

EXPLANATORY MEMORANDUM

THE PROTECTION OF CHILDREN AND VULNERABLE ADULTS AND CARE STANDARDS TRIBUNAL (AMENDMENT) (No.4) REGULATIONS 2004 No.2073

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments.

2. Description

- 2.1 These Regulations amend the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002. (SI No 816).
- 2.2 The regulations have been amended to provide a right of appeal against a decision of the Chief inspector of Schools to disqualify someone from registration as a child minder or day care provider or to refuse to waive disqualification. Amendments have also been made to provisions in the regulations that apply generally to all appeals to the Care Standards Tribunal.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Legislative Background

- 4.1 Schedule 9A of the Children Act 1989 (as inserted by the Care Standards Act 2000) provides for regulations enabling the Chief Inspector of Schools to disqualify registration as a child minder. These regulations are made in the Child Minding and Day Care (Disqualification) (England) regulations 2004 due to come into force on 27th September. Schedule 9A (as amended by the Education Act 2002) also provides for the Chief Inspector to waive disqualification. Part XA (79M) of the 1989 Act, as inserted by the Care Standards Act 2000, provides the right of appeal against these decisions.
- 4.2 The Tribunal regulations provide the procedural rules under which the Tribunal operates and handles appeals.

5. Extent

- 5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Amendment) Regulations 2004 are compatible with the Convention rights.

7. Policy background

- 7.1 The Care Standards Tribunal was established under the Protection of Children Act 1999 to hear appeals from individuals included on the list of those considered unsuitable to work with children. Its functions have since been extended by the Care Standards Act 2000, the Criminal Justice and Court Services Act 2000, the Children Act 1989 (as amended by the Care Standards Act) and the Education Act 2002. It now hears appeals in respect of the registration of establishments and agencies; registration or child minders and day care providers and approval of home child care providers; entry on the General Social Care Council and the Care Council Wales register; registration of independent schools; inclusion on the PoCA list; prohibition from working with children in schools and; inclusion on the Protection of Vulnerable Adults list.
- 7.2 The Tribunal is an independent judicial body. The President and members who hear appeals are appointed by the DCA. The Tribunal operates under the procedural rules contained in the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations.
- 7.3 Changes to the rules in respect of disqualification from registration as child minder/day care provider are necessary for the Tribunal to hear appeals where such a decision is made by the Chief Inspector of Schools. Other changes to the rules are made in the light of the last 2 years' experience of the Tribunal to improve consistency and clarity.

8. Impact

- 8.1 These regulations do not impose any regulatory requirements and no Regulatory Impact Assessment is necessary

9. Contact

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can answer any queries regarding the instrument.