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STATUTORY INSTRUMENTS

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**2018 No. 794**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Childcare (Disqualification) and Childcare  
(Early Years Provision Free of Charge) (Extended  
Entitlement) (Amendment) Regulations 2018**

<i>Made</i>	- - - -	<i>28th June 2018</i>
<i>Laid before Parliament</i>		<i>2nd July 2018</i>
<i>Coming into force</i>	- -	<i>31st August 2018</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 59, 67, 74(2), 75 and 104(2) of the Childcare Act 2006(1) and sections 1(2), (3), (4) and (7), 2(1), (2) and (4) and 4(2) of the Childcare Act 2016(2).

In accordance with sections 59(2) and 67(2) of the Childcare Act 2006, the Secretary of State has consulted Her Majesty's Chief Inspector of Education, Children's Services and Skills.

**Part 1 Introductory provisions**

**Citation and commencement**

**1.** These Regulations may be cited as the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 and come into force on 31st August 2018.

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(1) [2006 c. 21](#). Section 59 was amended by section 84 of, and paragraphs 14 and 24 of Schedule 4 to the Children and Families Act [2014 \(c. 6\)](#) ("the 2014 Act"). Section 67 was amended by section 84 of, and paragraphs 27 and 31 of Schedule 4 to the 2014 Act. Section 75 was amended by section 84 of, and paragraphs 32 and 44 of Schedule 4 to the 2014 Act. Section 75(3) was amended by section 63 of, paragraph 10 of Schedule 9 and Schedule 10 to the Safeguarding Vulnerable Groups Act [2006 \(c. 47\)](#) ("the 2006 Act") and section 72 of, and paragraphs 21 and 23 of the Children and Families (Wales) Measure [2010 nawm 1](#). Section 75(6) was amended by section 135(3) and paragraph 27 of Schedule 24 to the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c. 10\)](#).

(2) [2016 c. 5](#).

## Part 2 Childcare (Disqualification) Regulations 2018

### Interpretation

2.—(1) In this Part—

“the Act” means the Childcare Act 2006;

“the 1989 Act” means the Children Act 1989<sup>(3)</sup>;

“the 2000 Act” means the Criminal Justice and Court Services Act 2000<sup>(4)</sup>;

“direction” means a direction made, or which has effect as if made, under section 142 of the Education Act 2002 on the grounds set out in subsection (4)(a), (b) or (d) of that section<sup>(5)</sup>;

“relevant order” and “senior court” have the same meanings as in section 30(1) of the 2000 Act<sup>(6)</sup>;

(2) In this Part a person (“P”) has been “found to have committed” an offence if P has been—

- (a) convicted of that offence;
- (b) found not guilty of that offence by reason of insanity;
- (c) found to be under a disability and to have done the act charged against P in respect of such an offence;
- (d) on or after 6th April 2007, given a caution by a police officer in respect of an offence which P has admitted; or
- (e) on or after 8th April 2013, given a youth caution by a police officer, in respect of an offence which P has admitted<sup>(7)</sup>.

(3) In this Part a person (“P”) has been found to have committed an offence that is “related to” an offence if P has been found to have committed an offence of—

- (a) attempting, conspiring or incitement to commit that offence; or
- (b) aiding, abetting, counselling or procuring the commission of that offence.

### Revocation

3. The Childcare (Disqualification) Regulations 2009<sup>(8)</sup> are revoked.

### Care of children and offences against children or adults

4.—(1) Subject to paragraphs (10) and (11) and regulation 10, a person (“P”) is disqualified from registration under any of Chapters 2 to 4 of Part 3 of the Act if any of paragraphs (2) to (9) apply.

(2) Any of the orders or other determinations specified in Schedule 1 has been made—

- (a) with respect to P;
- (b) which prevents P from being registered in relation to any facility in which children are looked after or from being involved in the management of or otherwise concerned with the provision of any such facility; or

(3) 1989 c. 41.

(4) 2000 c. 43.

(5) Section 142 was repealed by section 63(2) and, paragraph 1 of Schedule 10 to the 2006 Act, subject to savings and transitional provisions specified in articles 4(2), (3) and (7) of S.I. 2009/2611.

(6) Section 30 was repealed by section 63(2) of, and paragraph 1 of Schedule 10 to the 2006 Act, subject to savings specified in article 5 of S.I. 2012/2231.

(7) Section 66ZA of the Crime and Disorder Act 1998 in relation to youth cautions was inserted by section 135 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and this came into force on 8th April 2013.

(8) S.I. 2009/1547, amended by S.I. 2010/2582, S.I. 2011/1740, S.I. 2011/2581, S.I. 2013/1465, S.I. 2014/1921 and S.I. 2018/48.

- (c) with respect to a child who has been in P's care.
- (3) An order has been made with respect to P under section 104 of the Sexual Offences Act 2003<sup>(9)</sup>.
- (4) P has been found to have committed an offence against a child within the meaning of section 26(1) of the 2000 Act<sup>(10)</sup> despite the offence being repealed.
- (5) P—
  - (a) has been found to have committed any offence specified in paragraph 1 of Schedule 2 or an offence that is related to such an offence; or
  - (b) falls within paragraph 2 of that Schedule,despite the fact that the statutory offences in that Schedule have been repealed.
- (6) P has been found to have committed any offence involving bodily injury to, or death of, a child.
- (7) P has been found to have committed any offence specified in Schedule 3 or an offence that is related to such an offence.
- (8) P has been—
  - (a) found to have committed any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4<sup>(11)</sup> to the 2000 Act or an offence that is related to such an offence, despite the fact that the statutory offences in that Schedule have been repealed; or
  - (b) charged with any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act or an offence that is related to such an offence in respect of which a relevant order has been imposed by a senior court, despite the fact that the statutory offences in that Schedule have been repealed.
- (9) P shall not be disqualified from registration in respect of any order, determination or offence if—
  - (a) P has successfully appealed against the order, determination or conviction;
  - (b) a caution in respect of that offence has been withdrawn or set aside; or
  - (c) a direction based wholly or in part on the offence has been revoked.
- (10) P shall not be disqualified from registration by virtue of paragraph (2) in respect of any refusal or cancellation of registration under the provisions set out in paragraph 19(c) of Schedule 1 if—
  - (a) the refusal or cancellation is in respect of registration with a childminder agency; or
  - (b) the sole reason for the refusal or cancellation of registration was the failure to pay any fee prescribed under Part 3 of the Act.
- (11) P shall not be disqualified by virtue of paragraph (2)—
  - (a) if an order is made under which P themselves was placed in the care of a designated local authority or similar body, or
  - (b) where P is a foster carer or adoptive parent of a child, and that child is or was made the subject of a care order, unless the order is made as a result of P's care of that child.

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(9) 2003 c. 42. Section 104 was repealed in relation to England and Wales by section 113(1) of, and paragraphs 1 and 3 of Schedule 5 to the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) ("the 2014 Act") and repealed in Scotland by section 39(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp. 22) ("the 2016 Act"). For transitional provisions and savings see sections 114(1), (2), (4)–(6) of the 2014 Act and section 40 of the 2016 Act.

(10) Section 26 was repealed by section 63(2) of, and paragraph 1 of Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), subject to savings specified in article 5 of S.I. 2012/2231.

(11) Schedule 4 was repealed by section 63(2) of, and paragraph 1 of Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47).

**Overseas offences**

5.—(1) Subject to regulation 10, a person (“P”) is disqualified from registration under any of Chapters 2 to 4 of Part 3 of the Act if P has been found to have done an act which—

- (a) constituted an offence under the law in force in a country outside the United Kingdom; and
- (b) would constitute an offence requiring disqualification from registration under these Regulations if it had been done in any part of the United Kingdom.

(2) In paragraph (1) P has been “found to have done an act which constituted an offence” if, under the law in force in a country outside the United Kingdom—

- (a) P has been convicted of an offence (whether or not P has been punished for it);
- (b) P has been cautioned in respect of an offence;
- (c) the court exercising jurisdiction under that law has made in respect of an offence a finding equivalent to a finding that P is not guilty by reason of insanity; or
- (d) that court has made in respect of an offence a finding equivalent to a finding that P is under a disability and did the act charged against P.

(3) A person shall not be disqualified from registration under paragraph (1) in respect of a any finding if, under the law in force in the country concerned, such finding has been reversed.

(4) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of this regulation however it is described in that law.

**Protection of Children Act list**

6. A person who is included in the list kept under section 1 of the Protection of Children Act 1999<sup>(12)</sup> (list of those considered by the Secretary of State unsuitable to work with children) is disqualified from registration under Chapters 2, 3 and 4 of Part 3 of the Act.

**Direction in relation to the employment of teachers etc**

7.—(1) Subject to regulation 10, a person (“P”) is disqualified from registration under Chapters 2, 3 and 4 of Part 3 of the Act if any of the following provisions of this regulation apply to P.

(2) P is subject to a direction.

(3) P’s name is on any list kept for the purposes of regulations made under article 70(2)(e) or 88A(1) and (2)(b) of the Education and Libraries (Northern Ireland) Order 1986<sup>(13)</sup>.

**Persons barred from regulated activity relating to children**

8. A person who is barred from regulated activity relating to children within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(14)</sup> is disqualified from registration under Chapters 2, 3 and 4 of Part 3 of the Act.

**Persons living on premises where a disqualified person lives or works**

9. Subject to regulation 10, a person who lives—

- (a) in the same household as another person who is disqualified from registration under Chapters 2, 3 and 4 of Part 3 of the Act; or

<sup>(12)</sup> 1999 c. 14. Section 1 of this Act was repealed by paragraph 8 of Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), subject to savings and transitional provisions specified in articles 5 and 6 of S.I. 2009/2611.

<sup>(13)</sup> 1986 No. 594 N.I. 3. Sections 70(2)(e) and section 88(2)(b) were amended by S.I. 2007/1351.

<sup>(14)</sup> 2006 c. 47.

(b) in a household in which any such person is employed,  
is disqualified from registration under Chapters 2, 3 and 4 of Part 3 of the Act to work in domestic premises<sup>(15)</sup>.

### **Waivers**

**10.**—(1) Subject to paragraph (4), where a person (“P”) would be disqualified from registration by virtue of regulation 4, 5, 7(1) and 7(3) or 9 but has disclosed to the Chief Inspector the facts which would otherwise cause P to be disqualified, the Chief Inspector may give consent to waive the disqualification for any or all of the following purposes—

- (a) voluntary registration under Chapter 4 of Part 3 of the Act;
- (b) the provision of early years or later years provision to which section 76 applies;
- (c) direct concern in the management of early years or later years provision to which section 76 of the Act applies;
- (d) employment in connection with the provision of early years or later years provision to which section 76 of the Act applies;
- (e) registration as an early years childminder agency or a later years childminder under Part 3 of the Act;
- (f) appointment as a director or other officer of, or partner in, an early years childminder agency or a later years childminder agency, or membership of the governing body of such an agency;
- (g) direct concern in the management of an early years childminder agency or a later years childminder agency;
- (h) work for an early or later years childminder agency in any capacity which involves entering premises on which early years provision is being provided.

(2) When the Chief Inspector gives consent under paragraph (1), P shall not, in respect of the facts so disclosed, be regarded as disqualified from registration for the purposes specified in the Chief Inspector’s consent.

(3) Any consent given by the Chief Inspector under paragraph (1) shall be in writing and shall specify the extent to which the disqualification from registration is waived.

(4) In relation to a person who would be disqualified from registration by virtue of regulation 4(4), this regulation shall not apply where a court has made an order under section 28(4), 29(4) or 29A(2) of the 2000 Act<sup>(16)</sup>.

### **Appeals**

**11.** Any determination made by the Chief Inspector as to whether to give consent under regulation 10 is a prescribed determination for the purposes of section 74(2) of the Act.

### **Duty of disclosure**

**12.**—(1) A person who is registered under Chapter 3 or 4 of Part 3 of the Act (in this regulation a “registered person”) must provide the following information to the Chief Inspector or, in the case of a person who is registered with a childminder agency, to that agency—

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(15) “Domestic premises” is defined in section 98 of the Act as “premises which are used wholly or mainly as a private dwelling”.

(16) Sections 28(4), 29(4) and 29A(2) were repealed by Schedule 10 to the Safeguarding Vulnerable Groups Act 2006 (c. 47), subject to savings specified in article 5 of S.I. 2012/2231.

- (a) details of any order, determination, conviction or other ground for disqualification from registration made or applying in relation to a person listed in paragraph (2) which results in that person being disqualified from registration under these Regulations;
  - (b) the date when the order, determination or conviction was made or when any other ground for disqualification from registration arose;
  - (c) the body or court by which the order, determination or conviction was made and the sentence, if any, imposed;
  - (d) in relation to an order or conviction, a certified copy of the relevant order or court order.
- (2) The persons in respect of whom the information referred to in paragraph (1) must be provided are—
- (a) the registered person; and
  - (b) any person who lives in the same household as the registered person or who is employed in that household.
- (3) The information referred to in paragraph (1) must be provided to the Chief Inspector or to the childminder agency, as the case may be, as soon as reasonably practicable, but in any event within 14 days of the time when the registered person became aware of that information or would have become aware of it if the registered person had made reasonable enquiries.
- (4) Any allegation that a registered person has failed to meet the requirements prescribed in this regulation may be taken into account by the Chief Inspector or, in the case of a person who is registered with a childminder agency, that agency, in the exercise of functions under Part 3 of the Act.
- (5) Any allegation that a registered person has failed to meet the requirements prescribed in this regulation may be taken into account in any proceedings under Part 3 of the Act.

## Part 3 Amendment of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016

### **Amendment of the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016**

**13.** The Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016<sup>(17)</sup> are amended as follows.

**14.** In regulation 2(1), insert in the appropriate places—

“‘foster parent’ means—

- (a) a local authority foster parent within the meaning of section 105(1) of the Children Act 1989<sup>(18)</sup>;
- (b) a local authority foster parent within the meaning of section 197 of the Social Services and Well-Being (Wales) Act 2014<sup>(19)</sup>;
- (c) a person approved as a foster carer within the meaning of regulation 2 of the Looked After Children (Scotland) Regulations 2009<sup>(20)</sup>; or
- (d) a foster parent within the meaning of Article 27(3) of the Children (Northern Ireland) Order 1995<sup>(21)</sup>,” and

<sup>(17)</sup> S.I. 2016/1257, amended by S.I. 2017/1160.

<sup>(18)</sup> 1989 c.41. The definition of ‘local authority foster parent’ was substituted by regulations 55 and 106(a) of S.I. 2016/413.

<sup>(19)</sup> 2014 anaw 4. The definition of ‘local authority foster parent’ was substituted by regulations 294 and 319(a) of S.I. 2016/413.

<sup>(20)</sup> SSI 2009/210 to which there are amendments not relevant to these Regulations.

<sup>(21)</sup> S.I. 1995/755 (N.I.2). To which there are amendments not relevant to these Regulations.

““responsible local authority” means—

- (a) the local authority looking after the child in accordance with section 22(1) of the Children Act 1989; or
- (b) where the child is looked after by a local authority within the meaning of regulation 3(2)(b), (c) or (d), the local authority discharging its duty under regulation 33 to secure the early years provision;”.

15. After regulation 3(3)(b) insert—

- “(ba) during any period when the child is placed with a foster parent under section 22C(6)(a) or (b) of the Children Act 1989;
- (bb) during any period when the child is placed with a foster parent under section 81(6)(a) or (b) of the Social Services and Well-Being (Wales) Act 2014;
- (bc) during any period when the child is placed with a foster parent under section 80 of the Adoption and Children (Scotland) Act 2007(22);
- (bd) during any period when the child is placed with a foster parent under Article 27(2)(a) of the Children (Northern Ireland) Order 1995;”.

16. In regulation 4, at the beginning insert—

“(A1) This regulation does not apply in relation to a child falling within regulations 3(3)(ba) to (bd).”.

17. After regulation 4 insert—

**“Specified conditions relating to the parent, and any partner of the parent, of the child – foster parents**

4A.—(1) This regulation applies in relation to a child falling within regulations 3(3)(ba) to (bd).

(2) For the purposes of section 1(2) of the Act, a parent of the child must meet the following five conditions.

(3) The first condition is that the parent is a foster parent and has the child placed with them.

(4) The second condition is that the main reason, or one of the main reasons, the parent of the child seeks the free childcare referred to in section 1(1) of the Act is to enable the parent, or any partner of the parent, to work.

(5) The condition in paragraph (4) is treated as being met in relation to any person to whom any of the cases in regulation 8(1)(a) to (m) or 9(1)(b) applies.

(6) The third condition is that the parent of the child is in work.

(7) In paragraphs (4) and (6) “work” means—

- (a) in relation to the parent and their partner, where the partner is also the child’s foster parent, paid work outside their role as a foster parent; and
- (b) in relation to the partner of the parent, where the partner is not the child’s foster parent, qualifying paid work.

(8) For the purposes of this regulation the parent is also treated as being in work if—

- (a) the person—
  - (i) has accepted an offer to work on or before the date of the declaration made in accordance with regulation 13; and



- (ii) expects the work to start within 31 days of that date; or
- (b) the person—
  - (i) is absent from work on unpaid leave on the date of the declaration made in accordance with regulation 13; and
  - (ii) expects to return to work within 31 days of that date.
- (9) The fourth condition is that—
  - (a) the parent; and
  - (b) any partner of the parent, where the partner is also the child’s foster parent, has had confirmation from the responsible local authority that the responsible local authority is satisfied that taking up paid work outside their role as a foster parent is consistent with the child’s care plan.
- (10) The fifth condition is that the parent does not expect their adjusted net income to exceed £100,000 in the relevant tax year.
- (11) The condition in paragraph (10) is treated as not being met by any parent if—
  - (a) the parent has made, or expects to make, a claim under section 809B of the Income Tax Act 2007<sup>(23)</sup>(claim for remittance basis to apply) for the relevant tax year, or
  - (b) the parent expects section 809E of that Act (application of remittance basis in certain cases without claim) to apply to the parent for the relevant tax year.
- (11) Where a parent of the child has a partner, that partner must also meet the condition in paragraphs (6) and (10).
- (11) In this regulation—
  - “adjusted net income” has the meaning given by section 58 of the Income Tax Act 2007;
  - “care plan” means—
    - (a) the ‘care plan’ as defined by regulation 2 of the Care Planning, Placement and Case Review (England) Regulations 2010<sup>(24)</sup>;
    - (b) the ‘care and support plan’ as defined by regulation 2 of the Care Planning, Placement and Case Review (Wales) Regulations 2015<sup>(25)</sup>;
    - (c) the ‘child’s plan’ prepared in accordance with regulation 5 of the Looked After Children (Scotland) Regulations 2009; or
    - (d) the written record of the arrangements for the child’s care made under regulation 3 of the Arrangements for the Placement of Children (General) Regulations (Northern Ireland) 1996<sup>(26)</sup>;
  - “the relevant tax year” means the tax year in which the declaration by the parent or the parent’s partner is made.”.

**18.** In regulation 8—

- (a) in the title after “paid work” insert “and work outside role as a foster parent”;
- (b) for paragraph (2) substitute—

<sup>(23)</sup> 2007 c.3.

<sup>(24)</sup> S.I. 2010/959, to which there are amendments not relevant to these Regulations.

<sup>(25)</sup> S.I. 2015/1818, to which there are amendments not relevant to these Regulations.

<sup>(26)</sup> S.I. 1996/453.



“(2) Subject to paragraphs (3) and (4) where the person falls within regulation 4, or is not a foster parent but falls within regulation 4A, the person is regarded for the purposes of these Regulations—

- (i) as in paid work during the period in paragraph (1), and
- (ii) as having, for each week of that period, expected income from that work equal to the minimum weekly income.

(2A) Subject to paragraphs (3) and (4) where the person is a foster parent within regulation 4A, the person is regarded as being in paid work outside their role as a foster parent.”; and

(c) in paragraph (3)—

- (i) at the end of sub-paragraph (a) omit “or”; and
- (ii) after sub-paragraph (a) insert—

“(aa) the person was in paid work outside their role as a foster parent; or”.

**19.** In regulation 9—

(a) in the title after “paid work” insert “and paid work outside role as a foster parent”;

(b) for sub-paragraph (1)(a) substitute—

“(a) a person (“P”) has—

- (i) a partner who is in qualifying paid work, or
- (ii) a partner who is in paid work outside their role as a foster parent; and”;

(c) for paragraph (2) substitute—

“(2) For the purposes of the Act—

(a) where P falls within regulation 4 or is not a foster parent and falls within regulation 4A, P is regarded as—

- (i) being in paid work during that period, and
- (ii) as having, for each week of that period, expected income from that work equal to the minimum weekly income;

(b) where P falls within regulation 4A, P is regarded as in paid work outside their role as a foster parent.”; and

(d) in paragraph (3) after “qualifying paid work” insert “or paid work outside their role as a foster parent”.

**20.** For regulation 11(a) substitute—

“(a) be—

- (i) the parent with whom the young child in respect of whom the declaration is being made normally lives, or that parent’s partner, or
- (ii) the foster parent with whom the young child in respect of whom the declaration is being made is placed.”.

**21.** For regulation 13 substitute—

“(1) Where a declaration is being made in accordance with regulation 11(a)(i), the declaration must—

- (a) be in the form specified by the Commissioners;
- (b) be made to the Commissioners in accordance with regulation 14; and
- (c) include information specified by the Commissioners—

- (i) to identify the person making the declaration, and any partner of that person;
- (ii) to identify the young child in respect of whom the declaration is being made;  
and
- (iii) to determine whether the young child is a qualifying child of working parents.

(2) Where a declaration is being made in accordance with regulation 11(a)(ii), the declaration must be in the form specified by the responsible authority.”.

**22.** For regulation 14(1) substitute—

“(1) A declaration made in accordance with regulation 13(1) must be made by electronic communications.”.

**23.** In regulation 15—

- (a) in paragraph (2)(a) omit “or”;
- (b) after paragraph (2)(a) insert—
  - “(ba) the responsible local authority under regulation 17A, or”;
- (c) in paragraphs (6), (7), (8) and (9) after “Commissioners” insert “or responsible local authority”.

**24.** In regulation 16—

- (a) at the end of regulation (3)(a) omit “or”;
- (b) after regulation (3)(a) insert—
  - “(ba) the responsible local authority under regulation 17A, or”.
- (c) at the end of regulation (4)(a) omit “or”; and
- (d) after regulation (4)(a) insert—
  - “(ba) the responsible local authority under regulation 17A, or”.

**25.** For the heading of Chapter 4 of Part 2 substitute—

“Chapter 4

*Determinations”.*

**26.** After regulation 17 insert—

**“Determination by the responsible local authority**

**17A.** Where a person makes a declaration in accordance with regulation 13 or a reconfirming declaration in accordance with regulation 16, the responsible local authority must make a determination as to whether the criteria in section 1(2)(b) and (d) of the Act are met in relation to the child in respect of whom the declaration is made.”.

**27.** Before regulation 18 insert—

**“Application to determinations made under regulation 17**

**18ZA.** Regulations 18 to 32 apply in relation to determinations made by the Commissioners under regulation 17 only.”.

Signed by authority of the Secretary of State for Education

28th June 2018

*Nadhim Zahawi*  
Parliamentary Under Secretary of State  
Department for Education

## SCHEDULE 1

Regulation 4(2)

## ORDERS ETC RELATING TO THE CARE OF CHILDREN

1. An order under section 31(1)(a) of the 1989 Act (care order).
2. An order under article 50(1)(a) of the Children (Northern Ireland) Order 1995(27) (care order).
3. An order under section 3(3) of the Children and Young Persons (Guernsey) Law 1967 (fit person order or special care order).
4. An order made further to an application as permitted under section 48(3) of the Children (Guernsey and Alderney) Law 2009 (community parenting order).
5. An order under section 31(1)(a) of the Children and Young Persons Act 2001(28) (an Act of Tynwald).
6. An order or determination specified in Schedule 4 to the Children (Jersey) Law 2002(29).
7. Any order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the 1989 Act (transitional provisions for children in compulsory care).
8. A supervision order which imposes a residence requirement under paragraph 5 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000(30), section 12AA of the Children and Young Persons Act 1969(31) (requirement to live in local authority accommodation) or paragraph 17 of Schedule 1 to the Criminal Justice and Immigration Act 2008(32).
9. A parental responsibility order made under article 7 of the Children (Northern Ireland) Order 1995(33).
10. A child protection order under section 57 of the Children (Scotland) Act 1995(34) or section 37 of the Children's Hearings (Scotland) Act 2011(35).
11. An exclusion order under section 76 of the Children (Scotland) Act 1995(36).
12. A supervision order which imposes a residence requirement under paragraph 5 of Schedule 9 to the Children and Young Persons Act 2001 (an Act of Tynwald) (requirement to live in accommodation provided by the Department of Health and Social Security).
13. An order made at any time imposing a supervision requirement with respect to a child so as to remove that child from P's care, under—
  - (a) section 44 of the Social Work (Scotland) Act 1968(37);
  - (b) section 70 of the Scotland Act 1995(38).
14. A compulsory supervision order, within the meaning of section 83 of the Children's Hearings (Scotland) Act 2011, or interim compulsory supervision order, within the meaning of section 86 of that Act, made at any time with respect to a child so as to remove that child from P's care.

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(27) [S.I. 1995/755 \(N.I. 2\)](#).

(28) [2001 c. 20](#).

(29) [Jersey Law 50/2002](#).

(30) Schedule 6 was repealed by part 1 of Schedule 28 to the Criminal Justice and Immigration Act 2008 (c. 4), subject to savings and transitional provisions specified in paragraphs 1(1) and (5) of Schedule 27 to that Act.

(31) Section 12AA was repealed by part 1 of Schedule 12 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

(32) [2008 c. 4](#).

(33) [S.I. 1995/75](#).

(34) [1995 c. 36](#). This Act was repealed by paragraph 1 of Schedule 6 to the Children's Hearings (Scotland) Act 2011 asp 1.

(35) [2011 asp 1](#).

(36) [1995 c. 36](#).

(37) [1968 c. 49](#). Section 44 was repealed by paragraph 1 of Schedule 5 to the Children (Scotland) Act 1995 (c. 36).

(38) Section 70 was repealed by paragraph 1 of Schedule 6 to the Children's Hearings (Scotland) Act 2011 asp 1.

**15.** An order made at any time vesting P’s rights and powers with respect to a child in a local authority in Scotland—

- (a) under section 16 of the Social Work (Scotland) Act 1968**(39)**; or
- (b) pursuant to a parental responsibilities order under section 86 of the Children (Scotland) Act 1995**(40)**.

**16.** A permanence order made, or treated as being made, under section 80 of the Adoption and Children (Scotland) Act 2007**(41)**.

**17.** In relation to registration of a children’s home—

- (a) a refusal of P’s application for registration under section 13 of the Care Standards Act 2000**(42)**;
- (b) cancellation of P’s registration under section 14 or 20(1) of the Care Standards Act 2000;
- (c) cancellation of the registration of any person under section 14 or 20(1) of the Care Standards Act 2000 in relation to a children’s home which P has been concerned in the management of, or has any financial interest in; or
- (d) refusal of P’s application for registration or cancellation of P’s registration under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003**(43)**.

**18.** In relation to the registration of a care home service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016**(44)** (“the 2016 Act”)) which is provided wholly or mainly to persons under the age of 18—

- (a) a refusal of P’s application for registration under section 7 of the 2016 Act;
- (b) a refusal under section 12 of the 2016 Act of P’s application to vary P’s registration (made in accordance with section 11(1)(a)(i) or (ii) of that Act);
- (c) a cancellation of P’s registration under section 15(1)(b) to (f) or 23(1) of the 2016 Act;
- (d) a cancellation of the registration of any person under section 15(1)(b) to (f) or 23(1) of the 2016 Act in relation to a care home service provided wholly or mainly to persons under the age of 18 in which P has been concerned in the management, or in which P had any financial interest;
- (e) a variation of P’s registration under section 13(3)(b) or (4)(b) or 23(1) of the 2016 Act; or
- (f) a refusal of P’s application for registration or cancellation of P’s registration under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003**(45)**.

**19.** Refusal at any time of P’s application for registration in relation to a voluntary home or a children’s home, or cancellation of the registration of a voluntary home or children’s home which was carried on by P or which P was otherwise concerned with the management of, or had any financial interest in, under, as the case may be—

- (a) paragraph 1 of Schedule 5 to the 1989 Act**(46)**;

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**(39)** Section 16 was repealed by paragraph 1 of Schedule 5 to the Children (Scotland) Act 1995 (c. 36).

**(40)** Section 86 was repealed by paragraph 1 of Schedule 3 to the Adoption and Children (Scotland) Act 2007 asp 4.

**(41)** 2007 asp 4.

**(42)** 2000 c. 14.

**(43)** S.I. 2003/431 (N.I.9).

**(44)** 2016 anaw. 2.

**(45)** S.I. 2003/431.

**(46)** Paragraph 1 of Schedule 5 to the 1989 Act was repealed in relation to England and Wales by paragraph 1 of Schedule 6 to the Care Standards Act 2000 (“the 2000 Act”).

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- (b) paragraph 1 or 4 of Schedule 6 to the 1989 Act(47);
  - (c) section 127 of the Children and Young Persons Act (Northern Ireland) 1968(48);
  - (d) article 80, 82, 96 or 98 of the Children (Northern Ireland) Order 1995(49);
  - (e) Part 1 of the Regulation of Care (Scotland) Act 2001(50) (care home services);
  - (f) Paragraph 2 or 4 of Schedule 2 to the Children and Young Persons Act 2001 (an Act of Tynwald); or
  - (g) Part 5 of the Public Services Reform (Scotland) Act 2010(51).
- 20.** A prohibition imposed at any time under—
- (a) section 69 of the 1989 Act, section 10 of the Foster Children Act 1980(52) or section 4 of the Children Act 1958 (power to prohibit private fostering)(53);
  - (b) article 110 of the Children (Northern Ireland) Order 1995 (power to prohibit private fostering); or
  - (c) section 10 of the Foster Children (Scotland) Act 1984(54) (power to prohibit the keeping of foster children);
  - (d) section 59 of the Children and Young Persons Act 2001 (an Act of Tynwald) (power to prohibit or impose restrictions upon private fostering).
- 21.** Refusal at any time of registration in respect of the provision of nurseries, day care, child minding or other provision of childcare, disqualification from such registration or cancellation of any such registration under—
- (a) section 1 or section 5 of the Nurseries and Child-Minders Regulation Act 1948(55);
  - (b) Part 10 or Part 10A of the 1989 Act(56);
  - (c) Chapter 2, 3 or 4 of Part 3 of the Act;
  - (d) Part XI of the Children (Northern Ireland) Order 1995;
  - (e) section 11(5) or section 15 of the Children and Young Persons Act (Northern Ireland) 1968;
  - (f) Part 1 of the Regulation of Care (Scotland) Act 2001(57);
  - (g) section 1 of the Nurseries and Child Minders Regulation Act 1974(58) (an Act of Tynwald);

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(47) Paragraphs 1 and 4 of Schedule 6 to the 1989 Act were repealed in relation to England and Wales by paragraph 1 of Schedule 6 to the 2000 Act.

(48) This section was repealed by the Children (Northern Ireland) Order 1995 (N.I. 2).

(49) Articles 80, 82, 96 and 98 were revoked by paragraph 1 of Schedule 5 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003/431.

(50) 2001 asp 8. Part 1 was repealed by paragraph 37 of Schedule 14 to the Public Services Reform (Scotland) Act 2010 asp 8, with savings specified in article 2 of S.S.I. 2011/169.

(51) 2010 asp 8.

(52) 1980 c. 6, hereafter referred to as “the 1980 Act”. This section was repealed by section 108 and Schedule 15 to the 1989 Act.

(53) The Children Act 1958 was repealed with savings, by section 23 and Schedule 3 to the 1980 Act and section 22 and Schedule 3 to the Foster Children (Scotland) Act 1984 (c. 56). Also see footnote (d) with regard to the repeal of the 1980 Act. The Foster Children (Scotland) Act 1984 has effect subject to transitional provisions set out in that Act.

(54) 1984 c. 56.

(55) 1948 c. 53. This Act was repealed with savings by section 108 and paragraphs 33 and 34 of Schedule 14 and Schedule 15 to the 1989 Act.

(56) Part 10 was repealed in relation to England and Wales by section 79 of the Care Standards Act 2000 (c. 14) and in relation to Scotland by section 80 of, and Schedule 4 to the Regulation of Care (Scotland) Act 2001 (asp. 8). Part 10A was repealed in relation to Wales by section 73 of, and Schedule 2 to the Children and Families (Wales) Measure 2010 (2010 nawm 1).

(57) 2001 asp 8. Part 1 was repealed by paragraph 37 of Schedule 14 to the Public Services Reform (Scotland) Act 2010 asp 8, with savings specified in article 2 of S.S.I. 2011/169.

(58) This Act was repealed by section 105 of, and Schedule 13 to the Children and Young Persons Act 2001.

- (h) section 65 or 66(59) of, or Schedule 7(60) to, the Children and Young Persons Act 2001 (an Act of Tynwald; or
  - (i) Part III of the Child Protection (Guernsey) Law 1972; or
  - (j) Part 2 of the Children and Families (Wales) Measure 2010.
22. Disqualification from working with children at any time under the Protection of Children (Scotland) Act 2003(61).
23. Refusal at any time of P’s application for registration or cancellation of P’s registration under section 62 of the Social Work (Scotland) Act 1968(62) (registration of residential and other establishments).
24. Refusal at any time of P’s application for registration as a provider of a child care agency under section 7 of the Regulation of Care (Scotland) Act 2001 or cancellation of any such registration under section 12 or 18 of that Act(63).
25. Refusal at any time of P’s application for registration as a provider of a child care agency under section 59 of the Public Services Reform (Scotland) Act 2010 or cancellation of any such registration under section 64 or 65 of that Act.
26. Inclusion of P’s name at any time on a list of persons unsuitable to work with children under article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 or disqualification from working with children under Chapter II of Part II of that Order(64).

## SCHEDULE 2

Regulation 4(5)

### REPEALED STATUTORY OFFENCES

- 1.—(1) An offence under any of the following sections of the Sexual Offences Act 1956(65);
- (a) section 1(rape);
  - (b) section 2 or 3 (procurement of woman by threats or false pretences);
  - (c) section 4 (administering drugs to obtain or facilitate intercourse);
  - (d) section 5 (intercourse with a girl under 13);
  - (e) section 6 (intercourse with a girl under 16);
  - (f) section 14 or 15 (indecent assault);
  - (g) section 16 (assault with intent to commit buggery);
  - (h) section 17 (abduction of women by force or for the sake of her property);
  - (i) section 19 or 20 (abduction of girl under 18 or 16);

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(59) 2001 c. 20. Sections 65 and 66 were repealed by section 196 of the Regulation of Care Act 2013 (an Act of Tynwald) (“the 2013 Act”).

(60) Schedule 7 was repealed by section 199 of the 2013 Act.

(61) 2003 asp 5. This Act was repealed by paragraph 42 of Schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) except in relation to section 16.

(62) 1968 c. 49. Section 62 was repealed by paragraph 1 of Schedule 4 to the Regulation of Care (Scotland) Act 2001 asp 8 subject to savings specified in article 21 of S.S.I 2011/121.

(63) Sections 7, 12 and 18 were repealed in Scotland by paragraph 37 of Schedule 14 to the Public Services Reform (Scotland) Act 2010 asp 8, subject to savings specified in article 21 of S.S.I 2011/121.

(64) S.I. 2003/417 (N.I. 4). Article 3 and Chapter II of Part II of that Order were partially repealed by paragraph 1 of Schedule 8 to the Safeguarding Vulnerable Groups (Northern Ireland) Order S.I. 2007/1351, for purposes specified in article 4 of SR 2009/346 and article 3 of SR 2010/145.

(65) 1956 c. 69. All the sections referred to in paragraphs (a) to (l) of this sub-paragraph, were repealed by paragraph 1 of Schedule 7 to the Sexual Offences Act 2003 (c. 42) (“the 2003 Act”).



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- (j) section 24 (detention of woman in brothel or other premises);
  - (k) section 25 or 26 (permitting girl under 13, or between 13 and 16, to use premises for intercourse);
  - (l) section 28 (causing or encouraging prostitution of, intercourse with or indecent assault on, girl under 16).
- (2) An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child)(66).
- (3) An offence under section 54 of the Criminal Law Act 1977 (inciting girl under 16 to incest)(67).
- (4) An offence under section 3 of the Sexual Offences (Amendment) Act 2000(68) (abuse of trust).
- (5) An offence under section 70 of the 1989 Act, section 16 of the Foster Children Act 1980(69) or section 14 of the Children Act 1958 (offences relating to private fostering)(70).
- (6) An offence under section 63(10) of, paragraph 1(5) of Schedule 5 to, or paragraph 2(3) of Schedule 6 to, the 1989 Act (offences relating to voluntary homes and children's homes)(71).
- (7) An offence under or by virtue of any of the following sections of the Regulation of Care (Scotland) Act 2001(72)—
- (a) section 21 (offences in relation to registration);
  - (b) section 22 (false statements in applications); or
  - (c) section 29(10) (offences under regulations).
2. P falls within this paragraph if P has been found to have committed an offence under any of the following provisions committed against or involving a child—
- (a) section 7 of the Sexual Offences Act 1956 (intercourse with defective);
  - (b) section 9 of that Act (procurement of defective);
  - (c) section 10 of that Act (incest by a man);
  - (d) section 11 of that Act (incest by a woman);
  - (e) section 12 of that Act (buggery) except if the other party to the act of buggery was aged 16 or over and consented to the act;
  - (f) section 13 of that Act (indecent between men) except if the other party to the act of gross indecency was aged 16 or over and consented to the act;
  - (g) section 21 of that Act (abduction of defective from parent or guardian);
  - (h) section 22 of that Act (causing prostitution of women);
  - (i) section 23 of that Act (procurement of girl under 21);
  - (j) section 27 of that Act (permitting defective to use premises for intercourse);
  - (k) section 29 of that Act (causing or encouraging prostitution of defective);
  - (l) section 30 of that Act (man living on earnings of prostitution);

(66) 1960 c. 33. Section 1 was repealed by paragraph 1 of Schedule 7 to the 2003 Act.

(67) 1977 c. 45. Section 54 was repealed by paragraph 1 of Schedule 7 to the 2003 Act.

(68) 2000 c. 44. Section 3 extends to Scotland and Northern Ireland (see sections 7(2) and (4)) but was repealed in relation to England and Wales and Northern Ireland by the 2003 Act.

(69) 1980 c. 6. This Act was repealed by section 108 of the 1989 Act.

(70) 1958 c. 65. Section 14 was repealed by the Foster Children Act 1980. The 1980 Act was repealed by the 1989 Act.

(71) Each of these provisions was repealed by the Care Standards Act 2000 (c. 14).

(72) 2001 asp. 8. Each of the provisions in paragraphs (a) to (c) were repealed by paragraph 37 of Schedule 14 to the Public Services Reform (Scotland) Act 2010 asp 8.

- (m) section 31 of that Act (woman exercising control over prostitute);
- (n) section 128 of the Mental Health Act 1959**(73)** (sexual intercourse with patients);
- (o) section 4 of the Sexual Offences Act 1967**(74)** (procuring others to commit homosexual acts);
- (p) section 5 of that Act (living on earnings of male prostitution);
- (q) section 9(1)(a) of the Theft Act 1968**(75)** (burglary); or
- (r) an offence that is related to an offence specified in sub-paragraphs (a) to (q).

### SCHEDULE 3

Regulation 4(7)

#### SPECIFIED OFFENCES

##### Offences in England and Wales

1.—(1) An offence under section 1 (offence of sending letters etc, with intent to cause distress or anxiety) of the Malicious Communications Act 1988**(76)**.

(2) An offence under section 49 or 50(9) of the 1989 Act (offences relating to the abduction of a child in care).

(3) An offence under any of the following sections of the Protection from Harassment Act 1997**(77)**—

- (a) section 4 (putting people in fear of violence); or
- (b) section 4A (stalking involving fear of violence or serious alarm or distress)**(78)**.

(4) An offence under any of the following sections of the Terrorism Act 2000**(79)**—

- (a) section 11 (membership);
- (b) section 12 (support);
- (c) section 13 (uniform);
- (d) section 15 (fund-raising);
- (e) section 54 (weapons training)**(80)**;
- (f) section 56 (directing terrorist organisation);
- (g) section 58A (eliciting, publishing or communicating information about members of armed forces etc.)**(81)**;
- (h) section 59 (England and Wales); or
- (i) section 63 (terrorist finance: jurisdiction).

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**(73)** 1959 c. 72. Section 128 was repealed by paragraph 13 of Schedule 7 to the Sexual Offences Act 2003 (c. 42) (“the 2003 Act”).

**(74)** 1967 c. 60. Section 4 was repealed by paragraph 15 of Schedule 7 to the 2003 Act.

**(75)** 1968 c. 60.

**(76)** 1988 c. 27.

**(77)** 1997 c. 40.

**(78)** Section 4A was inserted by section 111(2) of the Protection of Freedoms Act 2012 (c. 9).

**(79)** 2000 c. 11.

**(80)** Section 54 was amended by section 120 of the Anti-terrorism, Crime and Security Act 2001 (c. 24), section 1 of the Criminal Justice and Courts Act 2015 (c. 2) (“the 2015 Act”) (with transitional provisions included in S.I. 2015/778) and paragraph 1 of Schedule 9 to the Counter-Terrorism Act 2008 (c. 28).

**(81)** Section 58A was inserted by section 76(1) of the Counter-Terrorism Act 2008 (c. 28).

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- (5) An offence in relation to a children’s home under or by virtue of any of the following provisions of the Care Standards Act 2000<sup>(82)</sup>—
- (a) section 11(1) (failure to register);
  - (b) section 24 (failure to comply with conditions);
  - (c) section 25 (contravention of regulations);
  - (d) section 26 (false descriptions of establishments and agencies); or
  - (e) section 27 (false statements in applications).
- (6) An offence under section 127 (improper use of public electronic communications network) of the Communications Act 2003<sup>(83)</sup>.
- (7) An offence under any of the following provisions of the Sexual Offences Act 2003<sup>(84)</sup>—
- (a) section 15A (sexual communication with a child)<sup>(85)</sup>;
  - (b) section 62 or 63 (committing an offence or trespassing with intent to commit a sexual offence);
  - (c) section 64 or 65 (sex with an adult relative);
  - (d) section 69 (intercourse with an animal)<sup>(86)</sup>; or
  - (e) section 70 (sexual penetration of a corpse).
- (8) An offence under any of the following provisions of the Terrorism Act 2006<sup>(87)</sup>—
- (a) section 1 (encouragement of terrorism);
  - (b) section 2 (dissemination of terrorist publications);
  - (c) section 5 (preparation of terrorist acts and terrorist training);
  - (d) section 6 (training for terrorism)<sup>(88)</sup>;
  - (e) section 8 (attendance at a place used for terrorist training);
  - (f) section 9 (making and possession of devices or materials);
  - (g) section 11 (terrorist threats relating to devices, materials or facilities).
- (9) An offence under section 62 (possession of prohibited images of children) of the Coroners and Justice Act 2009<sup>(89)</sup>.
- (10) An offence under any of the following provisions of the Criminal Justice and Courts Act 2015<sup>(90)</sup>—
- (a) section 20 (ill treatment or wilful neglect: care worker offence);
  - (b) section 21 (ill treatment or wilful neglect: care provider offence); or
  - (c) section 33 (disclosing private sexual photographs and films with intent to cause distress).
- (11) An offence under any of the following provisions of the Serious Crime Act 2015<sup>(91)</sup>—
- (a) section 69 (possession of paedophile manual)<sup>(92)</sup>; or

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<sup>(82)</sup> 2000 c. 14.

<sup>(83)</sup> 2003 c. 21. Section 127 was amended by section 51 of the 2015 Act.

<sup>(84)</sup> 2003 c. 42.

<sup>(85)</sup> Section 15A was inserted by section 67 of the Serious Crime Act 2015 (c. 9).

<sup>(86)</sup> Section 69 was repealed in relation to Northern Ireland by paragraph 1 of Schedule 3 to the Sexual Offences (Northern Ireland) Order 2008 S.I. 2008/1769, subject to savings specified in that Order.

<sup>(87)</sup> 2006 c. 11.

<sup>(88)</sup> Section 6 was amended by section 1 of the Criminal Justice and Courts Act 2015 (c. 2).

<sup>(89)</sup> 2009 c. 25.

<sup>(90)</sup> 2015 c. 2.

<sup>(91)</sup> 2015 c. 9.

<sup>(92)</sup> Section 69 was amended by regulations 23 and 24 of the Modern Slavery Act 2015 (Consequential Amendments) Regulations S.I. 2016/244.

- (b) section 76 (controlling or coercive behaviour in an intimate or family relationship).
- (12) An offence under any of the following provisions of the Modern Slavery Act 2015<sup>(93)</sup>—
  - (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking);
  - (c) section 4 (committing offence with intent to commit offence under section 2); or
  - (d) section 30 (offences)<sup>(94)</sup>.
- (13) An offence under section 5 (supplying, or offering to supply, a psychoactive substance) of the Psychoactive Substances Act 2016<sup>(95)</sup>.
- (14) An offence in relation to a care home service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(96)</sup> (“the 2016 Act”)) provided wholly or mainly to persons under the age of 18 under or by virtue of any of the following provisions of the 2016 Act—
  - (a) section 5 (requirement to register);
  - (b) section 43 (failure to comply with a condition);
  - (c) section 44 (false descriptions);
  - (d) section 45 (failure by service provider to comply with requirements in regulations); or
  - (e) section 47 (false statements).

## Offences in Scotland

- 2.—(1) An offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009<sup>(97)</sup>.
- (2) An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995<sup>(98)</sup>.
- (3) The common law offence of plagiary (theft of a child below the age of puberty).
- (4) An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982<sup>(99)</sup> (offences relating to indecent photographs of children).
- (5) An offence under section 3 of the Sexual Offences (Amendment) Act 2000<sup>(100)</sup> (abuse of trust).
- (6) An offence under any of the following—
  - (a) section 81, 83 or 89 of the Children (Scotland) Act 1995<sup>(101)</sup>, section 59(1) or 171(2) of the Children’s Hearings (Scotland) Act 2011 or section 17(8) or 71 of the Social Work (Scotland) Act 1968 (harbouring offences);

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<sup>(93)</sup> 2015 c. 30.

<sup>(94)</sup> Section 30 was amended by paragraphs 3(2)(a) and (b) of, and paragraph 3 of Schedule 1 to the Human Trafficking and Exploitation (Scotland) Act 2015 (Consequential Provisions and Modifications) Order [S. I. 2016/1031](#).

<sup>(95)</sup> 2016 c. 2.

<sup>(96)</sup> 2016 anaw. 2.

<sup>(97)</sup> 2009 asp 9.

<sup>(98)</sup> 1995, c. 46. Schedule 1 was repealed by paragraphs 1 and 2 of Schedule 2 to the Criminal Justice (Scotland) Act 2016 [asp 1](#).

<sup>(99)</sup> 1982 c. 45. Section 52 was amended by paragraph 44 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40) and section 16 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9). Section 52A was inserted by section 161 of the Criminal Justice Act 1988 (c. 33). Both sections 52 and 52A were amended by section 84 of the Criminal Justice and Public Order Act 1994 (c. 33), section 19 of the Criminal Justice (Scotland) Act 2003 (asp 7), and section 41 of, and paragraph 13 of Schedule 7 to the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

<sup>(100)</sup> 2000 c. 44. Section 3 was repealed in relation to England, Wales and Northern Ireland by paragraph 45 of Schedule 6 to the Sexual Offences Act 2003 (c. 42). It was repealed in relation to Scotland by Schedule 6 to the Sexual Offences (Scotland) Act 2009.

<sup>(101)</sup> 1995 c. 36. Section 81 was partially repealed by Schedule 6 to the Children’s Hearings (Scotland) Act 2011 [asp 1](#) (“the 2011 Act”). Section 83 was repealed in relation to England, Wales and Northern Ireland by part 2 of Schedule 2 to the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order [2013/1465](#). The repeal has effect subject to transitional provisions and savings specified in article 4 of that Order. Section 83 was repealed in relation

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- (b) section 6 of the Child Abduction Act 1984**(102)** (taking or sending child out of the United Kingdom);
  - (c) section 15 of the Foster Children (Scotland) Act 1984 (offences relating to private fostering).
- (7) An offence under or by virtue of section 60(3), 61(3) or 62(6) of the Social Work (Scotland) Act 1968**(103)** (offences relating to residential and other establishments).
- (8) An offence in relation to a care home service, child minding or day care of children, under or by virtue of any of the following sections of the Public Services Reform (Scotland) Act 2010**(104)**—
- (a) section 78 (regulations: care services);
  - (b) section 80 (offences in relation to registration under Chapter 3); or
  - (c) section 81 (false statements in application under Chapter 3).

### Offences in Northern Ireland

- 3.—(1)** An offence of rape under article 5 of the Sexual Offences (Northern Ireland) Order 2008**(105)**.
- (2) An offence under section 66, 69 or 70 of the Sexual Offences Act 2003**(106)**.
  - (3) An offence under article 70, 73 or 74 of the Sexual Offences (Northern Ireland) Order 2008.
  - (4) An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968.
  - (5) An offence under article 3 of the Protection of Children (Northern Ireland) Order 1978**(107)** (indecent photographs).
  - (6) An offence contrary to article 9 of the Criminal Justice (Northern Ireland) Order 1980**(108)** (inciting girl under 16 to have incestuous sexual intercourse).
  - (7) An offence contrary to article 15 of the Criminal Justice (Evidence etc) (Northern Ireland) Order 1988**(109)** (possession of indecent photographs of children).
  - (8) An offence under sections 16 to 19 of the Sexual Offences Act 2003 (abuse of position of trust).
  - (9) An offence under Part 3 of the Sexual Offences (Northern Ireland) Order 2008 (sexual offences against children).
  - (10) An offence under any of the following—
    - (a) article 68 or 69(9) of the Children (Northern Ireland) Order 1995**(110)** (offences relating to the abduction of a child in care;

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to Scotland by Schedule 6 to the 2011 Act. Section 89 was repealed by Schedule 3 to the Adoption and Children (Scotland) Act 2007 [asp 4](#).

**(102)** [1984 c. 37](#). Section 6 was amended in relation to Scotland by paragraph 34 of Schedule 4 to the Children (Scotland) Act 1995 (c. 36).

**(103)** [1968 c. 49](#). Sections 60, 61 and 62 were repealed by Schedule 4 to the Regulation of Care (Scotland) Act 2001 [asp 8](#), subject to savings specified in articles 11 and 13 of [S.S.I. 2002/162](#).

**(104)** [2010 asp 8](#).

**(105)** [S.I. 2008/1769 \(N.I. 2\)](#) (hereafter referred to as “the 2008 Order”).

**(106)** Sections 66, 69 and 70 were repealed in relation to Northern Ireland by paragraph 1 of Schedule 3 to the 2008 Order, subject to savings specified in that Order.

**(107)** [S.I. 1978/1047 \(N.I.17\)](#). Article 3 was amended by section 84(10) of the Criminal Justice and Public Order Act 1994 (c. 33) (“the 1994 Act”), section 41(2) of the 2000 Act and paragraph 8 of Schedule 1 to the Criminal Justice (Northern Ireland) Order ([S.I. 2003/1247 \(N.I.13\)](#)).

**(108)** [S.I. 1980/704 \(N.I.6\)](#). Article 9 has been repealed and replaced by article 33 of the 2008 Order.

**(109)** [S.I. 1988/1847 \(N.I.17\)](#). Article 15 was amended by sections 84(11) and 86(2) of the 1994 Act and section 41(4) of the 2000 Act.

**(110)** [S.I. 1995/755 \(N.I. 2\)](#).

- (b) article 132 of the Children (Northern Ireland) Order 1995, or section 14 of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to child minding and day care);
  - (c) article 117 of the Children (Northern Ireland) Order 1995, or section 9(1) of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to private fostering); or
  - (d) article 79(3), 81(4), 95(3) or 97(4) of the Children (Northern Ireland) Order 1995, or section 127(5) or 129(3) of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to voluntary homes and children's homes).
- (11) An offence contrary to section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(**111**) (human trafficking).
- (12) An offence contrary to section 51 of the Justice Act (Northern Ireland) 2016(**112**) (disclosing private sexual photographs and films with intent to cause distress).

### Offences in Jersey

4. An offence contrary to—
- (a) Part 7 of the Children's Jersey Law 1969(**113**);
  - (b) Schedule 4 to the Children (Jersey) Law 2002(**114**); or
  - (c) The Day Care of Children (Jersey) Law 2002(**115**).

### Offences in Guernsey

5. An offence contrary to—
- (a) the 'Loi pour la Puniton d'Inceste' (Law for the Punishment of Incest) 1909(**116**);
  - (b) the 'Loi relative a la protection des Femmes et des Filles Mineures' (Law for the Protection of Women and Young Girls) 1914(**117**);
  - (c) the 'Loi relative a la Sodomie' (Law relating to Sodomy) 1929(**118**);
  - (d) article 7, 9, 10,11 or 12, section 1 of article 41 or section 1, 2, 3 or 4 of article 51 of the 'Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes' (Law relating to the Protection of Children and Young Persons) 1917(**119**);
  - (e) the Children and Young Persons (Guernsey) Law 1967;
  - (f) the Protection of Children (Balliwick of Guernsey) Law 1995(**120**).

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(111) 2015 c. 2.

(112) 2016 c. 21.

(113) Jersey Law 16/1969.

(114) Jersey Law 50/2002.

(115) Jersey Law 51/2002.

(116) Orders in Council Volume IV p. 288.

(117) Orders in Council Volume V p. 74.

(118) Orders in Council Volume VIII p. 273.

(119) Orders in Council Volume V p. 342 as amended by Loi Supplémentaire a la Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes 1937, Orders in Council Volume XI p. 116 and The Protection of Children and Young Persons (Amendment) Law 1955, Orders in Council Volume XVI p. 277.

(120) Orders in Council Volume XXIX p. 103 as amended by The Administration of Justice (Bailiwick of Guernsey) Law 1991, Orders in Council Volume XXXIII p. 49, the Criminal Evidence and Miscellaneous Provisions (Bailiwick of Guernsey) Law 2002, Order in Council No. 1 of 2003 and the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006, Order in Council No. XIII of 2006.

**Offences in the Isle of Man**

6. An offence specified in Schedule 8 to the Children and Young Persons Act 2001 (an Act of Tynwald).

**Other Offences**

7.—(1) An offence contrary to section 170 of the Customs and Excise Management Act 1979(121) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876(122) (prohibitions and restrictions) where the prohibited goods included indecent photographs of a child.

(2) An offence by virtue of—

(a) section 72 of the Sexual Offences Act 2003 (offences outside the United Kingdom)(123);  
or

(b) section 16B of the Criminal Law (Consolidation) (Scotland) Act 1995(124) (commission of certain sexual offences outside the United Kingdom).

(3) An offence contrary to section 32(3) of the Children and Young Persons Act 1969(125) (detention of absentees).

(4) An offence contrary to article 10(2) (offence relating to absconding) or article 11(1) (offence of intentional obstruction) of the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013(126).

**EXPLANATORY NOTE**

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

These Regulations replace, with modifications, the Childcare (Disqualifications) Regulations 2009. These Regulations also amend the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016.

Part 2 of the Regulations sets out the categories of persons who are disqualified from registration in England as providers of early years or later years childminding or other early years or later years provision under Part 3 of the Childcare Act 2006 (c. 21) (“the 2006 Act”).

Regulation 4 together with Schedule 1 of these Regulations sets out orders and determinations for the care and supervision of children in connection with which a person is disqualified from registration. Regulation 4 together with Schedules 2 and 3, also sets out categories of offences against or involving children or adults in respect of which a person is disqualified from registration. Regulation 4(11)

(121) 1979 c. 2. Section 170 was amended by section 114 of the Police and Criminal Evidence Act 1984 (c. 60), S.I. 1996/2686, section 75 of, and paragraph 8 of Schedule 17 to the Criminal Justice and Immigration Act 2008 (c. 4), section 111 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), S.I. 2015/664, section 12 of the Finance Act 1988 (c. 39), S.I. 2004/702, S.I. 2005/1966 and section 3 of, and paragraph 7 of Schedule 2 to the Finance (No 2) Act 1992 (c. 48).

(122) 1876 c. 36. Section 42 was amended by the Statute Law Repeals Act 1993 (c. 50) and the Statute Law (Repeals) Act 2008 (c. 12).

(123) 2003 c. 42. Section 72 was repealed in relation to Northern Ireland by paragraph 1 of Schedule 3 to the Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769), subject to savings specified in S.I. 2008/1769.

(124) 1995 c. 39. Section 16B was repealed by paragraph 1 of Schedule 6 to the Sexual Offences (Scotland) Act 2009 (asp 9).

(125) 1969 c. 54.

(126) S.I. 2013/1465.



clarifies that disqualification does not apply to applicants who have been the subject of care orders themselves or to foster carers or adoptive parents, with whom a child who is or was subject to a care order, lives, unless the order was made as a result of that applicant's care of the child.

Disqualification from registration applies to offences committed overseas which are comparable to the offences set out in these Regulations (see regulation 5).

Under these Regulations persons included on the list kept under section 1 of the Protection of Children Act 1999 (c. 14), persons in respect of whom a direction has been made under section 142 of the Education Act 2002 (c. 32) (known as list 99) and persons barred from regulated activity relating to children under section 3(2) of the Safeguarding Vulnerable Groups Act 2006 (c. 47) are disqualified from registration (see regulations 6, 7(1) and (2) and 8).

Regulation 9 provides that a person is disqualified from registration to work on domestic premises, if that person lives with another person who is disqualified under these Regulations or lives in a household in which such a person is employed.

Regulation 10 sets out the circumstances in which disqualification may be waived by Her Majesty's Chief Inspector of Education, Children's Services and Skills (the "Chief Inspector"). There is no power of waiver by the Chief Inspector where the disqualification arises from inclusion on List 99 or the list kept under section 1 of the Protection of Children Act 1999, being barred from regulated activity relating to children under the Safeguarding Vulnerable Groups Act 2006 or where a court has ordered that a person must not work in contact with children following a conviction for certain offences against children (see regulation 10(1) and 10(4)).

By virtue of regulation 11, a right of appeal lies to the First-tier tribunal in relation to any determination made by the Chief Inspector as to whether to give consent to waive disqualification under regulation 10.

Regulation 12 provides that a person registered under Chapter 3 or 4 of Part 3 of the 2006 Act has a duty to provide information to the Chief Inspector about the details of any order, determination, conviction or other ground for disqualification from registration under these Regulations. That obligation applies to information relating to the registered person and to any person living in the same household as the registered person or employed in that household.

Schedules 1, 2 and 3 have been updated to reflect amendments in legislation to which they relate. In particular, new offences have been added to Schedule 3 (as detailed in the Notifiable Offences list 2017/2018 as per <https://data.gov.uk/dataset/695f6775-3e51-4dd4-911a-19575638384c/home-office-counting-rules-for-recorded-crime>).

Part 3 of the Regulations amends the Childcare (Early Years Provision Free of Charge) (Extended Entitlement) Regulations 2016 (the 2016 Regulations) to make further provision about free childcare for young children of working parents in England by extending the entitlement to children placed with foster parents.

Regulation 15 amends regulation 3 of the 2016 Regulations to provide that a child is not a looked after child for the purposes of the 2016 Regulations where that child is placed with a foster parent. This ensures that the child qualifies as a child of working parents for the purposes of section 1(2) (c) of the Childcare Act 2016.

Regulation 17 inserts a new regulation 4A into the 2016 Regulations to specify the conditions relating to the parent, where that parent is a local foster parent, and any partner of the parent of the young child.

Regulations 18 to 24 amend regulations 11 to 16 of the 2016 Regulations to make provision with regards to the declaration which must be made in respect of the young child where the declaration is being made by a foster parent.

Regulation 26 inserts a new regulation 17A into the 2016 Regulations regarding the determination that the responsible local authority must make as to whether the young child meets some of the criteria to be a qualifying child of working parents.

**Status:** *This is the original version (as it was originally made).*

Regulation 27 inserts a new regulation 18ZA into the 2016 Regulations to make it clear that regulations 18 to 32 of the 2016 Regulations only apply to determinations made by the Commissioners under regulation 17 and not to determinations made by the responsible local authority under regulation 17A.