STATUTORY RULES OF NORTHERN IRELAND

2008 No. 203

SAFEGUARDING VULNERABLE GROUPS

The Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008

Made - - - -	*6th May 2008*
To be laid before Parliament	
Coming into operation	*16th June 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by Article 61(1) of, and paragraphs 15(1) and (2), and 18(3)(b) and (6)(**1**) of Schedule 1 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**2**).

Citation and commencement

1. These Regulations may be cited as the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008 and come into operation on 16th June 2008.

Interpretation

2. In these Regulations—

"the Order" means the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;

"the 2003 Order" means the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(**3**);

"the 2007 Regulations" means the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007(**4**);

"Care Tribunal" means the Tribunal established under Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**5**);

(**1**) Paragraph 18(3)(b) and (6) of Schedule 1 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 refer to periods prescribed for the purposes of those provisions. Article 2(2) of that Order defines "prescribed" as meaning prescribed by regulations made by the Secretary of State.
(**2**) S.I. 2007/1351 (N.I. 11).
(**3**) S.I. 2003/417 (N.I. 4) as amended by S.I. 2003 No. 431 (N.I. 9) and which is to be repealed by Schedule 8 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 ("the 2007 Order") which was not in operation on the making of these Regulations.
(**4**) S.R 2007 No. 288.
(**5**) S.I. 2003/431 (N.I. 9).

"disqualification order" means an order of the court under Article 23 or 24 of the 2003 Order(**6**);

"offence against a child" has the same meaning as in Article 22 of the 2003 Order; and

"previous restriction" means any of—

(a) inclusion (otherwise than provisionally) in the list kept under Article 3 of the 2003 Order;

(b) inclusion (otherwise than provisionally) in the list kept under Article 35 of the 2003 Order;

(c) a disqualification order; or

(d) inclusion in a list kept for the purposes of the 2007 Regulations(**7**) (other than on the grounds that condition A or condition B in Part 1 of the Schedule to those Regulations is satisfied in relation to a person).

Representations

3.—(1) This paragraph applies to any person to whom IBB must, in accordance with any provision of Schedule 1 to the Order, give the opportunity to make representations as to his removal from, or inclusion in, a barred list.

(2) IBB must give any person falling within paragraph (1) notice in writing that he may make such representations.

(3) IBB shall give any notice under paragraph (2) to the person in question by sending it to him by post.

(4) A notice sent in accordance with paragraph (3) shall be treated as having been received by the person in question 48 hours after and including the date on which it was sent unless the contrary is proved.

(5) A person to whom notice is given in accordance with paragraph (3) may make representations as to his removal from, or inclusion in, a barred list(**8**) within the period of 8 weeks starting on the day on which he is treated as having received the notice.

(6) Where—

(i) a person has not completed making his representations within the period provided for under paragraph (5), and

(ii) IBB is satisfied that the person has good reason for not doing so,

IBB may allow that person such further period to make his representations as IBB considers reasonable.

The minimum barred period: persons subject to previous restrictions (children's barred list)

4. In the case of any person who is included by IBB in the children's barred list pursuant to Article 3 of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008(**9**) (inclusion in the children's barred list: persons disqualified from working with children) the minimum barred period is the period calculated in the manner set out in regulations 5 to 8.

(**6**) An order made under Article 23 or 24 disqualifies the person in respect of whom it is made from working with children.
(**7**) see regulation 8.
(**8**) The barred lists are the children's barred list and the adults' barred list which IBB is required to establish and maintain under Article 6 of the 2007 Order.
(**9**) S.R. 2008 No. 200.

The minimum barred period: persons included in the list kept under Article 3 of the 2003 Order

5.—(1) In relation to any person mentioned in regulation 4 who, at the point at which he is included in the children's barred list, is included (otherwise than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the 2003 Order—

(a) where the person was under the age of 18 at the date of the most recent restriction decision, subtract from the period of 5 years the period starting on and including the date of that restriction decision and ending on the date on which he is included by IBB in the children's barred list;

(b) where the person had reached the age of 18 at the date of the most recent restriction decision, subtract from the period of 10 years the period starting on and including the date of that restriction decision and ending on the date on which he is included by IBB in the children's barred list.

(2) In paragraph (1), restriction decision means a decision of—

(a) the Department of Health, Social Services and Public Safety—

(i) to include the person in the list kept under Article 3 of the 2003 Order, or

(ii) not to remove the person from that list;

(b) the Care Tribunal not to direct the person's removal from that list.

The minimum barred period: persons subject to disqualification orders

6.—(1) In relation to any person mentioned in regulation 4 who, at the point at which he is included in the children's barred list, is subject to a disqualification order in connection with the commission of an offence against a child—

(a) where the person was under the age of 18 when he committed the offence in question, subtract from the period of 5 years the period starting on and including the date of the most recent disqualification decision and ending on the date on which he is included by IBB in the children's barred list;

(b) where the person had reached the age of 18 when he committed the offence in question, subtract from the period of 10 years the period starting on and including the date of the most recent disqualification decision and ending on the date on which he is included by IBB in the children's barred list.

(2) In paragraph (1), disqualification decision means a decision of—

(a) the Court, to make the person subject to the disqualification order;

(b) the Care Tribunal, that the person should continue to be subject to the disqualification order.

The minimum barred period: persons included in the list kept for the purposes of the 2007 Regulations

7.—(1) In relation to any person mentioned in regulation 4 who, at the point at which he is included in the children's barred list, is included in the list kept for the purposes of the 2007 Regulations (other than on the grounds that condition A or condition B in Part 1 of the Schedule to those Regulations is satisfied in relation to that person)—

(a) where the person was under the age of 18 when he was included in the list, subtract from the period of 5 years the period starting on and including the date of the most recent restriction decision and ending on the date on which he is included by IBB in the children's barred list;

(b) where the person had reached the age of 18 when he was included in the list, subtract from the period of 10 years the period starting on and including the date of the most recent restriction decision and ending on the date on which he is included by IBB in the children's barred list.

(2) In paragraph (1), restriction decision means a decision of—

(a) the Department of Education—

(i) to include the person in the list kept for the purposes of the 2007 Regulations, or

(ii) not to revoke a prohibition(**10**);

(b) the Care Tribunal not to order the Department to revoke the prohibition.

The minimum barred period: persons subject to more than one previous disqualification

8.—(1) In relation to any person mentioned in regulation 4 who, at the point at which he is included in the children's barred list, is subject to more than one of the previous restrictions referred to in regulations 5 to 7, the minimum barred period is the period calculated in the manner set out in this regulation.

(2) Where the person was under the age of 18 at the date of the most recent unsuitability decision made in relation to him, subtract from the period of 5 years the period starting on and including the date of that unsuitability decision and ending on the date on which he is included by IBB in the children's barred list.

(3) Where the person had reached the age of 18 at the date of the most recent unsuitability decision made in relation to him, subtract from the period of 10 years the period starting on and including the date of that unsuitability decision and ending on the date on which he is included by IBB in the children's barred list.

(4) In this regulation, unsuitability decision means—

(a) a restriction decision within the meaning of regulation 5(2);

(b) a disqualification decision within the meaning of regulation 6(2);

(c) a restriction decision within the meaning of regulation 7(2).

The minimum barred period: persons subject to previous restrictions (adults' barred list)

9.—(1) In the case of any person who is included by IBB in the adults' barred list pursuant to Article 5 of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (inclusion in the adults' barred list: persons considered unsuitable to work with vulnerable adults) the minimum barred period is the period calculated in the manner set out in this regulation.

(2) Where the person was under the age of 18 at the date of the most recent restriction decision, subtract from the period of 5 years the period starting on and including the date of that restriction decision and ending on the date on which he is included by IBB in the adults' barred list.

(3) Where the person had reached the age of 18 at the date of the most recent restriction decision, subtract from the period of 10 years the period starting on and including the date of that restriction decision and ending on the date on which he is included by IBB in the adults' barred list.

(4) In paragraphs (2) and (3), restriction decision means a decision of—

(a) the Department of Health, Social Services and Public Safety—

(i) to include the person in the list kept under Article 35 of the 2003 Order, or

(ii) not to remove the person from that list;

(**10**) see regulation 9 of S.R. 2007 No. 288.