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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order made under the Safeguarding Vulnerable Groups Act 2006 (“the Act”) 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 Act 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 section 3(2) and (3) of the Act (bar from engaging in regulated activity) comes into force. The existing restrictions are to remain in place until then.

Article 2 applies to persons who are included in the list kept under section 1 of the Protection of Children Act 1999 (“the 1999 Act”) (other than those to whom article 3(1)(a)(i) applies), disqualified from working with children by virtue of a disqualification order (that is an order under section 28, 29 or 29A of the Criminal Justice and Court Services Act 2000), or subject to a direction under section 142(1) of the Education Act 2002 (“the 2002 Act”) given on the grounds of unsuitability and who have no appeal etc. outstanding. IBB must include those individuals in the children’s barred list established and maintained by IBB under section 2 of the Act, but the bar will not take effect until the date on which section 3(2) of the Act comes into force (article 2(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. 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 3 to the Act as it has effect for the purposes of article 2(7) is satisfied in relation to that individual. That right to make representations is limited (article 2(5)). Article 2(6) provides that an individual may appeal against the decision of IBB not to remove the individual from the children’s barred list and section 4 of the Act applies in relation to any appeal.

Article 3 applies to those included in the list kept under section 1 of the 1999 Act who were transferred to that list under section 3 of that Act - Consultancy Service Index cases (unless subject to a disqualification order or subject to a direction under section 142(1) of the 2002 Act on grounds of unsuitability) and those who are subject to a direction under section 142(1) of the 2002 Act given only on grounds relating to misconduct, health or professional incompetence. IBB must consider including such individuals in the children’s barred list in accordance with paragraphs 3 to 5 of Schedule 3 to the Act. There is a right of appeal against the decision of IBB to include an individual in the children’s barred list under section 4 of the Act.

Article 4 makes similar provision to article 2 in relation to those included in the list kept under section 81 of the Care Standards Act 2000 (individuals considered unsuitable to work with vulnerable adults). IBB must include those individuals in the adults’ barred list maintained under section 2 of the Act but the bar will not take effect until section 3(3) of the Act comes into force (article 4(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 they should be removed from the adults’ barred list, unless 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 article 4(7) is satisfied in relation to that individual. That right to make representations is limited (article 4(5)). Article 4(6) provides that an individual may appeal against a decision of IBB not to remove the individual from the adults’ barred list and section 4 of the Act applies in relation to any appeal.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Articles 2(3) and 4(3) provide that regulation 2 of the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008 which governs representations to IBB applies in relation to representations made under these articles.