
STATUTORY INSTRUMENTS

2008 No. 1497

**The Protection of Children and Vulnerable Adults
and Care Standards Tribunal (Children's and Adults'
Barred Lists) (Transitional Provisions) Regulations 2008**

PART 3

APPLICATIONS FOR PERMISSION TO APPEAL

Applying for permission to appeal

3.—(1) An application for permission to appeal to the Tribunal under section 4(4) of the Act against a decision—

- (a) not to remove the applicant from the children's barred list under article 2(6) of the Order;
- (b) not to remove the applicant from the adults' barred list under article 4(6) of the Order; or
- (c) under section 4(1)(b) of the Act, to include the applicant in the children's barred list pursuant to article 3(2) of the Order,

must be made in writing to the Secretary and must be received by the Secretary no later than the first working day after the expiry of three months from the date of the letter informing the applicant of that decision.

(2) An application under this regulation may be made on the application form available from the Secretary.

(3) An application under this regulation must—

- (a) give the applicant's name, date of birth and full postal address;
- (b) give sufficient information to make it clear whether the application falls within subparagraph (a), (b) or (c) of paragraph (1);
- (c) indicate the grounds upon which the applicant wishes to appeal;
- (d) give details of any new evidence since the decision was made which might lead the Tribunal to a different decision;
- (e) give the name, address and profession of the person (if any) representing the applicant;
- (f) give an address within the United Kingdom to which the Secretary should send documents concerning the appeal and application for leave;
- (g) give, where these are available, the applicant's telephone number, fax number and e-mail address and those of the applicant's representative (if any); and
- (h) be signed and dated by the applicant.

Acknowledgement and notification of application

4.—(1) On receiving an application under regulation 3, the Secretary shall—

- (a) immediately send an acknowledgement of its receipt to the applicant; and
 - (b) subject to the following provisions of this regulation, enter particulars of the application and the date of its receipt in the records.
- (2) If the President is of the opinion that the applicant is asking the Tribunal to do something which it cannot do, he may notify the applicant in writing—
- (a) of the reasons for his opinion; and
 - (b) that the application will not be entered in the records unless within 5 working days the applicant notifies the President in writing that he wishes to proceed with it.
- (3) If in the Secretary's opinion there is an obvious error in the application—
- (a) he may correct it;
 - (b) he shall notify the applicant accordingly; and
 - (c) unless within 5 working days of receipt of the notification under sub-paragraph (b) of this paragraph the applicant notifies the Secretary in writing that he objects to the correction, the application shall be amended accordingly.

Response to application

5.—(1) The Secretary must send information provided by the applicant under regulation 3 to the respondent together with a request that it respond to the application within 20 working days of receiving it.

(2) If the respondent fails to respond as requested, it shall not be entitled to take any further part in the proceedings.

(3) The response must—

- (a) indicate whether or not the respondent opposes the application for permission to appeal, and if it does, why; and
- (b) provide the following information and documents—
 - (i) the name, address and profession of the person (if any) representing the respondent and whether the Secretary should send documents concerning the application to the representative rather than to the respondent;
 - (ii) a copy of the letter informing the applicant of the decision which is the subject of the application for permission and appeal;
 - (iii) copies of any observations submitted by the applicant in relation to the decision; and
 - (iv) copies of any evidence or expert evidence relied on by the respondent in making the decision.

(4) The Secretary must send to the applicant a copy of the response and the information and documents provided with it (subject, in the case of any material provided in accordance with paragraph (3)(b)(iv), to any direction of the President or the nominated chairman under regulation 16).

Grant or refusal of leave

6.—(1) The President or the nominated chairman shall grant or refuse an application for permission under regulation 3 without a hearing, as he sees fit.

(2) Subject to regulation 7, if the President or the nominated chairman refuses permission the application shall be dismissed.

(3) The Secretary must, without delay, notify the parties in writing of the President or nominated chairman's decision, and if he has refused permission—

- (a) must notify them of his reasons for doing so; and
- (b) must inform the applicant of his right to request a reconsideration of the decision under regulation 7.

Reconsideration of permission

7.—(1) Where, pursuant to regulation 6, the President, or the nominated chairman, has refused permission to appeal, the applicant may apply to the President, or the nominated chairman, requesting a reconsideration of that decision.

(2) An application under this regulation must be received by the Secretary within 10 working days after receipt of a notice under regulation 6(3), and must be in writing.

(3) Upon receipt of such an application, the President or the nominated chairman must reconsider the decision to refuse permission.

(4) If, in his application under paragraph (1), the applicant has asked to make representations about permission at a hearing, the Secretary must fix a hearing for those representations to be heard.

(5) The Secretary must notify the respondent of any hearing fixed for the purpose of considering whether to grant permission, and the applicant and the respondent may appear or be represented by any person at that hearing.

(6) If the President or the nominated chairman again refuses permission after reconsideration—

- (a) he must give his reasons for doing so in writing; and
- (b) the Secretary must send to the parties a copy of the President or the nominated chairman's decision together with his reasons for refusing permission.