EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order, made under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 ("the Order"), makes transitional provision in relation to those subject to existing restrictions relating to working with children or vulnerable adults. The Order requires the Independent Barring Board ("IBB") established under section 1 of the Safeguarding Vulnerable Groups Act 2006 to include, or consider including, those subject to existing restrictions in the new barred lists. The individuals included in the new barred lists will not be barred from engaging in regulated activity relating to children or, as the case may be, vulnerable adults, until Article 7(2) and (3) of the Order (bar from engaging in regulated activity) comes into operation. The existing restrictions are to remain in place until then.

Article 3 applies to persons who are included in the list kept under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 ("the 2003 Order") (other than those to whom Article 4(1)(a) applies), disqualified from working with children by virtue of a disqualification order (that is an order under Article 23 or 24 of the 2003 Order) or included in the list kept for the purposes of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007 ("the 2007 Regulations") and have no appeal etc. outstanding. IBB must include those individuals in the children's barred list established and maintained by the IBB under Article 6 of the Order but the bar will not take effect until the date on which Article 7(2) of the Order comes into operation (Article 3(2)). At that point a person who is included in the children's barred list will be barred from engaging in regulated activity relating to children. The individual will remain subject to the existing restrictions until that date. The IBB must give the individual an opportunity to make representations as to why they should be removed from the list, unless any of the criteria prescribed for the purposes of paragraph 1 of Schedule 1 to the Order as it has effect for the purposes of Article 3(7) is satisfied in relation to that individual. That right to make representations is limited (Article 3(5)). Article 3(6) provides that an individual may appeal against the decision of IBB not to remove the individual from the children's barred list and Article 8 of the Order applies in relation to any appeal.

Article 4 applies to those included in the list kept under Article 3 of the 2003 Order who were transferred to that list under Article 10 of that Order - Pre-Employment Consultancy Service Register cases (unless subject to a disqualification order or if any of Conditions C to F of the 2007 Regulations is met). IBB must consider including such individuals in the children's barred list in accordance with paragraphs 3 to 5 of Schedule 1 to the Order. There is a right of appeal against the decision of IBB to include an individual in the children's barred list under Article 8 of the Order.

Article 5 makes similar provision to Article 3 in relation to those included in the list kept under Article 35 of the 2003 Order (individuals considered unsuitable to work with vulnerable adults). IBB must include those individuals in the adults' barred list maintained under Article 6 of the Order but the bar will not take effect until Article 7(3) of the Order comes into operation (Article 5(2)). At that point an individual who is included in the adults' barred list will be barred from engaging in regulated activity relating to vulnerable adults. The individual will remain subject to the existing restriction until that date. IBB must give the individual an opportunity to make representations as to why he should be removed from the adults' barred list, unless any of the criteria prescribed for the purposes of paragraph 7 of Schedule 1 to the Order as it has effect for the purposes of Article 5(7) is satisfied in relation to that individual. That right to make representations is limited (Article 5(5)). Article 5(6) provides that an individual may appeal against a decision of IBB not to remove the individual from the adults' barred list and Article 8 of the Order applies in relation to any appeal.

Article 6 makes similar provision to Article 4 in relation to those included in the list kept under Article 35 of the 2003 Order who were transferred under Article 41 of that Order - Pre-Employment Consultancy Service Register cases (unless subject to a disqualification order or any of Conditions C to F of the 2007 Regulations is met). IBB must consider including such individuals in the adults' barred list in accordance with paragraphs 9 to 11 of Schedule 1 to the Order. There is a right of appeal against the decision of IBB to include an individual in the adults' barred list under Article 8 of the Order.

Articles 3(3) and 5(3) provide that regulation 3 of the Safeguarding Vulnerable Groups (Barring Procedure) Regulations (Northern Ireland) 2008 which governs representations to IBB applies in relation to representations made under these Articles.