
STATUTORY INSTRUMENTS

2003 No. 417

**The Protection of Children and Vulnerable
Adults (Northern Ireland) Order 2003**

PART II

PROTECTION OF CHILDREN

CHAPTER I

PERSONS UNSUITABLE TO WORK WITH CHILDREN

Supplementary

Accredited organisations

18.—(1) For the purposes of this Chapter, the Department may by regulations provide for the accreditation by or on behalf of the Department of any organisation which is not a child care organisation.

(2) Regulations under paragraph (1) may—

- (a) provide for the making of applications for accreditation by organisations and for the information to be provided with such applications;
- (b) provide for such applications to be accompanied by such other documents as are prescribed;
- (c) prescribe the conditions under which organisations may become or remain accredited;
- (d) provide for fees to be payable by organisations in connection with becoming or remaining accredited;
- (e) provide for the inspection of accredited organisations (including the power to enter premises);
- (f) provide for accreditation to be refused or withdrawn on such grounds as may be prescribed;
- (g) provide for organisations to appeal to a Social Care Tribunal against a decision of the Department to refuse or withdraw accreditation.

(3) Subject to such modifications as may be prescribed, this Chapter shall apply to organisations for the time being accredited under this Article as if they were child care organisations.

Whistle-blowing by employee or member of child care organisation

19.—(1) This Article applies where a person to whom paragraph (2) applies reports to the Department that a child care organisation (“the organisation concerned”) has failed to comply with Article 4(1) or 16(1)(a) in relation to an individual named in the report.

(2) This paragraph applies to a person who—

- (a) is an employee of a child care organisation (whether the organisation concerned or another organisation); or
- (b) is—
 - (i) a director of such an organisation, in the case of a company; or
 - (ii) in any other case, a member of the governing body of such an organisation (by whatever name that body is known).
- (3) On receipt of such a report the Department shall invite observations from the organisation concerned on the information submitted with the report.
- (4) Where after considering—
 - (a) the information submitted with the report;
 - (b) any observations submitted by the organisation concerned; and
 - (c) any other information which the Department considers relevant,
 the Department is of the opinion that the organisation concerned has failed to comply with Article 4(1) or 16(1)(a) in relation to an individual, the Department shall—
 - (i) where the Department is the responsible authority, take such action in relation to that organisation as is required by paragraph (6); or
 - (ii) where the Department is not the responsible authority, refer that failure to the responsible authority.
- (5) Where a failure is referred to a responsible authority under paragraph (4)(ii) it shall be the duty of that authority to take such action in relation to the organisation concerned as is required by paragraph (6).
- (6) The responsible authority shall take such action in relation to the organisation concerned (including in particular action with respect to the inspection or registration of that organisation) as appears to the responsible authority to be appropriate in the circumstances.
- (7) For the purposes of this Article “the responsible authority”, in relation to a child care organisation, is the person or body which in the opinion of the Department is responsible for the enforcement of the statutory provisions by or by virtue of which the organisation is regulated.

Interpretation of this Chapter

20.—(1) In this Chapter—

“authority” has the same meaning as in the Children Order;

“child care organisation” means an organisation—

- (a) which is concerned with the provision of accommodation, health services or personal social services to children or the supervision of children;
- (b) whose activities are regulated by or by virtue of any prescribed statutory provision; and
- (c) which fulfils such other conditions as may be prescribed;

“child care position” means a position which—

- (a) is a regulated position for the purposes of Chapter II; but
- (b) is not a position employment or further employment in which may be prohibited or restricted by regulations made under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;

“harm” has the same meaning as in Article 2(2) of the Children Order;

“health services” and “personal social services” have the same meanings as in the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#);

“supply worker”—

- (a) in relation to an employment agency or nursing agency, means an individual supplied by the agency for employment in a child care position or for whom the agency has found employment in a child care position;
- (b) in relation to an employment business, means an individual supplied by the business for employment in a child care position.

(2) Where part of an organisation fulfils the condition in paragraph (b) of the above definition of “child care organisation” and part of it does not, this Chapter shall have effect as if the two parts were separate organisations.

Transitional provisions

21.—(1) Where—

- (a) an individual who is or has been employed in a child care position has been referred by an organisation to the Department for inclusion in the Pre-Employment Consultancy Service Register;
- (b) the reference has not been determined at the commencement of Article 4; and
- (c) any of the conditions mentioned in paragraph (2), or the condition mentioned in paragraph (3), of that Article was fulfilled in relation to the reference,

that Article shall apply as if the reference had been a reference made by the organisation under paragraph (1) of that Article.

(2) For the purposes of paragraph (1), a reference of an individual for inclusion in that Register is determined only when, following the reference—

- (a) the individual is included (otherwise than provisionally) in the Register; or
- (b) the Department determines that he should not be included in it.

(3) Nothing in Article 4 shall require a child care organisation to refer an individual to the Department in any case where the dismissal, resignation, retirement, redundancy, transfer or suspension mentioned in that Article took place or, as the case may be, the opinion so mentioned was formed before the commencement of that Article.

(4) Nothing in Article 5 shall require an organisation which carries on an employment agency, nursing agency or employment business to refer a supply worker to the Department in any case where the dismissal, resignation, retirement or redundancy mentioned in that Article took place or, as the case may be, the decision so mentioned was made before the commencement of that Article.

(5) Articles 6, 7 and 9 do not apply to misconduct which occurred before the commencement of those Articles.