
STATUTORY INSTRUMENTS

2007 No. 1351

**The Safeguarding Vulnerable Groups
(Northern Ireland) Order 2007**

Miscellaneous

Crown application

53.—(1) Subject to the provisions of this Article, this Order and any regulations or orders made under it bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

(2) No contravention by the Crown of any provision of this Order or of any regulations or order made under it makes the Crown criminally liable.

(3) Despite paragraph (2), this Order and any regulations or orders made under it apply to persons in Crown employment (within the meaning of the [Employment Rights \(Northern Ireland\) Order 1996 \(NI 16\)](#)) as they apply to other persons.

(4) Paragraph (2) of Article 10 does not apply in relation to any activity carried out by the Crown.

(5) Each government department and other body performing functions on behalf of the Crown—

(a) if the department or body engages in regulated activity, is the regulated activity provider in relation to the activity;

(b) if the department or body engages in controlled activity, is the responsible person (within the meaning of Article 27) in relation to the activity.

(6) In paragraph (5) “body” includes office-holder.

Referrals: findings of fact immaterial

54.—(1) For the purposes of the provisions mentioned in paragraph (2), it is immaterial whether there is a finding of fact in any proceedings.

(2) The provisions are—

(a) Article 37(3)(b) and (c);

(b) Article 38(4)(b) and (c);

(c) Article 41(2)(b) and (c) and (5)(a);

(d) Article 43(2)(b) and (c) and (5)(a);

(e) Article 47(2)(b) and (c) and (5)(a).

Fostering

55.—(1) Despite Article 4, this Order applies to activity that is regulated activity by virtue of paragraph 1(5) of Schedule 2.

(2) Paragraph (1) does not affect the operation of this Order in relation to any other activity that is carried out in connection with a foster child.

- (3) Paragraph (4) applies if a person (P)—
- (a) makes arrangements for another person to foster a child as a private foster parent, and
 - (b) has power to terminate the arrangements.
- (4) P is, if he would not otherwise be, a regulated activity provider in relation to fostering carried out by the foster parent in pursuance of the arrangements.
- (5) The following provisions of this Article apply for the purposes of this Order.
- (6) A person fosters a child if he is a foster parent of the child.
- (7) A person is a foster parent if—
- (a) he is an authority foster parent within the meaning of Article 27(3) of the Children Order;
 - (b) he is a person with whom a child has been placed by a voluntary organisation under Article 75(1)(a) of that Order;
 - (c) he is a private foster parent.
- (8) A person is a private foster parent if he falls within paragraph (9) and looks after a child—
- (a) for reward, or
 - (b) in pursuance of an arrangement made by someone other than a member of the child's family.
- (9) A person falls within this paragraph if—
- (a) he fosters the child privately within the meaning of Article 106(1) of the Children Order,
 - (b) he would be so fostering the child but for Article 107(1) of that Order (minimum period of 28 days), or
 - (c) (in the case of a child who has attained the age of 16) he would fall within sub-paragraph (a) or (b) if the child were under the age of 16.
- (10) A person's family includes—
- (a) the person's foster child;
 - (b) the foster child of any member of the person's family;
- and references to a family relationship and family member are to be construed accordingly.

Alignment with rest of UK

56.—(1) The Secretary of State may, by order, make such provision (including provision amending any statutory provision, including this Order) as he thinks necessary or expedient in consequence of or having regard to any relevant England and Wales legislation or any relevant Scottish legislation.

- (2) An order may—
- (a) include provision for treating a person to whom a monitoring provision applies as if he were subject to monitoring in relation to regulated activity;
 - (b) confer power to make subordinate legislation.
- (3) Relevant England and Wales legislation is any provision applying in England or Wales made by or under an Act of Parliament which the Secretary of State thinks—
- (a) corresponds to provision made by or under this Order,
 - (b) makes monitoring provision, or
 - (c) affects the operation of any provision made by or under this Order.
- (4) Relevant Scottish legislation is any provision made by or under an Act of the Scottish Parliament which the Secretary of State thinks—

- (a) corresponds to provision made by or under this Order,
 - (b) makes monitoring provision, or
 - (c) affects the operation of any provision made by or under this Order.
- (5) Monitoring provision is provision for the collation and disclosure of information relating to persons who engage or wish to engage in activity which the Secretary of State thinks corresponds to regulated activity with children or vulnerable adults.