
STATUTORY INSTRUMENTS

2003 No. 417

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

PART II

PROTECTION OF CHILDREN

CHAPTER II

DISQUALIFICATION FROM WORKING WITH CHILDREN

Effect of disqualification from working with children

Persons disqualified from working with children: offences

30.—(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 paragraph (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 Chapter if—

- (a) he is included (otherwise than provisionally) in the list kept under Article 3;
- (b) he is included in the list kept for the purposes of regulations under sub-paragraph (e) of Article 70(2) or sub-paragraph (b) of Article 88A(2) of the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#) on the grounds mentioned in head (iii) of the sub-paragraph in question; or
- (c) he is subject to a disqualification order.

(5) An individual who is guilty of an offence under this Article is 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.

Meaning of “regulated position”

31.—(1) The regulated positions for the purposes of this Chapter are—

- (a) a position whose normal duties include work in an establishment mentioned in paragraph (2),
 - (b) a position whose normal duties include work on day care premises,
 - (c) a position whose normal duties include caring for, training, advising, counselling, 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 paragraph (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 paragraph (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children by virtue of an order of a court or under any statutory provision,
 - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
 - (c) a residential care home or nursing home which is exclusively or mainly for children,
 - (d) an educational institution,
 - (e) a children's home.
- (3) For the purposes of this Article, 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 paragraph (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, advising, counselling, supervising or being in sole charge of children in the course of the children's employment, or
 - (b) duties involving contact with children in the course of the children's employment.
- (5) The reference in paragraph (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this paragraph, "carer" means a person who holds a position such as is mentioned in paragraph (1)(c).
- (6) The positions mentioned in paragraph (1)(g) are—
- (a) member of a Health and Social Services Board or a Health and Social Services trust,
 - (b) director of social services,
 - (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 \(NI 3\)](#).
 - (d) member of the governing body of an educational institution,
 - (e) trustee of a children's charity,
 - (f) Commissioner for Children and Young People for Northern Ireland.
- (7) For the purposes of paragraph (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.

(8) For the purposes of this Article, a charity is a children's charity if the individuals who are workers for the charity normally include individuals working in regulated positions.

(9) For the purposes of this Article, 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 paragraph do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.

(10) For the purposes of this Article, 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 paragraph (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 XI of the Children Order for providing day care on premises on which the child is cared for, and
- (d) any person holding a position mentioned in paragraph (6).

(11) For the purposes of this Article "employment" means paid employment, whether under a contract of service or apprenticeship or under a contract for services.

(12) For the purpose of amending the definition of "regulated position", the Department may by order make any amendment of this Article (apart from this paragraph) which it thinks appropriate.

(13) No order shall be made under paragraph (12) unless a draft of the order has been laid before and approved by resolution of the Assembly.

Disqualification in other jurisdictions

32.—(1) The Department may by order provide that Article 30 shall apply in relation to an individual falling within paragraph (2) as it applies in relation to an individual who is disqualified from working with children.

(2) An individual falls within this paragraph if, under the law of any other jurisdiction (except England and Wales), he is subject to a prohibition or disqualification which, in the opinion of the Department, corresponds to disqualification (by any of the means mentioned in Article 30(4)) from working with children.

Rehabilitation of offenders

33.—(1) Where a disqualification order is made in respect of an individual's conviction of an offence, the rehabilitation period which, in accordance with Article 8 of the [Rehabilitation of Offenders \(Northern Ireland\) Order 1978 \(NI 27\)](#) 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 Order.

(2) In this Article, "conviction" has the same meaning as in that Order.