
STATUTORY INSTRUMENTS

2003 No. 417

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

PART III

PROTECTION OF VULNERABLE ADULTS

Effect of inclusion in list

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46.—(1) Where a person who provides care to vulnerable adults proposes to offer an individual employment in a care position, that person—

- (a) shall ascertain whether the individual is included in the list kept under Article 35; and
- (b) if he is included in that list, shall not offer him employment in such a position.

(2) Where a person who provides care to vulnerable adults discovers that an individual employed by him in a care position is included in that list, he shall cease to employ him in a care position; and for the purposes of this paragraph an individual is not employed in a care position if he has been suspended or provisionally transferred to a position which is not a care position.

(3) Where a person who provides care to vulnerable adults (“the provider”) proposes to offer employment in a care position to an individual who has been supplied by a person who carries on an employment agency, nursing agency or employment business, there is a sufficient compliance with paragraph (1) if the provider—

- (a) satisfies himself that, on a date within the last 12 months, the other person ascertained whether the individual was included in the list kept under Article 35;
- (b) obtains written confirmation of the facts as ascertained by that person; and
- (c) if the individual was included in the list on that date, does not offer him employment in a care position.

(4) It is immaterial for the purposes of paragraph (1) or (3) whether the individual is already employed by the provider.

(5) An individual who is included (otherwise than provisionally) in the list kept by the Department under Article 35 shall be guilty of an offence if he knowingly applies for, offers to do, accepts or does any work in a care position.

(6) An individual is guilty of an offence if he knowingly—

- (a) offers work in a care position to, or procures work in a care position for, an individual who is included (otherwise than provisionally) in the list kept by the Department under Article 35, or
- (b) fails to remove such an individual from such work.

(7) It is a defence for an individual charged with an offence under paragraph (5) to prove that he did not know, and could not reasonably be expected to know, that he was so included in that list.

(8) An individual who is guilty of an offence under paragraph (5) or (6) shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 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 5 years, or to a fine, or to both.