

---

STATUTORY INSTRUMENTS

---

**2005 No. 2296**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Day Care and Child Minding  
(Disqualification) (England) Regulations 2005**

<i>Made</i>	- - - -	<i>16th August 2005</i>
<i>Laid before Parliament</i>		<i>25th August 2005</i>
<i>Coming into force</i>	- -	<i>3rd October 2005</i>

The Secretary of State for Education and Skills in exercise of the powers conferred by sections 79C(1), (3) and (7), 79M(1)(c) and 104(4) of, and paragraph 4 of Schedule 9A to, the Children Act 1989<sup>(1)</sup> and after consultation with Her Majesty's Chief Inspector of Schools in England and other persons she considered appropriate, hereby makes the following Regulations:

**Citation, commencement and application**

- 1.—(1) These Regulations may be cited as The Day Care and Child Minding (Disqualification) (England) Regulations 2005 and shall come into force on 3rd October 2005.  
(2) These Regulations apply only in relation to England.

**Revocation**

2. The Child Minding and Day Care (Disqualifications) (England) Regulations 2001<sup>(2)</sup> are hereby revoked.

**Interpretation**

3. In these Regulations—  
“the Act” means the Children Act 1989;  
“the 2000 Act” means the Criminal Justice and Courts Services Act 2000<sup>(3)</sup>;

---

(1) 1989 c. 41; Section 79A-X and Schedule 9A were inserted by the Care Standards Act 2000 (c. 14) (section 79 and Schedule 3). Section 79M(1)(c) was inserted by section 152 and paragraph 3 of Schedule 13 to the Education Act 2002 (c. 32). Paragraph 4 of Schedule 9A was amended by section 152 and paragraph 6 of Schedule 13 to the Education Act 2002 and by paragraphs 5 and 8 of Schedule 4 to the Children Act 2004 (c. 31). For the meaning of “prescribed” see section 105(1) of the Act and for the meaning of “regulations” see section 79B(7).

(2) S.I. 2001/1827.

(3) 2000 c. 43.

“direction” means a direction made, or which has effect as if made, under section 142 of the Education Act 2002 (4) on the grounds set out in subsection (4)(a) or (b) of that section;

“disqualified” means disqualified for registration under Part XA of the Act for child minding or providing day care;

“HMCI” means Her Majesty’s Chief Inspector of Schools in England;

“qualifying sentence”, “senior court” and “relevant order” have the same meaning as in section 30(1) of the 2000 Act;

“rehabilitation period” has the same meaning as in the Rehabilitation of Offenders Act 1974(5);

### **Grounds for disqualification relating to the care of children and offences against children**

4.—(1) Subject to paragraph (7) and regulation 9, a person is disqualified if any of the following provisions of this regulation apply to him.

(2) Any of the orders or other determinations specified in Schedule 1 has been made—

- (a) against him;
- (b) which prevents him from being registered in relation to any facility in which children are looked after or from being involved in the management of or otherwise concerned with the provision of any such facility;
- (c) with respect to a child so as to remove the child from his care; or
- (d) with respect to a child so as to prevent the child from living with him.

(3) He has been convicted of an offence against a child within the meaning of section 26(1) of the 2000 Act.

(4) He—

- (a) has been convicted of any offence specified in paragraph 1 of Schedule 2, or
- (b) falls within paragraph 2 of that Schedule,

despite the fact that the statutory offences in that Schedule have been repealed.

(5) He has been convicted of any offence other than an offence referred to in paragraph (3) or (4) involving bodily injury to, or death of, a child.

(6) He has been convicted of any offence specified in Schedule 3.

(7) A person shall not be disqualified under paragraphs (1) to (6) in respect of any order, determination or offence if he has successfully appealed against the order, determination or conviction.

### **Offences against adults**

5.—(1) Subject to paragraph (2) and regulation 9, a person is disqualified if he has been—

- (a) convicted of any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act in respect of which a qualifying sentence has been imposed by a senior court; or
- (b) charged with any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act in respect of which a relevant order has been imposed by a senior court.

(2) A person shall cease to be disqualified under paragraph (1) where the rehabilitation period applicable to the conviction under the Rehabilitation of Offenders Act 1974 has expired.

---

(4) 2002 c. 32  
(5) 1974 c. 53.

### **Protection of Children Act list**

6. A person who is included in the list of persons kept under section 1 of the Protection of Children Act 1999<sup>(6)</sup> (list of those considered by the Secretary of State unsuitable to work with children) is disqualified.

### **Direction in relation to the employment of teachers etc.**

7.—(1) Subject to regulation 9, a person is disqualified if any of the following provisions of this regulation apply to him.

(2) He is a person in respect of whom a direction has been made.

(3) He is a person in respect of whom an order has been made under article 70(2)(e) of the Education and Libraries (Northern Ireland) Order 1986 or article 8 of the Education and Libraries (Northern Ireland) Order 1987<sup>(7)</sup>.

### **Persons living or working on premises where a disqualified person lives**

8. Subject to regulation 9, a person who lives—

- (a) in the same household as a person who is himself disqualified; or
- (b) in a household in which any such person is employed,

is disqualified.

### **Waivers**

9.—(1) Where a person would be disqualified by virtue of regulation 4, 5, 7 or 8 but that person has, pursuant to Schedule 9A to the Act, disclosed to HMCI the facts that would give rise to the disqualification, HMCI may give his consent to waive the disqualification for any of the following purposes—

- (a) registration as a childminder or provider of day care;
- (b) employment in connection with the provision of day care;
- (c) direct involvement in the management of the provision of day care,

and that person shall not, in respect of the facts so disclosed, be regarded as disqualified for the purposes specified in HMCI's consent for the purposes of regulations 4, 5, 7 or 8.

(2) Any consent given by HMCI under paragraph (1) shall be in writing and shall specify the extent to which the disqualification is waived.

(3) Where a person would be disqualified by virtue of regulation 4, 5, 7, or 8 but—

- (a) that person was registered under part XA of the Act immediately before the coming into force of these Regulations;
- (b) that person has pursuant to Schedule 9A to the Act disclosed to HMCI the facts that would give rise to the disqualification; and
- (c) HMCI has given his consent in writing,

that person shall not be regarded as disqualified for the purposes of regulations 4, 5, 7 or 8.

(4) Where a person would be disqualified by virtue of regulation 4, 5, 7, or 8 but—

---

<sup>(6)</sup> 1999 c. 14.

<sup>(7)</sup> S.I. 1986/594 (N.I.3). Article 70(2)(e) was substituted by article 8 of the 1987 Order (S.I. 1987/167 (N.I.2)). The Order was amended by article 15 of the Protection of Children and Vulnerable Adults (N.I.) Order 2003 (S.I. 2003/417 (N.I.4)).

- (a) that person was employed in connection with the provision of day care or registered for child minding or day care provision immediately before the coming into force of these Regulations;
- (b) that person or, as the case may be, the employer has, pursuant to Schedule 9(8) to the Act disclosed to the local authority the facts that would give rise to the disqualification; and
- (c) the local authority has given its consent in writing,

that person shall not, in respect of the facts so disclosed, and to the extent that the consent allows, be regarded as disqualified for the purposes of regulations 4, 5, 7 or 8.

(5) In relation to a person who would be disqualified by virtue of regulation 7(2), this regulation shall not apply.

(6) In relation to a person who would be disqualified by virtue of regulation 4(3), this regulation shall not apply where a court has made an order under section 28(4) or 29(4) of the 2000 Act.

### **Duty of Disclosure**

**10.**—(1) A person who has been registered for child minding or for providing day care pursuant to section 79F of the Act shall have a continuing duty throughout the period of his registration to provide the registration authority with the information listed in paragraph (2) in respect of the persons listed in paragraph (3) in relation to any order, offence or other matter which is a ground for disqualification under these Regulations.

(2) A person who is registered for child minding or providing day care shall provide the following information to the registration authority for the purposes of paragraph (1)—

- (a) details of the precise nature of the order, determination, conviction or other ground for disqualification;
- (b) the date when the order, determination or conviction was made or when any other ground for disqualification arose;
- (c) the body or court by which any order, determination or conviction was made and the sentence, if any, imposed;
- (d) in relation to any order or conviction, a certified copy of the relevant order or court order.

(3) The persons in respect of whom the information listed in paragraph (2) shall be supplied for the purposes of paragraph (1) are—

- (a) the registered person;
- (b) any person who lives in the same household as the registered person or who is employed in that household;

(4) The information referred to in paragraph (2) shall be provided to the registration authority within 14 days of the time when the registered person became aware of that information or ought reasonably to have become aware of it if he had made reasonable enquiries.

(5) A person who without reasonable excuse fails to comply with the requirements of this regulation shall be guilty of an offence.

(6) A person found guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Appeals**

**11.** Any determination made by HMCI as to whether to give consent under Regulation 9 shall be a prescribed determination for the purposes of section 79M(1)(c) of the Act.

16th August 2005

*Beverley Hughes*  
Minister of State  
Department for Education and Skills

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

Regulation 4(2)

## ORDERS ETC. RELATING TO THE CARE OF CHILDREN

1. An order under section 31(1)(a) of the Act (care order).
2. An order under article 50(1)(a) of the Children (Northern Ireland) Order 1995(9) (care order).
3. An order under section 3(3) of the Children and Young Persons (Guernsey) Law 1967 (Fit Person Order or Special Care Order)(10).
4. An order under section 31(1)(a) of the Children and Young Persons Act 2001 (an Act of Tynwald)(11).
5. Any order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the Act (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part IV of the Act came into force(12).
6. A supervision order which imposes a residence requirement under paragraph 5 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000(13) or section 12AA of the Children and Young Persons Act 1969(14) (requirement to live in local authority accommodation).
7. A fit person order, a parental rights order or a training school order under the Children and Young Persons Act (Northern Ireland) 1968(15).
8. A child protection order under section 57 of the Children (Scotland) Act 1995(16);
9. An exclusion order under section 76 of the Children (Scotland) Act 1995(17).
10. A supervision order which imposes a residence requirement under paragraph 5 of Schedule 9 to the Children and Young Persons Act 2001 (an Act of Tynwald) (requirement to live in accommodation provided by the Department of Health and Social Security).
11. An order made at any time imposing a supervision requirement with respect to a child so as to remove that child from the person's care, under—
  - (a) section 44 of the Social Work (Scotland) Act 1968(18); or
  - (b) section 70 of the Children (Scotland) Act 1995.
12. An order made at any time vesting his rights and powers with respect to a child in a local authority in Scotland—
  - (a) under section 16 of the Social Work (Scotland) Act 1968(19); or
  - (b) pursuant to a parental responsibilities order under section 86 of the Children (Scotland) Act 1995(20).
13. In relation to registration of a children's home—
  - (a) a refusal of his application for registration under section 13 of the Care Standards Act 2000;

(9) S.I. 1995/755 (N.I.2).

(10) Orders in Council Volume XXI p.34. Section 3 was amended by the Children and Young Persons (Amendment) (Guernsey) Law 1971, Volume XXIII p.3 and by the Juvenile Court (Guernsey) Law 1989, Volume XXXI p.326.

(11) 2001 c. 20 (Isle of Man).

(12) Part IV of the Act came into force on 14th October 1991.

(13) 2000 c. 6.

(14) 1969 c. 54. Section 12AA was repealed by the Powers of Criminal Courts (Sentencing) Act 2000.

(15) 1968 c. 34 (N.I.). The provisions relating to these orders were repealed by the Children (Northern Ireland) Order 1995 and the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504) (N.I.9).

(16) 1995 c. 36.

(17) Section 76 was repealed (in part) by SSI 2003/583.

(18) 1968 c. 49. Section 44 was repealed by the Children (Scotland) Act 1995.

(19) Section 16 was repealed by the Children (Scotland) Act 1995.

(20) Section 86 was amended by the Adoption and Children Act 2002 (c. 38), Schedule 3, paragraphs 83 & 84.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (b) cancellation of his registration under section 14 or 20(1) of the Care Standards Act 2000;
- (c) cancellation of the registration of any person under section 14 or 20(1) of the Care Standards Act 2000 in relation to a children's home which he has been concerned in the management of, or had any financial interest in; or
- (d) refusal of his application for registration or cancellation of his registration under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(21).

14. Refusal at any time of his application for registration in relation to a voluntary home or a children's home, or cancellation of the registration of a voluntary home or children's home which was carried on by him or which he was otherwise concerned with the management of, or had any financial interest in, under, as the case may be—

- (a) paragraph 1 of Schedule 5 to the Act(22);
- (b) paragraph 1 or 4 of Schedule 6 to the Act;
- (c) section 127 of the Children and Young Persons Act (Northern Ireland) 1968(23);
- (d) article 80, 82, 96 or 98 of the Children (Northern Ireland) Order 1995;
- (e) the Regulation of Care (Scotland) Act 2001(24) (care home services); or
- (f) paragraph 2 or 4 of Schedule 2 to the Children and Young Persons Act 2001 (an Act of Tynwald).

15. A prohibition imposed at any time under—

- (a) section 69 of the Act, section 10 of the Foster Children Act 1980(25) or section 4 of the Children Act 1958(26) (power to prohibit private fostering);
- (b) article 110 of the Children (Northern Ireland) Order 1995 (power to prohibit private fostering);
- (c) section 10 of the Foster Children (Scotland) Act 1984(27) (power to prohibit the keeping of foster children); or
- (d) section 59 of the Children and Young Persons Act 2001 (an Act of Tynwald) (power to prohibit or impose restrictions upon private fostering); or

16. A notice in writing given by a Health and Social Services Board under section 1(3) of the Children and Young Persons Act (Northern Ireland) 1968 (withholding consent to the care and maintenance of the child being undertaken by a person).

17. Refusal at any time of an application for registration in respect of the provision of nurseries or day care for children, or for child minding, disqualification from registration or cancellation of any such registration under, as the case may be—

- (a) section 1 or section 5 of the Nurseries and Child-Minders Regulation Act 1948(28);
- (b) Part X or Part XA of the Act (29);

---

(21) [S.I. 2003/431 \(N.I.9.\)](#).

(22) This provision, and those mentioned in sub-paragraph (b) were repealed by the Care Standards Act 2000 with effect from 1st April 2002.

(23) This section, and the sections of the Children and Young Persons Act (Northern Ireland) 1968 referred to in sub-paragraphs (9)(b) and (10)(d) of this regulation were repealed by the Children (Northern Ireland) Order 1995.

(24) [2001 asp8](#).

(25) [1980 c. 6](#). The Foster Children Act was repealed by the Children Act 1989.

(26) [1958 c. 65](#). Section 4 was repealed by the Foster Children Act 1980.

(27) [1984 c. 56\(S.\)](#).

(28) [1948 c. 53\(S.\)](#). The Act was repealed by the Children Act 1989.

(29) Part X of the Children Act ceased to apply to England in 2001. Part XA was inserted by the Care Standards Act 2000 (c. 14). Part X was repealed in relation to Scotland by Schedule 4 to the [Registration of Care Scotland Act 2001 \(asp8\)](#) with effect from 1st April 2002.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (c) Part XI of the Children (Northern Ireland) Order 1995;
- (d) section 11(5) or section 15 of the Children and Young Persons Act (Northern Ireland) 1968;
- (e) the Regulation of Care (Scotland) Act 2001;
- (f) section 1 of the Nurseries and Child Minders Regulation Act 1974 (an Act of Tynwald);
- (g) section 65 or 66 of, or Schedule 7 to, the Children and Young Persons Act 2001 (an Act of Tynwald); or
- (h) Part III of the Child Protection (Guernsey) Law 1972<sup>(30)</sup>.

**18.** Disqualification from working with children at any time under the Protection of Children (Scotland) Act 2003<sup>(31)</sup>.

**19.** Refusal at any time of his application for registration or cancellation of his registration under section 62 of the Social Work (Scotland) Act 1968 (registration of residential and other establishments).

**20.** Refusal at any time of his application for registration as a provider of a child care agency under section 9 of the Regulation of Care (Scotland) Act 2001 or cancellation of any such registration under section 12 or 18 of that Act.

**21.** Inclusion of his name at any time on a list of persons unsuitable to work with children under article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003<sup>(32)</sup> or disqualification from working with children under Chapter II of Part II of that Order.

## SCHEDULE 2

Regulation 4(4)

### REPEALED STATUTORY OFFENCES

- 1.—**(1) An offence under any of the following sections of the Sexual Offences Act 1956—
- (a) section 1 (rape);
  - (b) section 2 or 3 (procurement of woman by threats or false pretences);
  - (c) section 4 (administering drugs to obtain or facilitate intercourse);
  - (d) section 5 (intercourse with a girl under 13);
  - (e) section 6 (intercourse with a girl under 16);
  - (f) section 14 or 15 (indecent assault);
  - (g) section 16 (assault with intent to commit buggery);
  - (h) section 17 (abduction of women by force or for the sake of her property);
  - (i) section 19 or 20 (abduction of girl under 18 or 16);
  - (j) section 24 (detention of woman in brothel or other premises);
  - (k) section 25 or 26 (permitting girl under 13, or between 13 and 16, to use premises for intercourse);
  - (l) section 28 (causing or encouraging prostitution of, intercourse with or indecent assault on, girl under 16).

<sup>(30)</sup> Orders in Council XXIII p.238 as amended by the Children and Young Persons (Amendment) (Guernsey) Law 2000, Order in Council III of 2001.

<sup>(31)</sup> 2003 asp5.

<sup>(32)</sup> S.I. 2003/417 (N.I.4).



(2) An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child).

(3) An offence under section 54 of the Criminal Law Act 1977 (inciting girl under 16 to incest).

(4) An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust).

(5) An offence under section 70 of the Act, section 16 of the Foster Children Act 1980 or section 14 of the Children Act 1958 (offences relating to private fostering).

(6) An offence under paragraph 1(5) of Schedule 5 to, section 63(10) of, or paragraph 2(3) of Schedule 6 to, the Act (offences relating to voluntary homes and children's homes).

2. A person falls within this paragraph if—

(a) he has been convicted of an offence under section 7 of the Sexual Offences Act 1956 (intercourse with defective) by having sexual intercourse with a child;

(b) he has been convicted of an offence under section 9 of that Act (procurement of defective) by procuring a child to have sexual intercourse;

(c) he has been convicted of an offence under section 10 of that Act (incest by a man) by having sexual intercourse with a child;

(d) she has been convicted of an offence under section 11 of that Act (incest by a woman) by allowing a child to have sexual intercourse with her;

(e) he has been convicted of an offence under section 12 of that Act by committing buggery with a child under the age of 16;

(f) he has been convicted of an offence under section 13 of that Act by committing an act of gross indecency with a child;

(g) he has been convicted of an offence under section 21 of that Act (abduction of defective from parent or guardian) by taking a child out of the possession of her parent or guardian;

(h) he has been convicted of an offence under section 22 of that Act (causing prostitution of women) in relation to a child;

(i) he has been convicted of an offence under section 23 of that Act (procurement of girl under 21) by procuring a child to have sexual intercourse with a third person;

(j) he has been convicted of an offence under section 27 of that Act (permitting defective to use premises for intercourse) by inducing or suffering a child to resort to or be on premises for the purpose of having sexual intercourse;

(k) he has been convicted of an offence under section 29 of that Act (causing or encouraging prostitution of defective) by causing or encouraging the prostitution of a child;

(l) he has been convicted of an offence under section 30 of that Act (man living on earnings of prostitution) in a case where the prostitute is a child;

(m) she has been convicted of an offence under section 31 of that Act (woman exercising control over prostitute) in a case where the prostitute is a child;

(n) he has been convicted of an offence under section 128 of the Mental Health Act 1959 (sexual intercourse with patients) by having sexual intercourse with a child;

(o) he has been convicted of an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts) by—

(i) procuring a child to commit an act of buggery with any person; or

(ii) procuring any person to commit an act of buggery with a child,

(p) he has been convicted of an offence under section 5 of that Act (living on earnings of male prostitution) by living wholly or in part on the earnings of prostitution of a child;

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (q) he has been convicted of an offence under section 9(1)(a) of the Theft Act 1968 (burglary), by entering a building or part of a building with intent to rape a child.

### SCHEDULE 3

Regulation 4(6)

#### SPECIFIED OFFENCES

##### Offences in England and Wales

- 1.—(1) An offence under section 49 or 50(9) of the Act (offences relating to the abduction of a child in care);
- (2) An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 62 or 63 (committing an offence or trespassing with intent to commit a sexual offence);
  - (b) sections 64 to 65 (sex with an adult relative);
  - (c) section 69 (intercourse with an animal); or
  - (d) section 70 (sexual penetration of a corpse).
- (3) An offence in relation to a children’s home under or by virtue of any of the following provisions of the Care Standards Act 2000—
- (a) section 11(1) (failure to register);
  - (b) section 24 (failure to comply with conditions);
  - (c) section 25 (contravention of regulations);
  - (d) section 26 (false descriptions of establishments and agencies); or
  - (e) section 27 (false statements in applications).

##### Offences in Scotland

- 2.—(1) An offence of rape.
- (2) An offence specified in Schedule 1 to the Criminal Procedure (Scotland) Act 1995<sup>(33)</sup>.
- (3) The common law offence of plagiary (theft of a child below the age of puberty).
- (4) An offence under section 52 or 52A of the Civic Government (Scotland) Act 1982<sup>(34)</sup> (offences relating to indecent photographs of children).
- (5) An offence under section 3 of the Sexual Offences (Amendment) Act 2000<sup>(35)</sup> (abuse of trust) or under section 104 of the Sexual Offences Act 2003.
- (6) An offence under any of the following—
- (a) section 81, 83 or 89 of the Children (Scotland) Act 1995 or section 17(8) or 71 of the Social Work (Scotland) Act 1968<sup>(36)</sup> (harbouring offences);

<sup>(33)</sup> 1995 c. 46.

<sup>(34)</sup> 1982 c. 45. Section 52 was amended by section 84 of the [Criminal Justice and Public Order Act 1994 \(c33\)](#), Schedule 4 of the [Criminal Procedure \(Consequential Provisions\) \(Scotland\) Act 1995 \(c. 40\)](#) and section 19 of the [Criminal Justice \(Scotland\) Act 2003 \(asp7\)](#). Section 52A was inserted by section 161 of the [Criminal Justice Act 1988 \(c. 33\)](#) and was amended by section 19 of the [Criminal Justice \(Scotland\) Act 2003 \(asp7\)](#).

<sup>(35)</sup> 2000 c. 44.

<sup>(36)</sup> Sections 17(8) and 71 of the 1968 Act were repealed by the [Children \(Scotland\) Act 1995](#).

- (b) section 6 of the Child Abduction Act 1984<sup>(37)</sup> (taking or sending child out of United Kingdom); or
  - (c) section 15 of the Foster Children (Scotland) Act 1984 (offences relating to private fostering).
- (7) An offence under or by virtue of section 60(3), 61(3) or 62(6) of the Social Work (Scotland) Act 1968<sup>(38)</sup> (offences relating to residential and other establishments).
- (8) An offence in relation to a care home service, child minding or day care of children, under or by virtue of any of the following provisions of the Regulation of Care (Scotland) Act 2001<sup>(39)</sup>—
- (a) section 21 (offences in relation to registration);
  - (b) section 22 (false statements in applications); or
  - (c) section 29(10) (offences under regulations).

### **Offences in Northern Ireland**

- 3.—(1) An offence of rape.
- (2) An offence under section 66, 69, 70 or 104 of the Sexual Offences Act 2003.
- (3) An offence specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968.
- (4) An offence under article 3 of the Protection of Children (Northern Ireland) Order 1978<sup>(40)</sup> (indecent photographs).
- (5) An offence contrary to article 9 of the Criminal Justice (Northern Ireland) Order 1980<sup>(41)</sup> (inciting girl under 16 to have incestuous sexual intercourse).
- (6) An offence contrary to article 15 of the Criminal Justice (Evidence etc.) (Northern Ireland) Order 1988<sup>(42)</sup> (possession of indecent photographs of children).
- (7) An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of trust).
- (8) An offence under any of the following—
- (a) article 68 or 69(9) of the Children (Northern Ireland) Order 1995 (offences relating to the abduction of a child in care);
  - (b) article 132 of the Children (Northern Ireland) Order 1995, or section 14 of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to child minding and day care);
  - (c) article 117 of the Children (Northern Ireland) Order 1995, or section 9(1) of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to private fostering); or
  - (d) article 79(3), 81(4), 95(3) or 97(4) of the Children (Northern Ireland) Order 1995, or section 127(5) or 129(3) of the Children and Young Persons Act (Northern Ireland) 1968 (offences relating to voluntary homes and children's homes).

### **Offences in Jersey**

4. An offence contrary to—

---

<sup>(37)</sup> 1984 c. 37.

<sup>(38)</sup> Sections 60-68 were repealed by Schedule 4 to the [Regulation of Care \(Scotland\) Act 2001](#) [asp8](#) with effect from 1st April 2002 (SSI 2002/162).

<sup>(39)</sup> 2001 asp8.

<sup>(40)</sup> S.I.1978/1047 (N.I.17). Article 3 was amended by section 84(10) of the Criminal Justice and Public Order Act 1994 (c. 33), section 41(2) of the Criminal Justice and Courts Service Act 2000 (c. 43) and Schedule 1, paragraph 8 of NI 2003 (N.I.13).

<sup>(41)</sup> S.I.1980/704 (N.I.6).

<sup>(42)</sup> S.I.1988/1847 (N.I.17). Article 15 was amended by section 84(11) and 86(2) of the Criminal Justice and Public Order Act 1994 (c. 33) and section 41(4) of the Criminal Justice and Courts Service Act 2000 (c. 43).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (a) Part 7 of the Children’s Jersey Law 1969(43);
- (b) The Children (Jersey) Law 2002(44); or
- (c) The Day Care of Children (Jersey) Law 2002(45).

### **Offences in Guernsey**

**5.** An offence contrary to—

- (a) the “Loi pour la Puniton d’Inceste” (Law for the Punishment of Incest) 1909(46);
- (b) the “Loi relative a la protection des Femmes et des Filles Mineures” (Law for the Protection of Women and Young Girls) 1914(47);
- (c) the “Loi relative a la Sodomy” (Law relating to Sodomy) 1929(48);
- (d) article 7, 9, 10, 11 or 12, section 1 of article 41 or section 1, 2, 3 or 4 of article 51 of the “Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes” (Law relating to the Protection of Children and Young Persons) 1917(49);
- (e) the Children and Young Persons (Guernsey) Law 1967;
- (f) the Protection of Children (Bailiwick of Guernsey) Law 1985(50).

### **Offences in the Isle of Man**

**6.** An offence specified in Schedule 8 to the Children and Young Persons Act 2001 (an Act of Tynwald).

### **Other Offences**

**7.—**(1) An offence contrary to section 170 of the Customs and Excise Management Act 1979(51) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876(52) (prohibitions and restrictions) where the prohibited goods included indecent photographs of children under the age of 16.

(2) An offence by virtue of—

- (a) section 72 of the Sexual Offences Act 2003 (offences outside the United Kingdom); or
- (b) section 16B of the Criminal Law (Consolidation) (Scotland) Act 1995(53) (commission of certain sexual offences outside the United Kingdom).

(3) An offence contrary to section 32(3) of the Children and Young Persons Act 1969(54) (detention of absentees).

---

(43) Jersey Law 16/1969.

(44) Jersey Law 50/2002

(45) Jersey Law 51/2002.

(46) Orders in Council Vol IV p.288.

(47) Orders in Council Vol V p. 74.

(48) Orders in Council Vol VIII p.273.

(49) Order in Council Vol V p. 342 as amended by Loi Supplémentaire a la Loi ayant rapport a la Protection des Enfants et des Jeunes Personnes 1937, Orders in Council Col XI p.116 and The Protection of Children and Young Persons (Amendment) Law 1955 Orders in Council Vol XVI p.277.

(50) Orders in Council XXIX as amended by The Administration of Justice (Bailiwick of Guernsey) Law 1985 Order in Council 1 of 1991.

(51) 1979 c. 2.

(52) 1876 c. 36.

(53) 1995 c. 39.

(54) 1969 c. 54.

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out the categories of persons who are disqualified from registration in England as child minders or providers of day care. Persons disqualified under these Regulations may not act as childminders or provide day care. Nor may they be employed in connection with day care provision or directly concerned in the management of any provision of day care.

The Regulations set out the circumstances in which disqualification may be waived either wholly or in part e.g. for the purposes of employment at a day care provider or direct involvement in management.

The Regulations apply to applications for registration made under Part XA of the Children Act 1989. A right of appeal lies to the Care Standards Tribunal in relation to any determination made by the registration authority under these Regulations by virtue of Regulation 11.

A Full Regulatory Impact Assessment, which sets out the background and reasons for these regulations, has been completed. This is available from Paul Oates, Early Years Regulation Team, Sure Start Unit, GF Caxton House, Tothill Street, London SW1H 9NA, Telephone 0207 273 5686, email: [Paul.OATES@dfes.gsi.gov.uk](mailto:Paul.OATES@dfes.gsi.gov.uk).