
STATUTORY INSTRUMENTS

2008 No.1497

**CHILDREN AND YOUNG
PERSONS, ENGLAND AND WALES
PROTECTION OF VULNERABLE
ADULTS, ENGLAND AND WALES**

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

| | | |
|-------------------------------|---------|-----------------------|
| <i>Made</i> | - - - - | <i>9th June 2008</i> |
| <i>Laid before Parliament</i> | | <i>11th June 2008</i> |
| <i>Coming into operation</i> | | <i>2nd July 2008</i> |

The Secretary of State makes the following regulations in exercise of the powers conferred by sections 4(8), 61(5) and 64(1) of the Safeguarding Vulnerable Groups Act 2006(1). In accordance with section 8 of the Tribunals and Inquiries Act 1992(2), he has consulted the Administrative Justice and Tribunals Council.

PART 1
INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Protection of Children and Vulnerable Adults and Care Standards Tribunal (Children’s and Adults’ Barred Lists) (Transitional Provisions) Regulations 2008 and shall come into force on 2nd July 2008.

(2) In these Regulations—

“the Act” means the Safeguarding Vulnerable Groups Act 2006;

(1) [2006 c.47](#).

(2) [1992 c.53](#) as amended by paragraph 30 of Schedule 8 to the Tribunals, Courts and Enforcement Act [2007 \(c.15\)](#).

“case” means an appeal pursuant to articles 2(6) or 4(6) of the Order or, under section 4(1)(b) of the Act, pursuant to article 3(2) of the Order;

“chairmen’s panel” has the same meaning as in paragraph 1 of the Schedule to the Protection of Children Act 1999(3);

“child” has the same meaning as in section 60(1) of the Act;

“the clerk” means, in relation to a hearing before the Tribunal, the person appointed by the Secretary to act as clerk to the Tribunal;

“document” means information recorded in writing or in any other form;

“lay panel” means the panel of persons who meet the requirements for membership of such a panel set out in regulation 3 of the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(4), and references to membership of the lay panel shall be construed accordingly;

“nominated chairman” means the chairman appointed by the President in accordance with regulation 8;

“the Order” means the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008(5);

“parties” means the applicant and the respondent;

“the President” has the same meaning as in paragraph 1 of the Schedule to the Protection of Children Act 1999(6);

“records” means the records of the Tribunal;

“the respondent” means the Independent Barring Board;

“the Secretary” means the person for the time being acting as the Secretary to the Tribunal;

“sensitive witness” means an adult witness where the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with giving evidence in the case;

“vulnerable adult” has the same meaning as in section 59 of the Act;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales within the meaning of the Banking and Financial Dealings Act 1971(7).

PART 2

CONSTITUTION

Powers and functions exercisable by the President and Secretary

2.—(1) Anything which must or may be done by the President (except under regulation 8(1), (2), (3) or (4) or 20(4)), may be done by a member of the chairmen’s panel authorised by the President.

(2) Anything which must or may be done by the Secretary may be done by a member of the Tribunal’s staff authorised by the Secretary.

(3) 1999 c.14.

(4) S.I. 2002/816 to which there are amendments not relevant to these Regulations.

(5) S.I. 2008/473.

(6) 1999 c. 14 to which there are amendments not relevant to these Regulations.

(7) 1971 c.80.

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.

PART 4

CASE MANAGEMENT

Appointment of Tribunal

8.—(1) The President shall, at such time as he considers it appropriate to do so, nominate a chairman (who may be himself) to determine the grant or refusal of permission to proceed with an application.

(2) If permission to appeal is granted, the President shall, at such time as he considers it appropriate to do so, nominate a chairman (who may be himself) and two members of the lay panel to determine the case.

(3) The President may, at any time before the hearing (or, if the application is to be determined without an oral hearing, before the application is determined) nominate from the appropriate panel another person in substitution for the chairman or other member previously nominated.

(4) The President shall nominate members of the lay panel who appear to him to have experience and qualifications relevant to the subject matter of the case.

(5) The President or the nominated chairman may determine any application made in relation to the case.

Directions and preliminary matters

9.—(1) If either party has requested that there shall be a preliminary hearing, or if the President or the nominated chairman considers that a preliminary hearing is necessary, the President or the nominated chairman, as the case may be, shall fix a date for the preliminary hearing as soon as possible.

(2) The Secretary shall notify the parties as soon as possible, and in any event not less than 5 working days before the hearing of the date, time and place of any preliminary hearing.

(3) The parties may be represented or assisted at any preliminary hearing by any person.

(4) At the preliminary hearing, or otherwise if a preliminary hearing is not to be held, the President or the nominated chairman—

(a) shall give directions as to the dates by which any document, witness statement or other material upon which any party is intending to rely shall be sent to the Tribunal and, if the President or the nominated chairman considers it appropriate, to the other party;

- (b) may give any other direction in exercise of his powers under this Part that he considers appropriate; and
 - (c) shall, where the applicant has requested that the case be determined without an oral hearing, give a direction as to the date, which shall not be less than 10 working days after the last date on which he has directed that any document, witness statement or other evidence be sent to the Tribunal, by which the parties shall send in any written representations regarding the appeal.
- (5) The President or the nominated chairman may direct that exchange of witness statements or other material shall be simultaneous or sequential as he considers appropriate.
- (6) The Secretary shall notify the parties as soon as possible in writing of any directions the President or the nominated chairman gives under paragraphs (4) or (5) above.
- (7) The Tribunal (or the President or nominated chairman) may require any person (other than the parties) to attend and give evidence or produce documents at the hearing.
- (8) The Tribunal (or the President or nominated chairman) may invite any person who, in its, or his, opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to the Secretary before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

Fixing and notification of hearing

- 10.**—(1) The Secretary must, in consultation with the President or the nominated chairman, fix a date for the hearing of the case unless the applicant has requested in writing that the case be determined without a hearing.
- (2) The date fixed for the hearing shall be the earliest practicable date having regard to any directions which have been made by the President or the nominated chairman with regard to the preparation of evidence but shall be no sooner than 15 working days after the latest date on which the President or the nominated chairman has directed that the evidence of the parties (including the statements of any witnesses or experts) shall be filed or exchanged.
- (3) The Secretary must inform the parties in writing of the date, time and place of the hearing no less than 20 working days before the date fixed for the hearing.
- (4) Subject to paragraph (5), the President or the nominated chairman may adjourn the hearing, either on the application of either party or on his own initiative.
- (5) The President or the nominated chairman shall not adjourn the hearing unless satisfied that a failure to adjourn would prevent the just disposal of the case.
- (6) If the President or the nominated chairman adjourns the hearing, then the Secretary must, without delay, inform the parties in writing of the date, time and place at which the hearing will be resumed.

General Conduct of Hearing

- 11.**—(1) The Tribunal may regulate its own procedure.
- (2) At the beginning of the hearing the President or the nominated chairman must explain the order of proceedings which the Tribunal proposes to adopt.
- (3) The parties may be represented or assisted at the hearing by any person.
- (4) The applicant has the right to give evidence at the hearing in person, and any other person may do so unless the President or nominated chairman has directed otherwise.
- (5) The Tribunal may consider any evidence, whether or not such evidence would be admissible in a court of law.

(6) The Tribunal may require any witness to give evidence on oath or affirmation which may be administered for the purpose by the President or nominated chairman or the clerk.

(7) If either party fails to attend or be represented at the hearing, the Tribunal may determine the case in that party's absence.

Hearing to be in public

12.—(1) The hearing must be in public except in so far as any person is excluded under regulation 17.

(2) Whether or not the hearing is held in public—

(a) the President;

(b) the clerk; and

(c) any person whom the President or the nominated chairman permits to be present in order to assist the Tribunal,

are entitled to attend the hearing.

(3) Whether or not the hearing is held in public, the President may remain present during the Tribunal's deliberations, but must not take part in those deliberations, except where the President is the nominated chairman of the Tribunal.

Summoning of witnesses

13.—(1) The President or the nominated chairman may, upon being requested to do so by either of the parties, or on his own initiative, issue a summons requiring any person to—

(a) attend as a witness at the hearing, at the date, time and place set out in the summons; and

(b) answer any questions or produce any documents or other material in his possession or under his control which relate to any matter in question in the case.

(2) The summons must explain the right to apply under this regulation to have it varied or set aside.

(3) A person summoned under this regulation may apply in writing to the Secretary for the summons to be varied or set aside by the President or the nominated chairman, and—

(a) the President or the nominated chairman may vary the summons or set it aside if he sees fit; and

(b) the Secretary must notify the person and the parties in writing of the decision.

(4) No person shall be required to attend, answer questions or produce any document in obedience to a summons issued under this regulation unless—

(a) he has been given at least 5 working days' notice of the hearing; and

(b) the necessary expenses of his attendance are paid or tendered to him by the applicant or by the Tribunal, as the President or the nominated chairman shall direct.

(5) No person shall be required under this regulation to give any evidence or produce any document or other material that he could not be required to produce in legal proceedings in a county court.

Child, vulnerable adult and sensitive witnesses

14.—(1) A child shall only give evidence in person where, having regard to all the available evidence, and any representations made by the parties, the President or the nominated chairman considers that the welfare of the child will not be prejudiced by so doing.

(2) If he directs that a child shall give evidence in person, the President or the nominated chairman shall—

- (a) secure that any arrangements he considers appropriate (such as the use of a video link) are made to safeguard the welfare of the child; and
- (b) appoint for the purpose of the hearing a person with appropriate skills or experience in facilitating the giving of evidence by children.

(3) Where the President or the nominated chairman believes that it might not be in the best interests of a vulnerable adult or a sensitive witness for the vulnerable adult or sensitive witness to give oral evidence to the Tribunal, the President or the nominated chairman shall, having regard to all the available evidence, including any representations made by the parties, consider whether it would prejudice the vulnerable adult's or sensitive witness's welfare to give oral evidence to the Tribunal—

- (a) in any circumstances; or
- (b) otherwise than in accordance with paragraph (5).

(4) If the President or the nominated chairman considers that it would prejudice the vulnerable adult's or sensitive witness's welfare—

- (a) to give oral evidence to the Tribunal in any circumstances, he shall direct that the vulnerable adult or sensitive witness shall not do so; or
- (b) to give oral evidence to the Tribunal otherwise than in accordance with paragraph (5) he shall direct that paragraph (5) shall apply in relation to the vulnerable adult or sensitive witness.

(5) If he directs that this paragraph shall apply in relation to the vulnerable adult or sensitive witness, the President or the nominated chairman shall—

- (a) secure that any arrangements he considers appropriate (such as the use of a video link) are made to safeguard the welfare of the vulnerable adult or sensitive witness; and
- (b) appoint for the purpose of the hearing a person with appropriate skills or experience in facilitating the giving of evidence by vulnerable adults or sensitive witnesses.

(6) The Tribunal shall pay such reasonable fees as the President or the nominated chairman may determine to any person appointed under this regulation.

Expert evidence

15.—(1) The President or the nominated chairman may, if he thinks that any question arises in relation to the case on which it would be desirable for the Tribunal to have the assistance of an expert, appoint a person having appropriate qualifications to enquire into and report on the matter.

(2) Subject to regulation 16, the Secretary must supply the parties with a copy of any written report received under paragraph (1) in advance of the hearing or, if the case is to be determined without an oral hearing, before the case is determined.

(3) If the President or the nominated chairman sees fit, he may direct that the expert shall attend the hearing (if any), and give evidence.

(4) The Tribunal shall pay such reasonable fees as the President or the nominated chairman may determine to any person appointed under this regulation.

Withholding medical report from disclosure in exceptional circumstances

16.—(1) This regulation applies where—

- (a) the report received pursuant to regulation 15(1) consists of, or includes, a medical report, or the respondent wishes the Tribunal, in determining the case, to consider a medical report; and

- (b) the President or the nominated chairman is satisfied that—
 - (i) disclosure to the applicant of all or any part of the contents of the medical report would be so harmful to his health or welfare that it would be wrong to disclose it to him; and
 - (ii) in all the circumstances it would not be unfair if that report, or that part of it, is considered by the Tribunal.

(2) The President or the nominated chairman may appoint a person having appropriate skills or experience to assess whether disclosure of the medical report, or any part of it, to the applicant would be harmful to the applicant's health or welfare and report on the matter to the President or the nominated chairman.

(3) Where paragraph (1) applies, the President or the nominated chairman may direct that—

- (a) the medical report or any part of its contents must not be disclosed to the applicant; and
- (b) that report, or that part of it, may be considered by the Tribunal.

(4) The Tribunal shall pay such reasonable fees as the President or the nominated chairman may determine to the person mentioned in paragraph (2).

Exclusion of press and public

17.—(1) Where paragraph (2) applies, the President or the nominated chairman (or, at the hearing, the Tribunal) may on his (or its) own initiative, or on a request by the applicant that the hearing or any part of it should be conducted in private, direct that—

- (a) any member of the public specified in the direction;
- (b) members of the public generally; or
- (c) members of the press and members of the public,

be excluded from all or part of the hearing.

(2) This paragraph applies where the President or the nominated chairman (or, at the hearing, the Tribunal) is satisfied that a direction under paragraph (1) is necessary in order to—

- (a) safeguard the welfare of any child, vulnerable adult or sensitive witness;
- (b) protect a person's private life; or
- (c) avoid the risk of injustice in any legal proceedings.

Restricted Reporting Orders

18.—(1) Where paragraph (2) applies, the President or the nominated chairman (or, at the hearing, the Tribunal) may make a restricted reporting order.

(2) This paragraph applies where the President or the nominated chairman (or, at the hearing, the Tribunal) is satisfied that an order under paragraph (1) is necessary in order to—

- (a) safeguard the welfare of any child, vulnerable adult or sensitive witness;
- (b) protect a person's private life; or
- (c) avoid the risk of injustice in any legal proceedings.

(3) A restricted reporting order is an order prohibiting the publication (including by electronic means) in a written publication available to the public, or the inclusion in a relevant programme for reception in England and Wales, of any matter likely to lead members of the public to identify the applicant, any child, any vulnerable adult or any other person who the President or the nominated chairman or the Tribunal considers should not be identified.

(4) An order made under this regulation may be made in respect of a limited period and may be varied or revoked by the President or the nominated chairman before the hearing (or by the Tribunal at the hearing).

PART 5 DECISION

The decision

19.—(1) The Tribunal’s decision may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority.

(2) The decision may be made and announced at the end of the hearing or reserved, and in any event, the decision must be recorded without delay in a document signed and dated by the President or the nominated chairman (or if as a result of his death or incapacity he is unable to sign, or if he ceases to be a member of the chairmen’s panel, by another member of the Tribunal).

(3) The document mentioned in paragraph (2) must also state the reasons for the decision.

(4) The Secretary must, as soon as reasonably possible, send to each party a copy of the document mentioned in paragraph (2) and a notice explaining any right of appeal which they may have against the Tribunal’s decision, and the right to apply for a review of the Tribunal’s decision.

(5) Except where a decision is announced at the end of the hearing, the decision shall be treated as having been made on the day on which a copy of the document mentioned in paragraph (2) is sent to the applicant.

(6) The decision shall be entered in the records.

Review of the Tribunal’s decision

20.—(1) A party may apply to the President for the Tribunal’s decision to be reviewed on the grounds that—

- (a) it was wrongly made as a result of an error on the part of the Tribunal staff;
- (b) a person, who was invited (or required) to attend and be heard at the hearing but failed to appear or to be represented, had good and sufficient reason for failing to appear; or
- (c) there was an obvious error in the decision.

(2) An application under this regulation must—

- (a) be made not later than 10 working days after the day on which the decision was sent to the party applying for the Tribunal’s decision to be reviewed; and
- (b) must be in writing stating the grounds in full.

(3) An application under this regulation may be refused by the President, or by the chairman of the Tribunal which decided the case, if in his opinion it has no reasonable prospect of success.

(4) Unless an application under this regulation is refused under paragraph (3), it shall be determined, after the parties have had an opportunity to be heard, by the Tribunal which decided the case or, where that is not practicable, by another Tribunal appointed by the President.

(5) The Tribunal may on its own initiative propose to review its decision on any of the grounds referred to in paragraph (1) above, in which case—

- (a) the Secretary shall serve notice on the parties not later than ten working days after the date on which the decision was sent to them; and
- (b) the parties shall have an opportunity to be heard.

(6) If, following an application, or on its own initiative, the Tribunal is satisfied as to any of the grounds referred to in paragraph (1)—

- (a) it shall order that the decision be reviewed; and
- (b) it may give directions to be complied with before or after the hearing of the review.

(7) The power to give directions under paragraph (6) includes a power to give a direction requiring a party to provide such particulars, evidence or statements as may reasonably be required for the determination of the review.

Powers of Tribunal on review

21.—(1) The Tribunal may, having reviewed a decision—

- (a) set aside the decision by certificate signed by the President or the nominated chairman (or if as a result of his death or incapacity he is unable to sign, or if he ceases to be a member of the chairmen’s panel, by another member of the Tribunal); and
- (b) substitute such other decision as it is lawfully entitled to do, or order a rehearing before the same or a differently constituted Tribunal.

(2) If any decision is set aside (whether as a result of a review or by order of the Court of Appeal), the Secretary shall alter the relevant entry in the records to conform to the President’s or chairman’s certificate or the Order of the Court of Appeal and shall notify the parties accordingly.

(3) Any decision of the Tribunal under this regulation may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority.

Publication

22.—(1) The President must make such arrangements as he considers appropriate for the publication of Tribunal decisions.

(2) Decisions may be published electronically.

(3) The decision may be published in an edited form, or subject to any deletions, if the nominated chairman considers it appropriate bearing in mind—

- (a) the need to safeguard the welfare of any child or vulnerable adult;
- (b) the need to protect the private life of any person;
- (c) any representations on the matter which the applicant has provided in writing;
- (d) the effect of any subsisting restricted reporting order; and
- (e) the effect of any direction under regulation 16.

PART 6

SUPPLEMENTARY

Methods of sending documents

23.—(1) Any document may be sent to the Secretary by post, by fax, electronically or through a document exchange, unless the President or the nominated chairman directs otherwise.

(2) Any notice or document which these Regulations authorise or require the Secretary to send to an applicant shall be sent—

- (a) by first-class post to the address given for the purpose by that party in accordance with these Regulations;

- (b) by fax or electronically to a number or address given by that party for the purpose; or
- (c) where the party has given for the purpose an address which includes a numbered box number at a document exchange, by leaving the notice or document addressed to that numbered box at that document exchange or at a document exchange which transmits documents on every working day to that exchange.

(3) If a notice or document cannot be sent to a party in accordance with paragraph (2), the President or the nominated chairman may dispense with service of it or direct that it be served on that party in such manner as he thinks appropriate.

(4) Any notice or document sent by the Secretary to an applicant in accordance with these Regulations shall be taken to have been received—

- (a) if sent by post and not returned, on the second working day after it was posted;
- (b) if sent by fax or electronically, unless the Secretary has been notified that the transmission has been unsuccessful, on the next working day after it was sent;
- (c) if left at a document exchange in accordance with paragraph (2)(c), on the second working day after it was left; and
- (d) if served in accordance with a direction under paragraph (3), on the next working day after it was so served.

Irregularities

24.—(1) Any irregularity resulting from failure to comply with any provision of these Regulations or any direction given in accordance with them before the Tribunal has reached its decision shall not of itself render the proceedings void.

(2) Where any irregularity comes to the attention of the President or the nominated chairman (before the hearing) or the Tribunal he or it may and, if it appears that any person may have been prejudiced by the irregularity shall, before reaching a decision, give such directions as he or it thinks just to cure or waive the irregularity.

(3) Clerical mistakes in any document recording the decision of the Tribunal or a direction or decision of the President or the nominated chairman, or errors arising in such documents from accidental slips or omissions, may at any time be corrected by the President or the nominated chairman by means of a certificate signed by him.

(4) The Secretary shall as soon as practicable where a document is corrected in accordance with paragraph (3) send the parties a copy of any corrected document together with reasons for the decision to correct the document.

Death of applicant

25. If the applicant dies before the case or application for permission is determined, the President or the nominated chairman may—

- (a) strike out the case or application for permission in so far as it relates to that individual without making a costs order; or
- (b) appoint such person as he thinks fit to proceed with the case or application in place of the deceased applicant.

Withdrawal of application

26. If the applicant at any time notifies the Secretary of State in writing, or states at a hearing, that he no longer wishes to pursue the proceedings, the President or the nominated chairman (or at the hearing, the Tribunal) must dismiss the proceedings.

Proof of documents and certification of decisions

27.—(1) A document purporting to be issued by the Secretary shall be taken to have been so issued, unless the contrary is proved.

(2) A document purporting to be certified by the Secretary to be a true copy of a document containing—

(a) a decision of the Tribunal; or

(b) an order of the President or the nominated chairman or of the Tribunal,

shall be sufficient evidence of the matters contained in it, unless the contrary is proved.

Time

28.—(1) The President or the nominated chairman may extend any time limit mentioned in these Regulations if in the circumstances—

(a) it would be unreasonable to expect it to be, or to have been, complied with; and

(b) it would be unfair not to extend it.

(2) The President or the nominated chairman may reduce any time limit mentioned in these Regulations if he considers it reasonable to do so and the parties in the case agree to the reduction.

(3) Where the time prescribed by these Regulations, or specified in any direction given by the President or the nominated chairman, for taking any step expires on a day which is not a working day, the step must be treated as having been done in time if it is done on the next working day.

Signed by authority of the Secretary of State

9th June 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the proceedings of the Tribunal established by section 9 of the Protection of Children Act 1999 and deal with the conduct of proceedings of the Tribunal under section 4 of Safeguarding Vulnerable Groups Act 2006. The appeals in question are appeals against—

- decisions made by the Independent Barring Board (“the Board”) not to remove a person from the children’s barred list or the adults’ barred list pursuant to articles 2(4) or 4(4) of the Safeguarding Vulnerable Adults (Transitional Provisions) Order 2007 (“the Order”); or
- decisions by the Board, under section 4(1)(b) of the Act, to include a person in the children’s barred list pursuant to article 3(2) of the Order.

Part 1 makes provision in respect of citation, commencement and interpretation (regulation 1).

Part 2 makes provision as to the constitution of the Tribunal, in respect of the powers and functions which may be exercised by the President and the Secretary (regulation 2).

Part 3 deals with applications for permission to appeal and sets out the procedure that applies. Provision is made as to the documents which the applicant must send to the Tribunal, the procedure for the Secretary to follow when an application for permission is made, information which the respondent must send to the Tribunal and the grant or refusal of permission and reconsideration of permission (regulations 3 to 7).

Part 4 makes provision about case management. The provisions deal with the appointment of the Tribunal (regulation 8), the giving of directions and preliminary matters (regulation 9), the fixing and notification of the appeal hearing (regulation 10) and the general conduct of the hearing which must be in public (regulations 11 and 12), the summoning of witnesses (regulation 13), the procedure for child, vulnerable adult and sensitive witnesses (regulation 14), the appointment of expert witnesses by the tribunal (regulation 15), withholding medical reports from witnesses in exceptional circumstances (regulation 16), exclusion of the press or public from the appeal hearing (regulation 17) and restricted reporting orders (regulation 18).

Part 5 makes provision about the way in which decisions are given and communicated to the parties to the appeal (regulation 19), the right of a party to ask the Tribunal to review its own decision (regulation 20), the powers of the Tribunal on such a review (regulation 21) and the publication of the decision (regulation 22).

Part 6 deals with supplementary matters. Regulation 23 provides for the method of sending documents, regulation 24 provides for dealing with any irregularities, regulation 25 provides for cases where the applicant dies, regulation 26 provides for withdrawal of proceedings, regulation 27 makes provision for the proof of documents and certification of decisions and regulation 28 provides for extending or reducing time limits in the Regulations.