

EXPLANATORY MEMORANDUM TO
THE PROTECTION OF CHILDREN AND VULNERABLE ADULTS AND
CARE STANDARDS TRIBUNAL (AMENDMENT) REGULATIONS 2006

2006 No. 1930

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This statutory instrument amends the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (the principal Regulations). The amendments relate to time limits for bringing an appeal in certain circumstances, to correcting the definition of “working day” in the principal Regulations and to providing that appeals which share the same factual background may be heard together.

2.3 These Regulations are expressed to come into force on 1 October 2006.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative background

4.1 Section 9 of the Protection of Children Act 1999 established the Care Standards Tribunal for the purpose of hearing appeals under that Act. In addition, the Tribunal also hears appeals in relation to various matters under the Care Standards Act 2000, the Children Act 1989, the School Standards and Framework Act 1998 the Education Act 2002 and various sets of regulations. In particular, in relation to these regulations, the Tribunal hears appeals against decisions by the General Social Care Council and the Care Council for Wales to refuse registration in respect of social workers and against decisions of the relevant registration authority in respect of child minders and providers of day care for children.

4.2 These Regulations amend the principal Regulations in order to make provision in relation to the time scales within which certain appeals must be made; to amend an incorrect definition of “working day” and to allow the Tribunal to hear cases which share the same factual background together.

5. Extent

5.1 This instrument applies in relation to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required

7. Policy Background

7.1 Regulation 25 of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002 (2002/2934) (which implement an EC Directive) gives migrant social workers, childminders and day care providers 3 months within which to appeal against a decision of the designated authority to refuse them authorisation to practise their profession in the United Kingdom. However, UK nationals practising these professions currently have only 28 days within which to bring a similar appeal. We are therefore amending the principal Regulations to ensure that UK nationals, in relation to these professions, also have a period of 3 months in which to appeal a decision not to grant them registration. This is to ensure equal treatment and to avoid claims of discrimination.

7.2 Further amendments are made in order to correct the definition of “working day” in regulation 1 and to permit the Tribunal to hear appeals which share the same factual background together where the Tribunal chairman considers this to be appropriate.

7.3 The Government consulted between 5 May and 2 June on these regulations. A summary of consultation responses and the Government’s response to the consultation was published on [insert date] and can be found at www.dh.gov.uk/consultations/closedconsultations

8. Impact

8.1 A Regulatory Impact Assessment and Race and Equality Impact Assessment has not been prepared in relation to these amendments as their impact is minor and on public funded bodies only.

9. Contact

Helen O’Kelly at the Department of Health Tel: 020 7972 4097 or e-mail: helen.o’kelly@dh.gsi.gov.uk can answer any queries regarding the instrument.