



Sexual Offences Act 2003

2003 CHAPTER 42

PART 1

SEXUAL OFFENCES

Abuse of position of trust

21 Positions of trust

- ^{F1}(1) For the purposes of sections 16 to 19, a person (A) is in a position of trust in relation to another person (B) if—
- (a) any of the following subsections applies, or
 - (b) any condition specified in an order made by the Secretary of State is met.
- (2) This subsection applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under an enactment, and B is so detained in that institution.
- (3) This subsection applies if A looks after persons under 18 who are resident in a home or other place in which—
- (a) accommodation and maintenance are provided by an authority ^{F2}in accordance with section 22C(6)] of the Children Act 1989 (c. 41) ^{F3}or section 81(6) of the Social Services and Well-being (Wales) Act 2014^{F4} ..., or
 - (b) accommodation is provided by a voluntary organisation under section 59(1) of ^{F5}the Children Act 1989^{F6} ...,
- and B is resident, and is so provided with accommodation and maintenance or accommodation, in that place.
- (4) This subsection applies if A looks after persons under 18 who are accommodated and cared for in one of the following institutions—
- (a) a hospital,
 - (b) ^{F7}in Wales,] an independent clinic,

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- (c) a care home, ^{F8}...
 - (d) a community home, voluntary home or children's home, [^{F9}or]
 - (e) a home provided under section 82(5) of the Children Act 1989, ^{F10}...
 - ^{F11}(f)
 - [^{F12}(g) a place in Wales at which a care home service is provided,]
 - [^{F13}(h) premises in Wales at which a secure accommodation service is provided,]
and B is accommodated and cared for in that institution.
- (5) This subsection applies if A looks after persons under 18 who are receiving education at an educational institution and B is receiving, and A is not receiving, education at that institution.
- ^{F14}(6)
- (7) This subsection applies if A is engaged in the provision of services under, or pursuant to anything done under—
- (a) sections 8 to 10 of the Employment and Training Act 1973 (c. 50), or
 - [^{F15}(b) section 68, 70(1)(b) or 74 of the Education and Skills Act 2008,]
- and, in that capacity, looks after B on an individual basis.
- (8) This subsection applies if A regularly has unsupervised contact with B (whether face to face or by any other means)—
- (a) in the exercise of functions of a local authority under section 20 or 21 of the Children Act 1989 (c. 41) [^{F16}or section 76 or 77 of the Social Services and Well-being (Wales) Act 2014], ^{F17}...
 - ^{F17}(b)
- (9) This subsection applies if A, as a person who is to report to the court under section 7 of the Children Act 1989 ^{F18}... on matters relating to the welfare of B, regularly has unsupervised contact with B (whether face to face or by any other means).
- (10) This subsection applies if A is a personal adviser appointed for B under—
- (a) section 23B(2) of, or paragraph 19C of Schedule 2 to, the Children Act 1989, ^{F19}... [^{F20}or]
 - [^{F21}(aa) section 106(1) of the Social Services and Well-being (Wales) Act 2014 in respect of category 1 or 2 young persons within the meaning of that Act,]
 - ^{F19}(b)
- and, in that capacity, looks after B on an individual basis.
- (11) This subsection applies if—
- (a) B is subject to a care order, a supervision order or an education supervision order, and
 - (b) in the exercise of functions conferred by virtue of the order on an authorised person or the authority designated by the order, A looks after B on an individual basis.
- (12) This subsection applies if A—
- (a) is an officer of the Service [^{F22}or Welsh family proceedings officer (within the meaning given by section 35 of the Children Act 2004)] appointed for B under section 41(1) of the Children Act 1989,
 - (b) is appointed a children's guardian of B under rule 6 or rule 18 of the Adoption Rules 1984 (S.I. 1984/265), ^{F23}...

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- (c) is appointed to be the guardian ad litem of B under rule 9.5 of the Family Proceedings Rules 1991 (S. I. 1991/1247) ^{F24}..., [^{F25}or]
[^{F26}(d) is appointed to be the children’s guardian of B under rule 59 of the Family Procedure (Adoption) Rules 2005 (S.I. 2005/2795) or rule 16.3(1)(ii) or rule 16.4 of the Family Procedure Rules 2010 (S.I. 2010/2955),]

and, in that capacity, regularly has unsupervised contact with B (whether face to face or by any other means).

(13) This subsection applies if—

- (a) B is subject to requirements imposed by or under an enactment on his release from detention for a criminal offence, or is subject to requirements imposed by a court order made in criminal proceedings, and
(b) A looks after B on an individual basis in pursuance of the requirements.]

Textual Amendments

- F1** Ss. 16-24 repealed (N.I.) (2.2.2009) by The Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), arts. 1, 78(b), **Sch. 3** (with Sch. 2 par. 1); S.R. 2008/510, **art. 2**
- F2** Words in s. 21(3)(a) substituted (E.W.) (1.4.2011 for E., 6.4.2016 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 8(2), 44(4), **Sch. 1 para. 15**; S.I. 2010/2981, **art. 4(a)**; S.I. 2016/452, **art. 2(b)**
- F3** Words in s. 21(3)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **202(a)**
- F4** Words in s. 21(3)(a) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(2)(a)**; S.R. 2008/510, **art. 2**
- F5** Words in s. 21(3)(b) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **202(b)**
- F6** Words in s. 21(3)(b) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(2)(b)**; S.R. 2008/510, **art. 2**
- F7** Words in s. 21(4)(b) inserted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **art. 13(2)**
- F8** Words in s. 21(4)(c) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(a)**; S.R. 2008/510, **art. 2**
- F9** Word in s. 21(4)(d) inserted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(b)**; S.R. 2008/510, **art. 2**
- F10** Word in s. 21(4)(e) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(c)**; S.R. 2008/510, **art. 2**
- F11** S. 21(4)(f) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(d)**; S.R. 2008/510, **art. 2**
- F12** S. 21(4)(g) and word inserted (2.4.2018) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2018 (S.I. 2018/195), **regs. 2(1)**, 21
- F13** S. 21(4)(h) inserted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **24**
- F14** S. 21(6) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(4)**; S.R. 2008/510, **art. 2**
- F15** S. 21(7)(b) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), ss. 169(1), 173(4), **Sch. 1 para. 81**; S.I. 2008/3077, **art. 4(g)**
- F16** Words in s. 21(8)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **202(c)**
- F17** S. 21(8)(b) and preceding word omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(5)**; S.R. 2008/510, **art. 2**

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- F18** Words in s. 21(9) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(6)**; S.R. 2008/510, **art. 2**
- F19** S. 21(10)(b) and preceding word omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(7)**; S.R. 2008/510, **art. 2**
- F20** Word in s. 21(10)(a) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **202(d)**
- F21** S. 21(10)(aa) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **202(e)**
- F22** Words in s. 21(12)(a) inserted (E.W.) (1.4.2005) by Children Act 2004 (c. 31), ss. 40, 67, **Sch. 3 para. 18**; S.I. 2005/700, **art. 2(2)**
- F23** Word in s. 21(12)(b) omitted (6.4.2011) by virtue of The Family Procedure (Modification of Enactments) Order 2011 (S.I. 2011/1045), **art. 15(a)**
- F24** Words in s. 21(12)(c) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(8)**; S.R. 2008/510, **art. 2**
- F25** Word in s. 21(12)(c) inserted (6.4.2011) by The Family Procedure (Modification of Enactments) Order 2011 (S.I. 2011/1045), **art. 15(b)**
- F26** S. 21(12)(d) inserted (6.4.2011) by The Family Procedure (Modification of Enactments) Order 2011 (S.I. 2011/1045), **art. 15(c)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by [2015 c. 9 \(N.I.\) Sch. 1 para. 123\(1\)Sch. 9 Pt. 1](#) (This amendment not applied to legislation.gov.uk. S. 60B already repealed (N.I.) (14.1.2015) by [2015 c. 2 \(N.I.\)](#), s. 28(2), Sch. 5; and omitted (E.W.) (31.7.2015) by virtue of [2015 c. 30](#), Sch. 5 para. 5(2); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by [2022 c. 32 s. 178\(7\)\(b\)](#)
- s. 103E(5C)(5D) inserted by [2022 c. 32 s. 178\(8\)](#)
- s. 103F(3B) inserted by [2022 c. 32 s. 178\(9\)\(a\)](#)
- s. 103FA103FB inserted by [2022 c. 32 s. 178\(10\)](#)
- s. 108(9) inserted by [2011 c. 18 s. 17\(2\)](#)
- s. 122A(8A) inserted by [2022 c. 32 s. 178\(11\)\(a\)](#)
- s. 122A(9B) inserted by [2022 c. 32 s. 178\(11\)\(b\)](#)
- s. 122D(4C)(4D) inserted by [2022 c. 32 s. 178\(12\)](#)
- s. 122E(3B) inserted by [2022 c. 32 s. 178\(13\)\(a\)](#)
- s. 122EA122EB inserted by [2022 c. 32 s. 178\(14\)](#)
- s. 136ZA(3) inserted by [2022 c. 32 s. 178\(15\)](#)