
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

Effect of inclusion in either list

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16.—(1) Where a child care organisation proposes to offer an individual employment in a child care position, the organisation—

- (a) shall ascertain whether the individual is included in—
 - (i) the list kept under Article 3; or
 - (ii) the list kept for the purposes of regulations made under Article 70(2)(e) or 88A(2)(b) of the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#); and
- (b) if he is included in either of those lists, shall not offer him employment in such a position.

(2) Where a child care organisation discovers that an individual employed by it in a child care position is included in either of the lists mentioned in paragraph (1), it shall cease to employ him in a child care position; and for the purposes of this paragraph an individual is not employed in a child care position if he has been suspended or provisionally transferred to a position which is not a child care position.

(3) Where—

- (a) a person (“the recipient”) employs, or proposes to employ, an individual to provide care for a child; and
- (b) an authority proposes to make a payment to the recipient under Article 18C of the Children Order (direct payments) in respect of his securing the provision of the care,

the authority shall, if the recipient asks it to do so, ascertain whether the individual is included in either of the lists mentioned in paragraph (1).

(4) Where a child care organisation proposes to offer employment in a child care position to an individual who has been supplied by an organisation which carries on an employment agency, nursing agency or employment business, there is a sufficient compliance with paragraph (1) if the child care organisation—

- (a) satisfies itself that, on a date within the last 12 months, the other organisation ascertained whether the individual was included in either of the lists mentioned in paragraph (1);

- (b) obtains written confirmation of the facts as ascertained by that organisation; and
 - (c) if the individual was included in either of those lists on that date, does not offer him employment in a child care position.
- (5) Where an authority is required under paragraph (3) to ascertain whether an individual who has been supplied as mentioned in paragraph (4) is included in either of the lists mentioned in paragraph (1), there is sufficient compliance with paragraph (3) if the authority—
- (a) satisfies itself that, on a date within the last 12 months, the organisation which supplied the individual ascertained whether he was included in any of those lists; and
 - (b) obtains written confirmation of the facts as ascertained by the organisation.
- (6) It is immaterial for the purposes of paragraph (1) or (4) whether the individual is already employed by the child care organisation.
- (7) In this Article and Article 17(1) any reference to inclusion in the list kept for the purposes of regulations made under Article 70(2)(e) or 88A(2)(b) of the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#), is a reference to inclusion in that list on the grounds mentioned in head (iii) of Article 70(2)(e) or (as the case may be) on the grounds mentioned in head (iii) of Article 88A(2)(b).