



Criminal Justice and Courts Services Act 2000

2000 CHAPTER 43

PART II

PROTECTION OF CHILDREN

Disqualification orders

26 Meaning of “offence against a child”

- (1) For the purposes of this Part, an individual commits an offence against a child if—
- (a) he commits any offence mentioned in paragraph 1 of Schedule 4,
 - (b) he commits against a child any offence mentioned in paragraph 2 of that Schedule, or
 - (c) he falls within paragraph 3 of that Schedule,
- and references to being convicted of, or charged with, an offence against a child are to be read accordingly.
- (2) The Secretary of State may by order amend Schedule 4 so as to add, modify or omit any entry.

27 Equivalent armed forces offences

- (1) For the purposes of this Part, an individual is treated as being convicted of or (as the case may be) charged with an offence against a child if he is convicted of or charged with an equivalent armed forces offence.
- (2) In subsection (1), “equivalent armed forces offence” means an armed forces offence constituted by an act or omission which—
- (a) is an offence against a child, or
 - (b) would, if committed in England or Wales, be an offence against a child.

- (3) In that subsection, “equivalent armed forces offence” also includes a civil offence of attempting to commit—
 - (a) an offence against a child, or
 - (b) an act that would, if committed in England or Wales, be an offence against a child.
- (4) For the purpose of determining whether an offence is an equivalent armed forces offence, Schedule 4 shall have effect as if the words “or attempting” were omitted from paragraph 3(t).
- (5) In this section, “civil offence” has the same meaning as in the Army Act 1955.

28 Disqualification from working with children: adults

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
 - (a) the individual is convicted of an offence against a child committed when he was aged 18 or over, and
 - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—
 - (a) the individual is charged with an offence against a child committed when he was aged 18 or over, and
 - (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.
- (4) Subject to subsection (5), the court must order the individual to be disqualified from working with children.
- (5) An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.
- (6) If the court does not make an order under this section, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.

29 Disqualification from working with children: juveniles

- (1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
 - (a) the individual is convicted of an offence against a child committed at a time when the individual was under the age of 18, and
 - (b) a qualifying sentence is imposed by a senior court in respect of the conviction.
- (3) The second condition is that—
 - (a) the individual is charged with an offence against a child committed at a time when the individual was under the age of 18, and
 - (b) a relevant order is made by a senior court in respect of the act or omission charged against him as the offence.

- (4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.
- (5) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.

30 Sections 28 and 29: supplemental

- (1) In sections 28 and 29 and this section—
 - “guardianship order” means a guardianship order within the meaning of the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957 or the Mental Health Act 1983,
 - “qualifying sentence” means—
 - (a) a sentence of imprisonment for a term of 12 months or more,
 - (b) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (c) a sentence of detention during Her Majesty’s pleasure,
 - (d) a sentence of detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
 - (e) a detention and training order for a term of 12 months or more,
 - (f) a sentence of detention for a term of 12 months or more imposed by a court-martial or the Courts-Martial Appeal Court,
 - (g) a hospital order within the meaning of the Mental Health Act 1983, or
 - (h) a guardianship order,
 - “relevant order” means—
 - (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual in question be admitted to hospital, or
 - (b) a guardianship order,
 - “senior court” means the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court.
- (2) The reference to detention in paragraph (f) of the above definition of “qualifying sentence” includes a reference to detention by virtue of a custodial order under—
 - (a) section 71AA of, or paragraph 10 of Schedule 5A to, the Army Act 1955,
 - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the Air Force Act 1955,
 - (c) section 43AA of, or paragraph 10 of Schedule 4A to, the Naval Discipline Act 1957.
- (3) In this Part, references to a sentence of imprisonment, or to a sentence of detention imposed by a court-martial or the Courts-Martial Appeal Court, include references to a suspended sentence.
- (4) If, for the purpose of making an order under section 28 or 29, the court determines, after considering any available evidence, that an individual was, or was not, under the age of 18 at the time when the offence in question was committed, his age at that time shall be taken, for the purposes of that sections (and in particular for the purpose of

determining any question as to the validity of the order), to be that which the court determined it to be.

(5) Below in this Part—

- (a) references to a disqualification order are to an order under section 28 or 29,
- (b) in relation to an individual on whom a sentence has been passed, or in relation to whom an order has been made, as mentioned in subsection (2) or (3) of section 28 or 29, references to his sentence are to that sentence or order.

31 Appeals

(1) An individual may appeal against a disqualification order—

- (a) where the first condition mentioned in section 28 or 29 is satisfied in his case, as if the order were a sentence passed on him for the offence of which he has been convicted,
- (b) where the second condition mentioned in section 28 or 29 is satisfied in his case, as if he had been convicted of an offence on indictment and the order were a sentence passed on him for the offence.

(2) In relation to a disqualification order made by a court-martial, subsection (1)(b) has effect as if the reference to conviction on indictment were a reference to conviction by a court-martial.

32 Review of disqualification

- (1) Subject to section 33, an individual who is subject to a disqualification order may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal must determine whether or not the individual is to continue to be subject to the order.
- (3) If the Tribunal is satisfied that the individual is suitable to work with children, it must direct that the order is to cease to have effect; otherwise it must dismiss the application.

33 Conditions for application under section 32

- (1) An individual may only make an application under section 32 with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the individual's case.
- (3) In the case of an individual who was under the age of 18 when he committed the offence against a child, the appropriate conditions are satisfied if—
 - (a) at least five years have elapsed since the relevant date, and
 - (b) in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other individual, the appropriate conditions are satisfied if—
 - (a) at least ten years have elapsed since the relevant date, and
 - (b) in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.
- (5) The Tribunal may not grant an application under this section unless it considers—

- (a) that the individual's circumstances have changed since the order was made or, as the case may be, since he last made an application under this section, and
 - (b) that the change is such that leave should be granted.
- (6) In this section, “the relevant date” means—
- (a) in relation to an individual whose sentence is an actual term of custody, the day on which he is released or, if later, the day on which the disqualification order is made,
 - (b) in relation to an individual whose sentence is suspended and does not take effect, the day on which the disqualification order is made,
 - (c) in relation to an individual whose sentence is an order for admission to hospital—
 - (i) if he is detained in a hospital pursuant to the order, the day on which he ceases to be liable to be detained there, or
 - (ii) if he is not so detained, the day on which the disqualification order is made,
 - (d) in relation to an individual whose sentence is a guardianship order, the day on which the disqualification order is made.
- (7) In this section—
- “actual term of custody” means a term of imprisonment or detention which is not suspended, or is suspended but takes effect,
 - “guardianship order” has the same meaning as in section 30,
 - “order for admission to hospital” means—
 - (a) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual be admitted to hospital, or
 - (b) a hospital order within the meaning of the Mental Health Act 1983.
- (8) In subsection (7) “detention” means detention (or detention and training) under any sentence or order mentioned in paragraphs (b) to (f) of the definition of “qualifying sentence” in section 30(1).

34 Restoration of disqualification order

- (1) If it appears to a chief officer of police or a director of social services of a local authority that the conditions set out in subsection (2) are satisfied in the case of an individual, the chief officer or (as the case may be) the director may apply to the High Court for an order under this section to be made in respect of the individual.
- (2) The conditions are that—
 - (a) a disqualification order made in respect of the individual is no longer in force, and
 - (b) the individual has acted in such a way (whether before or after the order ceased to be in force) as to give reasonable cause to believe that an order under this section is necessary to protect children in general, or any children in particular, from serious harm from him.
- (3) An application under this section may be made at any time after the disqualification order ceased to be in force.

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

- (4) If the High Court is satisfied that the conditions set out in subsection (2) are satisfied, it must order that the disqualification order is to be restored; otherwise it must dismiss the application.
- (5) Where an order is made under this section, section 33 has effect with the following modifications—
 - (a) in subsection (3), the reference to the individual being under the age of 18 when he committed the offence against a child is to be read as a reference to his being under that age when the order under this section was made,
 - (b) in subsections (3)(a) and (4)(a), references to the relevant date are to be read as references to the date on which the order under this section was made,
 - (c) in subsection (5)(a), the reference to the individual's circumstances changing since the disqualification order was made is to be read as a reference to his circumstances changing since the order under this section was made.
- (6) For the purposes of this section a disqualification order is no longer in force if a direction under section 32(3) has been given in respect of it and it is not restored by virtue of an order under this section.