

EXPLANATORY MEMORANDUM TO THE
THE PROTECTION OF CHILDREN AND VULNERABLE ADULTS AND CARE
STANDARDS TRIBUNAL (AMENDMENT) (No.2) REGULATIONS 2004

2004 No. 3354

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 National Assembly for Wales to suspend the registration of child minders or day care providers.

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

- 3.1 None.

4. **Legislative Background**

- 4.1 Section 79H(1) of the Children Act 1989 (as inserted by the Care Standards Act 2000) provides for regulations enabling the Chief Inspector of Schools and the National Assembly for Wales to suspend the registration of child minders or day care providers for a prescribed period in prescribed circumstances. Section 79H(2) of the 1989 Act provides that the regulations shall include a provision conferring the person a right of appeal to the Tribunal established under the Protection of Children Act 1999.

- 4.2 The National Assembly for Wales have now made regulations under Section 79H(1) and 79H(2) of the 1989 Act and they are due to come into force on 20th December. Regulations providing for the suspension of the registration of child minders and day care providers by the Chief Inspector of Schools in England are already in force (The Child Minding and Day care (Suspension of Registration) (England) Regulations 2003 SI no. 332.

- 4.3 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 of 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 A minor, technical change to the rules in respect of suspension of the registration of child minders and day care providers by the National Assembly for Wales is necessary for the Tribunal to hear appeals against such a decision.

8. Impact

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

9. Contact

Barbara Erne at the Care Standards Tribunal (tel: 020-7-960 0664) or e-mail: Barbara.erne@cst.gsi.gob.uk can answer any queries regarding the instrument.