



Protection of Children (Scotland) Act 2003

2003 asp 5

Effect of inclusion in list

11 Offences relating to work in a child care position

- (1) It is an offence for an individual who is disqualified from working with children to apply for, offer to do, accept or do any work in a child care position.
- (2) It is a defence for an individual charged with an offence under subsection (1) above to prove that the individual did not know, and could not reasonably be expected to have known, that the individual was, at the time of the offence, disqualified from working with children.
- (3) It is an offence for an organisation to—
 - (a) offer work in a child care position to, or procure such work for, an individual who is disqualified from working with children; or
 - (b) fail to remove an individual who is so disqualified from such work.
- (4) An organisation commits an offence under subsection (3) above if the organisation offers work in a child care position to, or procures work in a child care position for, an individual who is already working for the organisation.
- (5) It is a defence for an organisation charged with an offence under subsection (3) above to prove that the organisation did not know, and could not reasonably be expected to have known, that the individual was, at the time of the offence, disqualified from working with children.
- (6) An act which would, but for this subsection, be an offence under subsection (1) or (3) above is not an offence if—
 - (a) the individual who commits the act or, as the case may be, the individual in relation to whom the organisation commits the act, is disqualified from working with children by virtue only of paragraph (c) of section 17(1) below;
 - (b) that individual is, by virtue of subsection (1)(b) or (c) of section 142 (prohibition from teaching etc.) of the Education Act 2002 (c. 32), allowed to carry out work to which that section applies only—
 - (i) in circumstances specified in a direction under that section; or
 - (ii) if conditions specified in such a direction are satisfied; and

Status: This is the original version (as it was originally enacted).

- (c) the act relates to such work or to any other work in a child care position being carried out in such circumstances or, as the case may be, in satisfaction of such conditions.
- (7) A person guilty of an offence under subsection (1) or (3) above is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six 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 five years or to a fine, or to both.