of the 2008 Order; or

(ii) Article 8(1)(b) of the 2008 Order, pursuant to Article 4(2) of the 2008 Order,

the Independent Barring Board;"

(g) after the definition of "school" insert—

""sensitive witness" means, in relation to Schedule 7 only, an adult witness where the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with giving evidence in the case;""

(h) for the definition of "vulnerable adult" substitute—

""vulnerable adult" in relation to—

(a) an application for leave to appeal in a case to which regulation 4(7) applies, has the meaning as in Article 3 of that Order,

(b) any other case has the meaning as in Article 48(6) of the 2003 Order;".

(3) In regulation 4 insert after paragraph (6)—

"(7) In the case of an application for leave to appeal under Article 8(4) of the 2007 Order against a decision—

(a) not to remove the applicant from the children's barred list, in a case to which Article 3(6) of the 2008 Order applies;

(b) not to remove the applicant from the adults' barred list, in a case to which Article 5 (6) of the 2008 Order applies; or

(c) under Article 8(1)(b) of the 2007 Order, to include the applicant in the children's barred list pursuant to Article 4(2) of the 2008 Order,

the procedure set out in Schedule 7 shall apply.".

(4) In regulation 6(1) after "possible" insert "after leave has been granted under paragraph 4 or 5 of Schedule 7, or".

(5) In regulation 18 after all references to "vulnerable adult" add "or sensitive witness", after all references to "vulnerable adults" add "or sensitive witnesses", and for all references to "the vulnerable adult's welfare" substitute "the welfare of a vulnerable adult or sensitive witness".

(6) In regulation 18(6) after "such" add "reasonable".

(7) In regulation 26(5)(a) for "the Care Tribunal" substitute "the Secretary".

(8) In regulation 29(1) and (2) for "the Care Tribunal" substitute "the Secretary".

(9) In regulation 34(1) and (2) for the first reference to "the Care Tribunal" substitute "the Secretary".

(10) After Schedule 6 insert—

"SCHEDULE 7 Regulation 4(7)

APPLICATIONS FOR LEAVE TO APPEAL UNDER ARTICLE 8(4) OF THE SAFEGUARDING VULNERABLE GROUPS (NORTHERN IRELAND) ORDER 2007

Applying for leave to appeal

1.—(1) An application to the Care Tribunal under Article 8(4) of the 2007 Order against a decision —

(a) not to remove the applicant from the children's barred list in a case to which Article 3(6) of the 2008 Order applies;

(b) not to remove the applicant from the adults' barred list in a case to which Article 5(6) of the 2008 Order applies; or

(c) under Article 8(1)(b) of the 2007 Order, to include the applicant in the children's barred list pursuant to Article 4(2) of the 2008 Order,

must be made in writing to the Secretary and must be received by the Secretary no later than the first working day after the expiry of three months from the date of the letter informing the applicant of that decision.

(2) An application under this paragraph may be made on the application form available from the Secretary.

(3) An application under this paragraph must—

(a) give the applicant's name, date of birth and full postal address;

(b) give sufficient information to make it clear whether the application falls within sub-paragraph (1)(a), (b) or (c);

(c) indicate the grounds upon which the applicant wishes to appeal;

(d) give details of any new evidence since the decision was made which might lead the Care Tribunal to a different decision;

(e) give the name, address and profession of the person (if any) representing the applicant;

(f) give an address within the United Kingdom to which the Secretary should send documents concerning the appeal and application for leave;

(g) give, where these are available, the applicant's telephone number, fax number and e-mail address and those of the applicant's representative (if any); and

(h) be signed and dated by the applicant.

Acknowledgement and notification of application

2.—(1) On receiving an application under paragraph 1, the Secretary shall—

(a) immediately send an acknowledgement of its receipt to the applicant; and

(b) subject to the following provisions of this paragraph, enter particulars of the application and the date of its receipt in the records.

(2) If the Chairman is of the opinion that the applicant is asking the Care Tribunal to do something which it cannot do, he may notify the applicant in writing—

(a) of the reasons for his opinion; and

(b) that the application will not be entered in the records unless within 5 working days the applicant notifies the Chairman in writing that he wishes to proceed with it.

(3) If in the Secretary's opinion there is an obvious error in the application—