STATUTORY RULES OF NORTHERN IRELAND

2008 No. 200

SAFEGUARDING VULNERABLE GROUPS

The Safeguarding Vulnerable Groups (Transitional Provisions) Order (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 Order in exercise of the powers conferred by Article 61(1) of, and paragraphs 2 and 3 of Schedule 6 to, the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**1**).

Citation and Commencement

1. This Order may be cited as the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 and shall come into operation on 16th June 2008.

Interpretation

2. In this Order—

"the 2003 Order" means the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(**2**);

"the 2007 Regulations" means the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007(**3**);

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

"Care Tribunal" means the Care Tribunal established under Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**4**);

(**1**) S.I. 2007 No. 1351 (N.I. 11).
(**2**) S.I. 2003 No. 417 (N.I. 4) as amended by S.I. 2003 No. 431 (N.I. 9) and which is to be repealed by Schedule 8 to the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 ("the 2007 Order") which was not in operation on the making of this Order.
(**3**) S.R. 2007 No. 288.
(**4**) S.I. 2003 No. 431 (N.I. 9).

"disqualification order" means an order of the court under Article 23 or 24 of the 2003 Order(**5**).

Inclusion in the children's barred list: persons disqualified from working with children

3.—(1) This Article applies to a person, other than a person to whom Article 4(1) applies, ("X")—

(a) who is—

(i) included (otherwise than provisionally) in the list kept under Article 3 of the 2003 Order (persons unsuitable to work with children);

(ii) subject to a disqualification order; or

(iii) included in the list kept for the purposes of the 2007 Regulations(**6**) (prohibition from teaching etc);

(b) who has no appeal or review outstanding under the 2003 Order(**7**) or representations, appeal or revocation outstanding under the 2007 Regulations(**8**) or in whose case the time limit for making representations or appealing under those Orders has expired; and

(c) who is referred by the Department of Health, Social Services and Public Safety or the Department of Education to IBB(**9**).

(2) IBB must—

(a) include X in the children's barred list(**10**), and

(b) subject to paragraphs (5) and (7), give X the opportunity to make representations as to why X should be removed from the children's barred list.

(3) Regulation 3 (representations) of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008(**11**) applies in relation to representations made under paragraph (2)(b) as it applies in relation to representations made under Schedule 1 to the Order.

(4) IBB must consider any representations made by X and if it appears to IBB in light of those representations that it is not appropriate for X to be included in the children's barred list, it must remove X from that list.

(5) Part 3 of Schedule 1 to the Order in its application to the functions of IBB under this Article has effect subject to the following modifications—

(a) in paragraph 16(1)—

(i) for "any provision of this Schedule" substitute "Article 3 of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008"; and

(ii) for "this Schedule" substitute "that Article";

(b) after paragraph 16(1) insert—

(**5**) An order of the court made under Article 23 or 24 disqualifies the person in respect of whom it is made from working with children.

(**6**) See regulation 8 of the 2007 Regulations.

(**7**) An individual included in the list kept under Article 3 of the 2003 Order may appeal to the Care Tribunal under Article 11(1) against inclusion in the list or apply to the Care Tribunal under Article 12(1) to be removed from the list. An individual subject to a disqualification order under the 2003 Order may appeal under Article 26 and may apply to the Care Tribunal under Article 27 for a review of that disqualification order.

(**8**) An individual included in the list kept for the purposes of the 2007 Regulations may in certain circumstances make representations under regulation 7, seek a revocation of the prohibition by the Department of Education under regulation 9 and may appeal to the Care Tribunal under regulation 10 of those Regulations.

(**9**) The Independent Barring Board ("IBB") was established by section 1 of the Safeguarding Vulnerable Groups Act 2006.

(**10**) See Article 2(2) of the Order for the meaning of the children's barred list. Although X is included in the children's barred list, X will not be barred from engaging in regulated activity in relation to children until Article 7(2) of the Order comes into operation. X will remain subject to the current restrictions until the provisions repealing the restrictions are brought into operation subject to any savings.

(**11**) S.R. 2008 No. 203.

"(1A) A person to whom Article 3(2)(b) of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 applies may make representations as to why he should be removed from the children's barred list in accordance with that provision only in relation to his engaging in regulated activity relating to children which does not constitute work in a regulated position within the meaning of Article 31 of the 2003 Order.";

(c) in paragraph 16(2), for "Schedule" substitute "Article 3 of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008";

(d) in paragraph 18(4), for the words "he was included" to "(as the case may be)" substitute "the date of the most recent disqualification decision made in respect of him";

(e) after paragraph 18(4), insert—

"(4A) In sub-paragraph (4), "disqualification decision" means—

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

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

(ii) not to remove him from that list;

(b) a decision of the Care Tribunal not to direct the person's removal from the list referred to in sub-paragraph (4A)(a);

(c) a decision of the court to make a disqualification order (within the meaning of paragraph 24(6)(b)) in respect of the person;

(d) a decision of the Care Tribunal that the person should continue to remain subject to that disqualification order;

(e) a decision of 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(**12**);

(f) a decision of the Care Tribunal not to order the Department of Education to revoke the decision referred to in sub-paragraph (4A)(e).."; and

(f) in paragraph 19(1)(a) and (d) for "any of paragraphs 1 to 5 or 7 to 11", substitute "Article 3(1) of the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008".

(6) X may appeal to the Care Tribunal against a decision under this Article not to remove him from the children's barred list and Article 8 of the Order applies in relation to an appeal under this paragraph as it applies in relation to an appeal under paragraph (1) of that Article.

(7) Paragraph (2)(b) does not apply to a person if any of the criteria prescribed for the purposes of paragraph 1 of Schedule 1 to the Order as it has effect for the purposes of this paragraph is satisfied in relation to that person.

Inclusion in the children's barred list: on transfer from the Pre-Employment Consultancy Service Register

4.—(1) This Article applies to a person ("Y")—

(a) who—

(**12**) in accordance with regulation 9 of S.R. 2007 No. 288.