



Protection of Children Act 1999

1999 CHAPTER 14

Department of Health list

4 Appeals against inclusion in list

- (1) An individual who is included (otherwise than provisionally) in the list kept by the Secretary of State under section 1 above may appeal to the Tribunal against—
 - (a) the decision to include him in the list; or
 - (b) with the leave of the Tribunal, any decision of the Secretary of State not to remove him from the list under section 1(3) above.
- (2) Subject to subsection (5) below, an individual who has been provisionally included for a period of more than nine months in the list kept by the Secretary of State under section 1 above may, with the leave of the Tribunal, have the issue of his inclusion in the list determined by the Tribunal instead of by the Secretary of State.
- (3) If on an appeal or determination under this section the Tribunal is not satisfied of either of the following, namely—
 - (a) that the individual was guilty of misconduct (whether or not in the course of his duties) which harmed a child or placed a child at risk of harm; and
 - (b) that the individual is unsuitable to work with children,the Tribunal shall allow the appeal or determine the issue in the individual's favour and (in either case) direct his removal from the list; otherwise it shall dismiss the appeal or direct the individual's inclusion in the list.
- (4) Where an individual has been convicted of an offence involving misconduct (whether or not in the course of his employment) which harmed a child or placed a child at risk of harm, no finding of fact on which the conviction must be taken to have been based shall be challenged on an appeal or determination under this section.
- (5) Where the misconduct of which the individual is alleged to have been guilty is the subject of any civil or criminal proceedings, an application for leave under subsection (2) above may not be made before the end of the period of six months immediately following the final determination of the proceedings.

Status: This is the original version (as it was originally enacted).

- (6) For the purposes of subsection (5) above, proceedings are finally determined when—
- (a) the proceedings are terminated without a decision being made;
 - (b) a decision is made against which no appeal lies;
 - (c) in a case where an appeal lies with leave against a decision, the time limited for applications for leave expires without leave being granted; or
 - (d) in a case where leave to appeal against a decision is granted or is not required, the time limited for appeal expires without an appeal being brought.