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STATUTORY INSTRUMENTS

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**2007 No. 1351**

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

*Offences: supplementary*

**Offences: companies, etc.**

**22.**—(1) For the purposes of an offence under Article 13, 14, 15, 27, 31 or 40 or Schedule 4, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(2) If an offence under Article 13, 14, 15, 27, 31 or 40 or Schedule 4 is committed by a partnership (whether or not a limited partnership) and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—

- (a) a partner, or
- (b) a person purporting to act as a partner,

he (as well as the partnership) commits the offence.

**Offences: other persons**

**23.**—(1) A person commits an offence if, in the course of acting or appearing to act on behalf of a regulated activity provider—

- (a) he permits an individual (B) to engage in a regulated activity in relation to which B is not subject to monitoring,
- (b) he knows or has reason to believe that B is not subject to monitoring in relation to that activity, and
- (c) B engages in the activity.

(2) A person commits an offence if, in the course of acting or appearing to act on behalf of a personnel supplier—

- (a) he supplies an individual (B) to another (P),
- (b) he knows or has reason to believe that P will make arrangements for B to engage in regulated activity from which B is barred, and
- (c) he knows or has reason to believe that B is barred from the activity.

(3) A person commits an offence if, in the course of acting or appearing to act on behalf of a personnel supplier—

- (a) he supplies an individual (B) to another (P),
- (b) he knows or has reason to believe that P will make arrangements for B to engage in regulated activity in relation to which B is not subject to monitoring, and

- (c) he knows or has reason to believe that B is not subject to monitoring in relation to the activity.
- (4) A person guilty of an offence under paragraph (1) or (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A person guilty of an offence under paragraph (2) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.
- (6) If the commission of an offence under Article 15 is due to the act or reckless default of a person who acts for or appears to act for the regulated activity provider—
  - (a) that person is guilty of the offence, and
  - (b) he may be proceeded against and punished whether or not proceedings are also taken against the regulated activity provider.
- (7) In the application of paragraph (6) to a person who is in Crown employment (within the meaning of the [Employment Rights \(Northern Ireland\) Order 1996 \(NI 16\)](#)), Article 53(2) must be ignored.
- (8) For the purpose of paragraphs (2)(b) and (3)(b), Schedule 2 is modified as follows—
  - (a) in paragraph 1, sub-paragraphs (1)(b) and (2)(a) must be disregarded;
  - (b) in paragraph 7(1), the words “if it is carried out frequently by the same person or the period condition is satisfied” must be disregarded;
  - (c) in paragraph 7(4), paragraph (a) must be disregarded.
- (9) In determining what is the appropriate sentence to pass in respect of a person who is convicted of an offence under paragraph (1) in a case where the regulated activity falls within paragraph 1(1) or (2) or 7(1) or (4) of Schedule 2 the court must consider the extent to which the offender had regard to any guidance issued by the Secretary of State as to the circumstances in which an activity is carried out frequently.

### **Article 23: exclusions and defences**

- 24.—**(1) A person does not commit an offence under Article 23 if B has not attained the age of 16.
- (2) A person does not commit an offence under Article 23 if the regulated activity—
  - (a) is regulated activity relating to adults, and
  - (b) falls within Article 20.
- (3) A person does not commit an offence under Article 23(1) if, in relation to any continuous period for which B is permitted to engage in the regulated activity—
  - (a) the permission is first given before the commencement of that Article, and
  - (b) it continues to have effect after such commencement.
- (4) Paragraph (3) does not have effect in respect of permission which continues to have effect after such date as the Secretary of State specifies by order.
- (5) A person does not commit an offence under paragraph (1) of Article 23 if—
  - (a) the regulated activity provider for whom he acts or appears to act falls within Article 21,
  - (b) the permission mentioned in paragraph (1) of Article 23 commences at a time when B is engaged in relevant HSS employment mentioned in Article 21(1)(b) in circumstances mentioned in paragraph (3) above, and

- (c) for the duration of the permission mentioned in paragraph (1) of Article 23, B continues to be engaged in that relevant HSS employment.
- (6) A person is not guilty of an offence under Article 23(3) in relation to any period during which B is continuously supplied to another if the period begins before the commencement of that Article.
- (7) Paragraph (6) does not have effect in respect of a supply which continues to have effect after such date as the Secretary of State specifies by order.