
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 200

The Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008

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⁽¹⁾ (prohibition from teaching etc);

[^{F1}(aa) who does not meet any of the criteria prescribed for the purposes of paragraph 1 or 2 of Schedule 1 to the Order under the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009;]

(b) who has no appeal or review outstanding under the 2003 Order⁽²⁾ or representations, appeal or revocation outstanding under the 2007 Regulations⁽³⁾ 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 [^{F2}IBB, ISA or DBS, as the case may be] .

(2) [^{F3}DBS] must—

(a) include X in the children's barred list⁽⁴⁾, 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⁽⁵⁾ applies in relation to representations made under paragraph (2)(b) as it applies in relation to representations made under Schedule 1 to the Order.

(1) See regulation 8 of the 2007 Regulations.

(2) 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.

(3) 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.

(4) 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.

(5) [S.R. 2008 No. 203](#).

(4) [F⁴DBS] must consider any representations made by X and if it appears to [F⁴DBS] 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 [F⁵DBS] 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—

“(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(6);

(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).”;

(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.

- F1** Art. 3(1)(aa) inserted (13.3.2009) by The Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/39), regs. 1, **9(2)**
- F2** Words in art. 3(1)(c) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **10(a)** (with Pt. 4)
- F3** Word in art. 3(2) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **9(a)** (with Pt. 4)
- F4** Word in art. 3(4) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **9(a)** (with Pt. 4)
- F5** Word in art. 3(5) substituted (1.12.2012) by The Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), arts. 1(1), **9(a)** (with Pt. 4)

Commencement Information

- I1** Art. 3 in operation at 16.6.2008, see **art. 1**

Changes to legislation:

There are currently no known outstanding effects for the The Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008, Section 3.