EXPLANATORY MEMORANDUM TO

THE PROTECTION OF CHILDREN AND VULNERABLE ADULTS AND CARE STANDARDS TRIBUNAL (REVIEW OF DISQUALIFICATION ORDERS) REGULATIONS 2006

2006 No. 1929

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 The Criminal Justice and Court Services Act 2000 created disqualification orders, which allow courts to ban individuals from working with children for life as part of their sentence. The Act also provides for individuals to apply to the Care Standards Tribunal for a review of their case where certain conditions are met, and these regulations establish the procedure for the Tribunal to do so.

2.2 This statutory instrument is to be made under sections 9 (2) (e), (3) and (3B) of the Protection of Children Act 1999, and is subject to the negative parliamentary procedure.

2.3 These Regulations are drafted to come into force on [insert date –28 days from laying before Parliament] 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 will hear applications for reviews against disqualification orders.

4.2 Sections 28, 29 and 29A of the Criminal Justice and Court Services Act 2000 create disqualification orders. Sections 32 and 33 of that Act then provide that an individual who has been disqualified from working with children can apply to the Care Standards Tribunal to have that disqualification order reviewed once a period of

ten years has elapsed from the relevant date (generally the date of the order or the date upon which a person is released from custody) (or five years in the case of those under 18 at the time of the disqualification order/release from custody).

4.3 These Regulations establish the procedures which the Care Standards Tribunal will follow in relation to such applications and the hearing of such reviews.

5. Extent

5.1 This instrument applies in relation to England and Wales.

6. European Convention on Human Rights

6.1 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 Section 9 of the Protection of Children Act 1999 set up the Protection of Children and Vulnerable Adults and Care Standards Tribunal ('the Care Standards Tribunal') which, as part of its functions, is charged with dealing with applications for the review of disqualification orders made under sections 28, 29 and 29A of the Criminal Justice and Courts Services Act 2000.

7.2 Those that have been disqualified from working with children under the provisions of the Criminal Justice and Court Services Act 2000 have a statutory right to apply to the Care Standards Tribunal to have their case reviewed if certain conditions are met. These are not appeals against the original decision, but applications for disqualification orders to be removed on the basis that the individual's circumstances have changed since the original decision was made and that the Tribunal is satisfied that they are now fit to work with children . An application for review cannot be made to the Tribunal until between 5 and 10 years (depending on age) have elapsed from the date the order is made/or from the end of any custodial sentence. In such cases the Tribunal will decide whether an individual's circumstances have changed so that he/ she is, at the time of the review application, now suitable to work with children.

7.3 These regulations set out the procedure by which the Tribunal will deal with such applications and hear these cases.

7.4 The Government consulted between 5 May and 2 June 2006 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.