

2007 No. 2620

CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Inclusion in the PoCA List and Review of Section 142 Directions) Regulations 2007

<i>Made</i> - - - -	<i>5th September 2007</i>
<i>Laid before Parliament</i>	<i>7th September 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 9(2)(a), (b), (3) and (3B) of the Protection of Children Act 1999(a).

In accordance with section 8 of the Tribunals and Inquiries Act 1992(b) he has consulted the Council on Tribunals.

Citation and commencement

1. These Regulations may be cited as the Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Inclusion in the PoCA List and Review of Section 142 Directions) Regulations 2007 and come into force on 1st October 2007.

Review of inclusion in the PoCA List

2.—(1) The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Disqualification Orders) Regulations 2006(c) apply in relation to applications to the Tribunal under sections 4A and 4B of the Protection of Children Act 1999(d) with the following modifications.

(2) In regulation 1(2) (interpretation)—

(a) for the definition of “the Act” substitute—

““the Act” means the Protection of Children Act 1999;”;

(b) for the definition of “appropriate conditions” substitute—

(a) 1999 c. 14 (“the 1999 Act”). Section 9(2)(a) was substituted by paragraph 26(3)(a) of Schedule 4 to the Care Standards Act 2000 (c. 14) (“the CSA 2000”) and amended by paragraph 157(a) of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43) (“the CJCSA 2000”). Section 9(2)(b) was substituted by paragraph 122(a) of Schedule 21 to the Education Act 2002 (c. 32). Section 9(3B) was inserted by paragraph 26(3)(b) of Schedule 4 to the CSA 2000.

(b) 1992 c. 53 (“the 1992 Act”). Paragraph 36B of Schedule 1 to the 1992 Act was inserted by paragraph 8 of Schedule 1 to the 1999 Act, as renumbered and amended by paragraph 21 of Schedule 4 to the CSA 2000.

(c) S.I. 2006/1929.

(d) Sections 4A and 4B were inserted by paragraph 155 of Schedule 7 to the CJCSA 2000.

““appropriate conditions” means the conditions set out in section 4B(3) or (4) of the Act;”;

(c) for the definition of “grant conditions” substitute—

““grant conditions” means the conditions set out in section 4B(5) of the Act;

“inclusion in the PoCA List” means inclusion (otherwise than provisionally) in the list kept by the Secretary of State under section 1 of the Act;”;

(d) omit the definition of “the Order”.

(3) In regulation 3 (initiating an application)—

(a) for paragraph (1) substitute—

“(1) A person who wishes to make an application to the Tribunal under sections 4A and 4B of the Act must do so in writing to the Secretary.”;

(b) for paragraph (3)(b) substitute—

“(b) give the date of the applicant’s inclusion in the PoCA List together with details of any change in the applicant’s circumstances since his inclusion in the PoCA List that leads the applicant to believe that he should no longer be included in the PoCA List;”.

(4) In regulation 9 (directions and preliminary issues), after paragraph (4) insert—

“(4A) Following the grant of leave under regulation 6, the Secretary shall, without delay, notify the Secretary of State for Children, Schools and Families that leave has been granted.”.

(5) In regulation 18 (the decision), after paragraph (4) insert—

“(4A) The Secretary must, as soon as reasonably possible, send to the Secretary of State for Children, Schools and Families a copy of the document mentioned in paragraph (2).”.

(6) In regulation 20(2) (powers of Tribunal on review), after “the applicant” insert “and the Secretary of State for Children, Schools and Families”.

Review of section 142 directions

3.—(1) The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Disqualification Orders) Regulations 2006 apply in relation to applications to the Tribunal under regulations 10, 10A and 11 of the Education (Prohibition from Teaching or Working with Children) Regulations 2003(a) with the following modifications.

(2) In regulation 1(2) (interpretation)—

(a) for the definition of “the Act” substitute—

““the 2003 Regulations” means the Education (Prohibition from Teaching or Working with Children) Regulations 2003;”;

(b) for the definition of “appropriate conditions” substitute—

““appropriate conditions” means the conditions set out in regulation 11(3) and (4) of the 2003 Regulations;”;

(c) for the definition of “grant conditions” substitute—

““grant conditions” means the conditions set out in regulation 11(5) of the 2003 Regulations;”;

(d) omit the definition of “the Order”;

(e) after the definition of “the Secretary” insert—

(a) S.I. 2003/1184. Regulation 10A was inserted by, and regulations 10 and 11 amended by, regulations 6, 7 and 8 of S.I. 2007/195. There are other amendments not relevant to these Regulations.

““section 142 direction” means a direction given under section 142 of the Education Act 2002(a) or any prohibition, restriction or disqualification which has effect as if contained in such a direction;”.

- (3) In regulation 3 (initiating an application)—
- (a) for paragraph (1) substitute—
- “(1) A person who wishes to make an application to the Tribunal under regulations 10 and 10A or 11 of the 2003 Regulations must do so in writing to the Secretary.”;
- (b) for paragraph (3)(b) substitute—
- “(b) (i) where regulation 10A of the 2003 Regulations applies, give the reasons that lead the applicant to believe that he should no longer continue to be subject to the section 142 direction;
- (ii) where regulation 10A of the 2003 Regulations does not apply, give the date of the section 142 direction to which the application relates together with details of any change in the applicant’s circumstances since the section 142 direction was made that leads the applicant to believe that he should no longer continue to be subject to the section 142 direction;”.
- (4) In regulation 5 (misconceived applications etc.)—
- (a) in paragraph (1)(a) for “the Act” substitute “the 2003 Regulations”;
- (b) at the beginning of paragraph (2) insert “Where regulation 10A of the 2003 Regulations does not apply,”.
- (5) For regulation 6(2) (grant or refusal of leave) substitute—
- “(2) (a) where regulation 10A of the 2003 Regulations applies, if, in the opinion of the nominated chairman the application has no reasonable prospect of success, then leave shall be refused; otherwise it may be granted;
- (b) where regulation 10A of the 2003 Regulations does not apply, if, in the opinion of the nominated chairman the grant conditions are met, then leave shall be granted; otherwise it shall be refused.”.
- (6) In regulation 9 (directions and preliminary issues), after paragraph (4) insert—
- “(4A) Following the grant of leave under regulation 6, the Secretary shall, without delay, notify the Secretary of State for Children, Schools and Families that leave has been granted.”.
- (7) In regulation 18 (the decision), after paragraph (4) insert—
- “(4A) The Secretary must, as soon as reasonably possible, send to the Secretary of State for Children, Schools and Families a copy of the document mentioned in paragraph (2).”.
- (8) In regulation 20(2) (powers of Tribunal on review), after “the applicant” insert “and the Secretary of State for Children, Schools and Families”.

On behalf of the Secretary of State

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

5th September 2007

(a) 2002 c. 32.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the proceedings of the Tribunal established by section 9 of the Protection of Children Act 1999 (c. 14) (“the 1999 Act”) in relation to:

- (a) applications under sections 4A and 4B of the 1999 Act (review of inclusion in the PoCA List); and
- (b) applications under regulations 10, 10A and 11 of the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (S.I. 2003/1184, as amended by S.I. 2007/195) (review of section 142 directions).

These Regulations apply The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Review of Disqualification Orders) Regulations 2006 (S.I. 2006/1929) (“the 2006 Regulations”) with modifications. The 2006 Regulations made provision about the proceedings of the Tribunal in relation to the review of determinations under sections 32 and 33 of the Criminal Justice and Court Services Act 2000 (c. 43) (disqualification orders).

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