

## SCHEDULES

### SCHEDULE 7

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### PART II

##### GENERAL

##### *Protection of Children Act 1999 (c. 14)*

154 The Protection of Children Act 1999 is amended as follows.

155 After section 4 there is inserted—

##### **“4A Applications for removal from list**

- (1) Subject to section 4B below, an individual who is included in the list kept by the Secretary of State under section 1 above may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal shall determine whether or not the individual should continue to be included in the list.
- (3) If the Tribunal is satisfied that the individual is no longer unsuitable to work with children it shall direct his removal from the list; otherwise it shall dismiss the application.

##### **4B Conditions for application under section 4A**

- (1) An individual may only make an application under section 4A above 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 a child when he was included (otherwise than provisionally) in the list, the appropriate conditions are satisfied if—
  - (a) he has been so included for a continuous period of at least five years; 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—

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- (a) he has been included (otherwise than provisionally) in the list for a continuous period of at least ten years; 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 shall not grant an application under this section unless it considers—
- (a) that the individual's circumstances have changed since he was included (otherwise than provisionally) in the list, 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.

#### **4C Restoration to list**

- (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) below 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) the individual is no longer included in the list kept by the Secretary of State under section 1 above, and
  - (b) the individual has acted in such a way (whether before or after he ceased to be included in the list) 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 individual ceased to be included in the list.
- (4) If the High Court is satisfied that the conditions set out in subsection (2) above are satisfied, it must order the restoration of the individual's inclusion in the list; otherwise it must dismiss the application.
- (5) Where an order is made under this section, section 4B above has effect with the following modifications—
- (a) in subsection (3), the reference to the individual being a child when he was included in the list is to be read as a reference to his being a child when the order under this section was made,
  - (b) subsections (3)(a) and (4)(a) are to have effect as if at the end there were inserted "beginning with the making of the order under section 4C below",
  - (c) in subsection (5)(a), the reference to the individual's circumstances changing since he was included in the list 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 an individual is no longer included in the list if a direction under section 4A(3) above has been given in respect of him and his inclusion in the list is not restored by virtue of an order under this section.

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- (7) In this section, “local authority” has the same meaning as in the Education Act 1996.”
- 156 Section 6 (appeals against prohibition or restriction of employment) is omitted.
- 157 In section 9(2) (the Tribunal)—
- (a) in paragraph (a), after “4” there is inserted “, 4A or 4B”,
  - (b) for paragraph (b) there is substituted—
    - “(b) on an appeal or determination under regulations made under section 218(6) of the 1988 Act;”,
  - (c) for the “or” before paragraph (d) there is substituted—
    - “(ca) on a determination under section 473A or 473B of the Education Act 1996;”,
  - (d) after paragraph (d) there is inserted “or
    - (e) on a determination under section 32 or 33 of the Criminal Justice and Court Services Act 2000.”
- 158 In section 12 (interpretation)—
- (a) in the definition of “child care position”, for paragraphs (a) to (c) there is substituted—
    - “(a) is a regulated position for the purposes of Part II of the Criminal Justice and Court Services Act 2000; but
    - (b) is not a position within subsection (3) below;”,
  - (b) in subsection (3)(b), for the words from “an independent” to the end there is substituted “a school which is a children’s home for the purposes of the Care Standards Act 2000”.
- 159 In section 14 (extent etc.)—
- (a) in subsection (3), for “This Act, except section 8 and this section,” there is substituted “Subject to subsections (4) and (5) below, this Act”,
  - (b) after subsection (4) there is inserted—
    - “(5) Section 9 above and the Schedule to this Act extend to the whole of the United Kingdom.”