



# Criminal Justice and Courts Services Act 2000

## 2000 CHAPTER 43

### PART II

#### PROTECTION OF CHILDREN

##### *Effect of disqualification from working with children*

#### **35 Persons disqualified from working with children: offences**

- (1) An individual who is disqualified from working with children is guilty of an offence if he knowingly applies for, offers to do, accepts or does any work in a regulated position.
- (2) An individual is guilty of an offence if he knowingly—
  - (a) offers work in a regulated position to, or procures work in a regulated position for, an individual who is disqualified from working with children, or
  - (b) fails to remove such an individual from such work.
- (3) It is a defence for an individual charged with an offence under subsection (1) to prove that he did not know, and could not reasonably be expected to know, that he was disqualified from working with children.
- (4) An individual is disqualified from working with children for the purposes of this Part if—
  - (a) he is included (otherwise than provisionally) in the list kept under section 1 of the Protection of Children Act 1999 (individuals considered unsuitable to work with children),
  - (b) he is included, on the grounds of not being a fit person, in the list kept for the purposes of regulations under section 218(6) of the Education Reform Act 1988 (prohibition or restriction on employment as teacher etc.),

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- (c) he is included, on the grounds that he is unsuitable to work with children, in any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the Education Act 1996, or
  - (d) he is subject to a disqualification order.
- (5) In subsection (4)(b) “grounds of not being a fit person” means the grounds mentioned in section 218(6ZA)(c) of the Education Reform Act 1988.
- (6) An individual who is guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both,
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years, or to a fine, or to both.

### **36 Meaning of “regulated position”**

- (1) The regulated positions for the purposes of this Part are—
- (a) a position whose normal duties include work in an establishment mentioned in subsection (2),
  - (b) a position whose normal duties include work on day care premises,
  - (c) a position whose normal duties include caring for, training, supervising or being in sole charge of children,
  - (d) a position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person,
  - (e) a position whose normal duties include caring for children under the age of 16 in the course of the children’s employment,
  - (f) a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children’s employment,
  - (g) a position mentioned in subsection (6),
  - (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.
- (2) The establishments referred to in subsection (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children,
  - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
  - (c) a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
  - (d) an educational institution,
  - (e) a children’s home or voluntary home,
  - (f) a home provided under section 82(5) of the Children Act 1989.
- (3) For the purposes of this section, work done on any premises is treated as not being done on day care premises to the extent that—
- (a) it is done in a part of the premises in which children are not looked after, or
  - (b) it is done at times when children are not looked after there.
- (4) The duties referred to in subsection (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, supervising or being in sole charge of children in the course of the children’s employment, or

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- (b) duties involving contact with children in the course of the children's employment.
- (5) The reference in subsection (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this subsection, "carer" means a person who holds a position such as is mentioned in subsection (1)(c).
- (6) The positions mentioned in subsection (1)(g) are—
- (a) member of the governing body of an educational institution,
  - (b) member of a relevant local government body,
  - (c) director of social services of a local authority,
  - (d) chief education officer of a local education authority,
  - (e) charity trustee of a children's charity,
  - (f) member of the Youth Justice Board for England and Wales,
  - (g) Children's Commissioner for Wales or deputy Children's Commissioner for Wales,
  - (h) member, or chief executive, of the Children and Family Court Advisory and Support Service.
- (7) For the purposes of subsection (6), a person is a member of a relevant local government body if—
- (a) he is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions, of a local authority,
  - (b) he is a member of an executive of a local authority which discharges any such functions,
  - (c) he is a member of—
    - (i) a committee of an executive of a local authority, or
    - (ii) an area committee, or any other committee, of a local authority, which discharges any such functions.
- (8) In its application to Northern Ireland, subsection (6) is to be read as mentioning also the following positions—
- (a) member, or director of social services, of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972,
  - (b) member, or executive director of social work, of a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991,
  - (c) member, or chief education officer, of an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986.
- (9) Any reference in subsection (7) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (10) For the purposes of subsection (1)(h), the holder of a position—
- (a) only supervises an individual if he supervises the day-to-day performance of the individual's duties, and
  - (b) only manages an individual if the individual is directly responsible to him for the performance of his duties or he has authority to dismiss the individual.

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- (11) For the purposes of this section, a charity is a children’s charity if the individuals who are workers for the charity normally include individuals working in regulated positions.
- (12) For the purposes of this section, an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this subsection do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (13) For the purposes of this section, the following are responsible persons in relation to a child—
- (a) the child’s parent or guardian and any adult with whom the child lives,
  - (b) the person in charge of any establishment mentioned in subsection (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person,
  - (c) a person registered under Part XA of the Children Act 1989 for providing day care on premises on which the child is cared for, and
  - (d) any person holding a position mentioned in subsection (6).
- (14) In this section—
- “area committee” has the same meaning as in section 18 of the Local Government Act 2000,
- “detention” means detention by virtue of an order of a court or under an enactment,
- “education functions”, in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority,
- “executive”, in relation to a local authority, has the same meaning as in Part II of the Local Government Act 2000,
- “social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970.
- (15) For the purpose of amending the definition of “regulated position”, the Secretary of State may by order make any amendment of this section (apart from this subsection) which he thinks appropriate.

### **37 Disqualification in Scotland or Northern Ireland**

- (1) The Secretary of State may by order provide that section 35 shall apply in relation to an individual falling within subsection (2) as it applies in relation to an individual who is disqualified from working with children.
- (2) An individual falls within this subsection if, under the law of Scotland or Northern Ireland, he is subject to a prohibition or disqualification which, in the opinion of the Secretary of State, corresponds to disqualification (by any of the means mentioned in section 35(4)) from working with children.

### **38 Rehabilitation of offenders**

- (1) Where a disqualification order is made in respect of an individual’s conviction of an offence, the rehabilitation period which, in accordance with section 6 of the Rehabilitation of Offenders Act 1974, is applicable to the conviction is to be

determined as if that order had not been made; and a disqualification order is not a sentence for the purposes of that Act.

(2) In this section, “conviction” has the same meaning as in that Act.