

PROTECTION OF CHILDREN ACT 1999

EXPLANATORY NOTES

SUMMARY

3. This Act makes four principal changes to the law with the object of both creating the framework of a coherent cross-sector system for identifying people unsuitable to work with children and achieving a “one stop shop” to compel or allow employers to access a single point for checking the names of people they propose to employ in a post involving the care of children. This will involve permitting checks against criminal records and two lists of similar kind of people considered unsuitable for work with children maintained respectively by the Department of Health and the Department for Education and Employment to be made via the Criminal Records Bureau - which is due to come into operation under Part V of the Police Act 1997 in the near future.
4. First, the Act places the existing “Consultancy Index List” (a list wholly confined to people considered unsuitable to work with children) of the Department of Health on a statutory basis, provides for the referral of names, creates a right of appeal to a new tribunal against inclusion on the list, and – with the leave of the tribunal, and to protect individuals from remaining provisionally listed for unreasonably long periods – allows individuals listed provisionally for at least nine months to request the tribunal rather than the Secretary of State to determine the question of permanent inclusion.
5. Secondly, the Act amends section 218 of the Education Reform Act 1988, which provides, essentially, for prohibiting or restricting the employment of teachers. Under those powers, the Department for Education and Employment maintains for analogous but wider purposes a list (“List 99”) similar to the Department of Health list. To enable the “one stop shop” to operate, it is necessary to permit access to List 99. To this end, the Act provides a power permitting inclusion on List 99 on grounds that individuals are not considered fit and proper persons to work as teachers or in work involving regular contact with children. This will enable a distinction to be drawn between people who, on the one hand, are included on List 99 because they are unsuitable to work with children and, on the other hand, teachers who are included on the list for other reasons e.g. for fraud and dishonesty. In this way people will be identified who should not be allowed to work with children in both education and childcare settings. The Act will also provide for a right of appeal to the new tribunal mentioned above against inclusion on List 99.
6. Thirdly, the Act amends Part V of the Police Act 1997 to enable the Criminal Records Bureau established under that Act to disclose information about people who are included on either list along with their criminal records. In this way the Act provides a “one stop shop” system of checking applicants for child care positions against similar criteria through the gateway of the Criminal Records Bureau.
7. Fourthly, to complete the circle, the Act requires child care organisations proposing to employ someone in a child care position to ensure that individuals are checked through the Bureau against the Department of Health list and the relevant category of “List 99” and not employ anyone identified on either list.