
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the criteria which determine whether a person should be included automatically in the children's barred list or the adults' barred list maintained by the Independent Barring Board ("IBB") under Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (the IBB was established under section 1 of the Safeguarding Vulnerable Groups Act 2006).

Regulation 4(1) restricts the criteria prescribed under Part 2 to offences committed in Northern Ireland only. Regulation 4(2) restricts the criteria under Part 2 to relevant foreign offences which are the equivalent of offences under Northern Ireland law only. The restrictions will apply for the transitory period only and are intended to ensure that individuals cannot be placed on more than one children's barred list (or adults' barred list) by the IBB.

Regulation 5 prescribes the criteria on the basis of which a person will be included automatically in the children's barred list without having the right to make representations. Regulation 6 prescribes the criteria on the basis of which a person will be included automatically in that list but then allowed to make representations as to why they should be removed from it.

Regulation 5 addresses three categories of person. The first is someone who, before these Regulations came into operation, (i) was made subject to a disqualification order (an order of the court under Article 23 or 24 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (N.I. 4)), (ii) met conditions under the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007 (S.R. 2007/288 – "the 2007 Regulations") which meant that, had that order not been imposed, the Department of Education would still have been bound to prohibit that person from teaching or working with children without giving that person the right to make representations on the matter, but (iii) the Department of Education did not so prohibit that person. The second is someone who, before these Regulations came into operation, was convicted of or cautioned in relation to an offence meeting conditions under the 2007 Regulations which meant that the Department of Education would have been bound to prohibit that person from teaching or working with children without having the right to make representations on the matter, but the Department did not so prohibit that person. The third is someone who, on or after the coming into operation of these Regulations, has been convicted of or cautioned in relation to, an offence specified in paragraph 1 of the Schedule in any relevant circumstances, where these are prescribed, a "connected offence", or a "relevant foreign offence" (these two last terms being defined in regulation 2).

Regulation 6 addresses five categories of person. The first is someone who, before these Regulations came into operation, (i) was made subject to a disqualification order, (ii) did not meet conditions under the 2007 Regulations which, but for the imposition of that order, would have led to the Department of Education prohibiting that person from teaching or working with children without giving that person the right to make representations, and (iii) in relation to whom no such prohibition was made. The second is someone who, before these Regulations came into operation, was convicted of or cautioned in relation to an offence meeting conditions under the 2007 Regulations which meant that the Department of Education would have been bound to prohibit that person from teaching or working with children but also to have allowed that person to make representations on the matter, and in relation to whom no such prohibition was made. The third is someone who, on or after the coming into operation of these Regulations, has been made subject to a risk of sexual harm order (within the meaning of section 123 of the Sexual Offences Act 2003 (c. 42) or section 2 of the Protection

Changes to legislation: *There are currently no known outstanding effects for the The Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009. (See end of Document for details)*

of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9)). The fourth is someone who, on or after the coming into operation of these Regulations, has been convicted of or cautioned in relation to, an offence specified in paragraph 2 of the Schedule in any relevant circumstances, where these are prescribed, a connected offence, or a relevant foreign offence. The fifth is someone who, on or after the coming into operation of these Regulations, is made subject to a disqualification order and who does not meet any other criteria prescribed by regulations 5 or 6.

Regulation 7 prescribes the criteria on the basis of which a person will be included in the adults' barred list without having the right to make representations. Regulation 8 does the same in relation to criteria on the basis of which a person will be included in that list but then have the right to make representations as to why they should be removed from it.

The Schedule to these Regulations sets out the offences under the common law and statute law of England and Wales, Scotland and Northern Ireland which are prescribed for the purposes of these Regulations and, where relevant, the circumstances in which they must have been committed for a particular conviction or caution to meet criteria for automatic inclusion in either the children's or adults' barred list. For the purposes of determining whether any of the criteria is satisfied in relation to a person, the IBB must ignore any offence committed by, or any order or direction made in relation to, a person before he attained the age of 18.

Regulation 9 amends the Safeguarding Vulnerable Groups (Transitional Provisions) Order (Northern Ireland) 2008 (S.R. 2008/200) so that anyone who meets criteria prescribed by these Regulations and who is made subject to a disqualification order does not fall to be referred to IBB by the Department of Education in accordance with Article 3 of that Order.

Changes to legislation:

There are currently no known outstanding effects for the The Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009.