

2007 No.1684

SOCIAL CARE, ENGLAND AND WALES
CHILDREN AND YOUNG PERSONS, ENGLAND AND WALES

PUBLIC HEALTH, ENGLAND AND WALES

The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Amendment) Regulations 2007

<i>Made</i> - - - -	<i>11th June 2007</i>
<i>Laid before Parliament</i>	<i>11th June 2007</i>
<i>Coming into force</i> - -	<i>2nd July 2007</i>

The Secretary of State makes the following regulations in exercise of the powers conferred by sections 9(2)(b), (c) and (g), (3) and (3B) of the Protection of Children Act 1999(a). In accordance with section 9(3C) of that Act, she has consulted the National Assembly for Wales. In accordance with section 8 of the Tribunals and Inquiries Act 1992(b) she has also consulted the Council on Tribunals.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Protection of Children and Vulnerable Adults and Care Standards Tribunal (Amendment) Regulations 2007, and shall come into force on 2 July 2007.

(2) In these Regulations, “the Tribunal Regulations” means the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(c).

Amendment of regulation 1 of the Tribunal Regulations

2. In regulation 1(2) of the Tribunal Regulations (citation, commencement and interpretation)—

(a) after “the 2002 Act”, insert the following definition—

(a) 1999 c.14. Section 9(2) of the Protection of Children Act 1999 (“the 1999 Act”) was amended by the Care Standards Act 2000 (c.14) (“the 2000 Act”), Schedule 4, paragraph 26(3)(a); by the Criminal Justice and Court Services Act 2000 (c.43), Schedule 7, paragraph 157; by the Education Act 2002 (c.32), Schedule 14, paragraph 6, Schedule 21, paragraph 122 and Schedule 22, Part 3; by the Education Act 2005 (c.18), Schedule 9, paragraph 23 and Schedule 19, Part 1 and by the Childcare Act 2006 (c.21), Schedule 2, paragraph 38. Section 9(3A) to (3C) of the 1999 Act was inserted by the 2000 Act, Schedule 4, paragraph 26(3)(b).

(b) 1992 c.53. Schedule 1, paragraph 36A of the Tribunals and Inquiries Act 1992 (“the 1992 Act”) was inserted by the Schedule to the 1999 Act, paragraph 8. Schedule 1, paragraph 36A of the 1992 Act was renumbered as paragraph 36B and amended by the 2000 Act, Schedule 4, paragraph 21.

(c) S.I. 2002/816; relevant amending instruments are: S.I. 2003/626 and 2043, 2004/2073 and 3354 and 2006/1930.

- “the 2006 Act” means the Childcare Act 2006;(a);
- (b) in the definition of “case”, in paragraph (b), after “the 1989 Act” insert “or section 74 of the 2006 Act”;
- (c) for the definition of “the Education Regulations”, substitute—
 - “the Education Regulations” means the Education (Prohibition from Teaching or Working with Children) Regulations 2003(b);
- (d) in the definition of “registration authority”, in paragraph (b), after “the 1989 Act” insert “or section 74 of the 2006 Act”;
- (e) in the definition of “the respondent”, in paragraph (b), after “the 1989 Act” insert “or section 74 of the 2006 Act”; and
- (f) for the definition of “the Suspension Regulations” substitute—
 - “the Suspension Regulations” means—
 - (a) the Childminding and Day Care (Suspension of Registration) (England) Regulations 2003(c);
 - (b) the Suspension of Day Care Providers and Child Minders (Wales) Regulations 2004(d); or
 - (c) the Childcare (Voluntary Registration) Regulations 2007(e);. ”.

Amendment of regulation 4 of the Tribunal Regulations

3. In regulation 4 of the Tribunal Regulations (procedure for appeals, determinations and applications for leave)—

- (a) in paragraph (2), after “the 1989 Act” insert “or section 74 of the 2006 Act”;
- (b) for paragraph (4)(e) and (f), substitute—
 - “(e) an appeal under regulation 12(1)(a) of the Education Regulations against a direction given under section 142 of the 2002 Act;
 - (f) an appeal under regulation 12(1)(aa)(f) of the Education Regulations against a refusal to revoke such a direction; or
 - (g) an appeal under regulation 12(1)(b)(g) of the Education Regulations against a refusal to revoke or vary such a direction;” and
- (c) for paragraph (7), substitute—
 - “(7) In the case of an appeal under the Suspension Regulations against—
 - (a) a decision to suspend the registration of a person acting as a childminder or providing day care; or
 - (b) where applicable, a refusal to lift the suspension of such registration,
 the procedure set out in Schedule 7 shall apply.”.

Amendment of regulation 4A of the Tribunal Regulations

4. In regulation 4A of the Tribunal Regulations(h) (misconceived appeals or applications etc), in paragraph (1)—

- (a) in sub-paragraph (b), the “or” at the end is omitted; and

(a) 2006 c. 21.
 (b) S.I. 2003/1184 as amended by S.I. 2004/1493 and 2007/195.
 (c) S.I. 2003/332. See: regulation 8(1)(a) and (b).
 (d) S.I. 2004/3282 (W. 285). See regulation 8(1)(a) and (b).
 (e) S.I. 2007/730. See regulations 13 to 17.
 (f) Regulation 12(1)(aa) was inserted by S.I. 2007/195, regulation 9(a).
 (g) Regulation 12(1)(b) was amended by S.I. 2007/195, regulation 9(b).
 (h) Regulation 4A was inserted by S.I. 2004/2073, regulation 3.

(b) at the end of sub-paragraph (c) insert—

“ ; or

(d) the President or the nominated chairman considers that the appeal or application has no reasonable prospect of success.”.

Amendment of regulation 23 of the Tribunal Regulations

5. In regulation 23 of the Tribunal Regulations (the decision), in paragraph (5), after “the 1989 Act” insert “or section 72(2) of the 2006 Act”.

Amendment of Schedule 2 to the Tribunal Regulations

6. In Schedule 2 to the Tribunal Regulations (appeal under section 79M of the 1989 Act against a decision of the registration authority or an order of a justice of the peace)—

(a) in the heading of the Schedule, after “the 1989 Act” insert “or section 74 of the 2006 Act”; and

(b) in paragraph 1 (initiating an appeal)—

(i) in sub-paragraph (1), after “the 1989 Act” insert “or section 74 of the 2006 Act”;

(ii) in sub-paragraph (1)(a), for “that Act” substitute “the 1989 Act or section 74(1) of the 2006 Act”;

(iii) after sub-paragraph (1)(a), insert—

“(aa) a prescribed determination under section 74(2) of the 2006 Act.”;

(iv) in sub-paragraph (1)(b), for “that Act” substitute “the 1989 Act or section 72(2) of the 2006 Act”;

(v) in sub-paragraph (2A), after “the 1989 Act” insert “or section 74(1)(a) of the 2006 Act”; and

(vi) in sub-paragraph (4)(e)(i), in paragraph (dd), at the end, add “or any other determination of a prescribed description under section 74(2) of the 2006 Act”.

Amendment of Schedule 4 to the Tribunal Regulations

7. In Schedule 4 to the Tribunal Regulations (appeals and applications for leave to appeal under section 4 of the 1999 Act and appeals under regulation 13 of the Education Regulations)—

(a) in the heading of the Schedule, the words “regulation 13 of” are omitted; and

(b) in paragraph 1 (initiating an appeal)—

(i) for sub-paragraph (1)(b) and (c), substitute—

“(b) under regulation 12(1)(a) of the Education Regulations against a direction given under section 142 of the 2002 Act;

(c) under regulation 12(1)(aa) of the Education Regulations against a refusal to revoke such a direction; or

(d) under regulation 12(1)(b) of the Education Regulations against a refusal to revoke or vary such a direction.”; and

(ii) in sub-paragraph (4)(b), for “or (1)(c)”, substitute “, (1)(c) or (1)(d)”.

Amendment of Schedule 7 to the Tribunal Regulations

8. In Schedule 7 to the Tribunal Regulations (appeals under the Suspension Regulations), for paragraph 1(1) (initiating an appeal), substitute—

“(1) A person who wishes to appeal to the Tribunal under the Suspension Regulations against—

- (a) a decision to suspend the registration of a person acting as a childminder or providing day care; or
 - (b) where applicable, a refusal to lift the suspension of such registration,
- must do so by application in writing to the Secretary.”.

Signed by authority of the Secretary of State

11th June 2007

Gerry Sutcliffe
Parliamentary Under-Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (“the Tribunal Regulations”) and make provision in relation to the proceedings of the Tribunal (“the Tribunal”) established by section 9 of the Protection of Children Act 1999.

Section 32(5) of the Childcare Act 2006 (“the 2006 Act”) has established a voluntary registration scheme for childminders or other childcare providers in England as from 1st April 2007. Section 74 of that Act provides that appeals in relation to registration decisions of the Chief Inspector under that scheme are to be made to the Tribunal. These Regulations amend the Tribunal Regulations in order to make provision for the proceedings of the Tribunal in relation to such decisions (regulations 3(a), 5 and 6). A definition of the 2006 Act is also inserted into regulation 1(2) of the Tribunal Regulations (regulation 2(a)), and there are consequential amendments to other definitions.

Regulation 2(f) amends regulation 1(2) of the Tribunal Regulations in order to substitute a new definition of the Suspension Regulations to include a reference to the regulations relating to the suspension of voluntary registration made under the 2006 Act. Regulation 3(c) amends regulation 4 of the Tribunal Regulations to reflect that new definition, and regulation 8 amends Schedule 7 to the Tribunal Regulations for the same purpose.

Regulation 3 also amends regulation 4 of the Tribunal Regulations in order to substitute references to the rights of appeal under the Education (Prohibition from Teaching or Working with Children) Regulations 2003 which have replaced the Education (Restriction of Employment) Regulations 2000 (regulation 3(b)). Regulation 7 then amends Schedule 4 to the Tribunal Regulations in order to reflect the new references to the rights of appeal. In addition, a consequential amendment is made to regulation 1(2) in order to amend the definition of “the Education Regulations” (regulation 2(c)).

Regulation 4 amends regulation 4A of the Tribunal Regulations in order to provide that the President or the nominated chairman may strike out an application or appeal that appears to him to have no reasonable prospect of success.

£3.00

© Crown copyright 2007

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s
Stationery Office and Queen’s Printer of Acts of Parliament.

E0850 6/2007 170850T 19585

