
STATUTORY INSTRUMENTS

2008 No. 473

**The Safeguarding Vulnerable Groups Act
2006 (Transitional Provisions) Order 2008**

Inclusion in the adults' barred list: persons considered unsuitable to work with vulnerable adults

4.—(1) This article applies to a person (“X”)—

- (a) who is included (otherwise than provisionally) in the list kept under section 81 of the CSA (individuals considered unsuitable to work with vulnerable adults);
- (b) who has no appeal or review outstanding under the CSA(1) or in whose case the time limit for appealing under that Act has expired; and
- (c) who is referred by the Secretary of State to IBB.

(2) IBB must—

- (a) include X in the adults' barred list(2), and
- (b) subject to paragraphs (5) and (7), give X the opportunity to make representations as to why he should be removed from the adults' barred list.

(3) Regulation 2 (representations) of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations 2008 applies in relation to representations made under paragraph (2)(b) as it applies in relation to representations made under Schedule 3 to the Act.

(4) IBB must consider any representations made by X and if it appears to IBB in light of those representations that it is not appropriate for X to be included in the adults' barred list, it must remove X from that list.

(5) Part 3 of Schedule 3 to the Act in its application to the functions of IBB under this article has effect subject to the following modifications—

(a) in paragraph 16(1)—

- (i) for “any provision of this Schedule” substitute “article 4 of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008”; and
- (ii) for “this Schedule” substitute “that article”;

(b) after paragraph 16(1), insert—

“(1A) A person to whom article 4(2)(b) of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008 applies may make representations as to why he should be removed from the adults' barred list in accordance with that provision only in relation to his engaging in regulated activity relating to vulnerable adults which does not constitute work in a care position within the meaning of section 80(2)(a) and (c) of the Care Standards Act 2000.”;

(1) A person included in the list kept under section 81 of the CSA may appeal to the Tribunal under section 86 or apply to the Tribunal under section 87 to be removed from the list.

(2) See section 60(1) of the Act for the meaning of the adults' barred list. Although X is included in the adults' barred list, X will not be barred from engaging in regulated activity relating to vulnerable adults until section 3(3) of the Act comes into force. X will remain included in the list kept under section 81 of the CSA until that provision is repealed subject to any savings.

- (c) in paragraph 16(2), for “Schedule” substitute “article 4 of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008”;
- (d) in paragraph 18(4), for the words “he was included” to “(as the case may be)” substitute “the date of the most recent disqualification decision made in respect of him”;
- (e) after paragraph 18(4), insert—
 - “(4A) In sub-paragraph (4), “disqualification decision” means—
 - (a) a decision of the Secretary of State—
 - (i) to include the person in the list kept under section 81 of the Care Standards Act 2000, or
 - (ii) not to remove him from that list; or
 - (b) a decision of the Tribunal not to direct the person’s removal from the list referred to in sub-paragraph (4A)(a).”;
 - (f) in paragraphs 19(1)(a) and (d), for “any of paragraphs 1 to 5 or 7 to 11”, substitute “article 4(1) of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008”.

(6) X may appeal to the Tribunal against a decision under this article not to remove him from the adults’ barred list and section 4 of the Act applies in relation to an appeal under this paragraph as it applies to an appeal under subsection (1) of that section.

(7) Paragraph (2)(b) does not apply to a person if any of the criteria prescribed for the purposes of paragraph 7 of Schedule 3 to the Act as it has effect for the purposes of this paragraph is satisfied in relation to that person.