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STATUTORY INSTRUMENTS

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**2003 No. 417 (N.I. 4)**

The Protection of Children and Vulnerable  
Adults (Northern Ireland) Order 2003

27th February 2003

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**FI** Order repealed (prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)) and the repeal being partly in operation, as to which see individual Articles

PART I  
INTRODUCTORY

**Title and commencement**

**1**

1.—<sup>F2</sup>(1) This Order may be cited as the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

(2) This Part comes into operation on the expiration of two weeks from the date on which this Order is made.

(3) The remaining provisions of this Order come into operation on such day or days as the Department may by order appoint.

(4) An order under this Article may contain such transitional provisions as the Department thinks necessary or expedient.]

**Subordinate Legislation Made**

**P1** [Art. 1\(3\)](#) partly exercised: 30.11.2004 appointed by [S.R. 2004/466](#), **art. 2**;  
1.4.2005 by [S.R. 2005/104](#), **art. 2**;  
30.7.2007 by [S.R. 2007/334](#), **art. 2**

**F2** [Arts. 1-2, 22-34](#) repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); [S.R. 2009/346](#), **art. 4** (with arts. 5, 6, 7 (as amended by [S.R. 2010/145](#), arts. 6, 7, 8)); [S.R. 2010/145](#), **art. 3**

**Interpretation: general****2**

2.—<sup>[F3]</sup>(1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“adult” means a person who is not a child;

“child” means a person under the age of 18;

“the Children Order” means the Children (Northern Ireland) Order 1995 (NI 2);

“the Department” means the Department of Health, Social Services and Public Safety;

“director of [<sup>F4</sup>social care]” means—

(a) a director of [<sup>F4</sup>social care] of a Health and Social Services Board; or

(b) an executive director of social work of a [<sup>F5</sup>Health and Social Care trust] ;

“employment” (except in Article 31)—

(a) means any employment, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract; and

(b) includes an office established by or by virtue of a prescribed statutory provision, and references to an individual being employed shall be construed accordingly;

“employment agency” and “employment business” have the same meanings as in the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (NI 20); but no business which is an employment business shall be taken to be an employment agency;

<sup>[F6]</sup>“nursing agency” and “nursing home” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;]

“organisation” means a body corporate or unincorporate or an individual who employs others in the course of a business;

“the Pre-Employment Consultancy Service Register” means the list kept under that name by the Department;

“prescribed” means prescribed by regulations;

<sup>[F6]</sup>“the Regulation and Improvement Authority” means the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority;]

“regulations” means regulations made by the Department subject to negative resolution;

“residential care home” has the<sup>[F6]</sup> same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).

(3) For the purposes of this Order, an individual is made redundant if—

(a) he is dismissed; and

(b) for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) the dismissal is by reason of redundancy.]

**F3** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

- F4** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**
- F5** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F6** 2003 NI 9

## PART II

### PROTECTION OF CHILDREN

#### <sup>F7F7</sup>CHAPTER I

#### PERSONS UNSUITABLE TO WORK WITH CHILDREN

- F7** Pt. II Ch. I (arts. 3-21) repealed (12.10.2009) by Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch. (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8))

#### *List of persons unsuitable to work with children*

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#### *Inclusion in list under Article 3*

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#### *Appeals and applications to Social Care Tribunal*

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#### *List in connection with prohibiting or restricting employment in schools, etc.*

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#### *Effect of inclusion in either list*

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#### *Supplementary*

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## CHAPTER II

### DISQUALIFICATION FROM WORKING WITH CHILDREN

#### *Disqualification orders*

#### **Meaning of “offence against a child”**

##### **22**

**22.**—<sup>[F20]</sup>(1) For the purposes of this Chapter, an individual commits an offence against a child if—

- (a) he commits any offence mentioned in paragraph 1 of the Schedule,
- (b) he commits against a child any offence mentioned in paragraph 2 of the Schedule, or
- (c) he falls within paragraph 3 of the Schedule,

and references to being convicted of, or charged with, an offence against a child are to be read accordingly.

(2) The Department may by order amend the Schedule so as to add, modify or omit any entry.

(3) No order shall be made under paragraph (2) unless a draft of the order has been laid before and approved by resolution of the Assembly.]

**F20** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

#### **Disqualification of adults from working with children**

##### **23**

**23.**—<sup>[F21]</sup>(1) This Article applies where either of the conditions set out below is satisfied in the case of an individual.

(2) The first condition is that—

- (a) the individual is convicted on indictment of an offence against a child committed when he was aged 18 or over, and
- (b) a qualifying sentence is imposed by the court in respect of the conviction.

(3) The second condition is that—

- (a) the individual is charged on indictment with an offence against a child committed when he was aged 18 or over, and
- (b) a relevant order is made by the court in respect of the act or omission charged against him as the offence.

(4) Subject to paragraph (5), the court must order the individual to be disqualified from working with children.

(5) An order shall not be made under this Article if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.

(6) If the court does not make an order under this Article, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.]

**F21** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Disqualification of juveniles from working with children

### 24

24.—<sup>[F22]</sup>(1) This Article applies where either of the conditions set out below is satisfied in the case of an individual.

(2) The first condition is that—

- (a) the individual is convicted on indictment of an offence against a child committed at a time when the individual was under the age of 18, and
- (b) a qualifying sentence is imposed by the court in respect of the conviction.

(3) The second condition is that—

- (a) the individual is charged on indictment with an offence against a child committed at a time when the individual was under the age of 18, and
- (b) a relevant order is made by the court in respect of the act or omission charged against him as the offence.

(4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.

(5) If the court makes an order under this Article, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.]

**F22** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Articles 23 and 24: supplementary

### 25

25.—<sup>[F23]</sup>(1) In Articles 23 and 24—

“qualifying sentence” means—

- (a) a sentence of imprisonment for a term of 12 months or more,
- (b) an order for detention in a young offenders centre for a term of 12 months or more,
- (c) a sentence of detention during the pleasure of the Secretary of State under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9),
- (d) a hospital order within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4), or
- (e) a guardianship order within the meaning of that Order;

“relevant order” means—

- (a) an order that the individual in question be admitted to hospital, or

*Status: Point in time view as at 12/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. (See end of Document for details)*

(b) a guardianship order within the meaning of the Mental Health (Northern Ireland) Order 1986.

(2) In this Chapter references to a sentence of imprisonment or order for detention include references to a suspended sentence or order.

(3) If, for the purposes of making an order under Article 23 or 24 the court determines, after considering any available evidence, that an individual was, or was not, under the age of 18 at the time when the offence in question was committed, his age at that time shall be taken, for the purposes of that Article (and in particular for the purpose of determining any question as to the validity of the order), to be that which the court determined it to be.

(4) Below in this Chapter—

(a) references to a disqualification order are to an order under Article 23 or 24,

(b) in relation to an individual on whom a sentence has been passed, or in relation to whom an order has been made, as mentioned in paragraph (2) or (3) of Article 23 or 24, references to his sentence are to that sentence or order.]

**F23** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Appeals

### 26

[<sup>F24</sup>An individual may appeal against a disqualification order—

(a) where the first condition mentioned in Article 23 or 24 is satisfied in his case, as if the order were a sentence passed on him for the offence of which he has been convicted,

(b) where the second condition mentioned in Article 23 or 24 is satisfied in his case, as if he had been convicted of an offence on indictment and the order were a sentence passed on him for the offence.]

**F24** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Review of disqualification

### 27

27.—[<sup>F25</sup>(1) Subject to Article 28, an individual who is subject to a disqualification order may make an application to [<sup>F26</sup> the] Care Tribunal under this Article.

(2) On an application under this Article the Tribunal must determine whether or not the individual is to continue to be subject to the order.

(3) If the Tribunal is satisfied that the individual is suitable to work with children, it must direct that the order is to cease to have effect; otherwise it must dismiss the application.]

**F25** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351](#)

(N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**F26** 2003 NI 9

## Conditions for applications under Article 27

### 28

**28.**—<sup>F27</sup>(1) An individual may only make an application under Article 27 with the leave of the Tribunal.

(2) An application for leave under this Article may not be made unless the appropriate conditions are satisfied in the individual's case.

(3) In the case of an individual who was under the age of 18 when he committed the offence against a child, the appropriate conditions are satisfied if—

- (a) at least five years have elapsed since the relevant date, and
- (b) in the period of five years ending with the time when he makes the application under this Article, he has made no other such application.

(4) In the case of any other individual, the appropriate conditions are satisfied if—

- (a) at least ten years have elapsed since the relevant date, and
- (b) in the period of ten years ending with the time when he makes the application under this Article, he has made no other such application.

(5) The Tribunal may not grant an application under this Article unless it considers—

- (a) that the individual's circumstances have changed since the order was made or, as the case may be, since he last made an application under this Article, and
- (b) that the change is such that leave should be granted.

(6) In this Article, “the relevant date” means—

- (a) in relation to an individual whose sentence is an actual term of custody, the day on which he is released or, if later, the day on which the disqualification order is made,
- (b) in relation to an individual whose sentence is suspended and does not take effect, the day on which the disqualification order is made,
- (c) in relation to an individual whose sentence is an order for admission to hospital—
  - (i) if he is detained in a hospital pursuant to the order, the day on which he ceases to be liable to be detained there, or
  - (ii) if he is not so detained, the day on which the disqualification order is made,
- (d) in relation to an individual whose sentence is a guardianship order within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4), the day on which the disqualification order is made.

(7) In this Article—

“actual term of custody” means a term of imprisonment or detention which is not suspended, or is suspended but takes effect,

“order for admission to hospital” means—

- (a) an order that the individual be admitted to hospital, or
- (b) a hospital order within the meaning of the Mental Health (Northern Ireland) Order 1986.

(8) In paragraph (7) “detention” means detention under any sentence or order mentioned in paragraph (b) or (c) of the definition of “qualifying sentence” in Article 25(1).]

*Status: Point in time view as at 12/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. (See end of Document for details)*

**F27** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Restoration of disqualification order

### 29

**29.**—<sup>[F28]</sup>(1) If it appears to the Chief Constable or a director of <sup>[F29]</sup>social care] that the conditions set out in paragraph (2) are satisfied in the case of an individual, the Chief Constable or (as the case may be) the director may apply to the High Court for an order under this Article to be made in respect of the individual.

(2) The conditions are that—

- (a) a disqualification order made in respect of the individual is no longer in force, and
- (b) the individual has acted in such a way (whether before or after the order ceased to be in force) as to give reasonable cause to believe that an order under this Article is necessary to protect children in general, or any children in particular, from serious harm from him.

(3) An application under this Article may be made at any time after the disqualification order ceased to be in force.

(4) If the High Court is satisfied that the conditions set out in paragraph (2) are satisfied, it must order that the disqualification order is to be restored; otherwise it must dismiss the application.

(5) Where an order is made under this Article, Article 28 has effect with the following modifications—

- (a) in paragraph (3), the reference to the individual being under the age of 18 when he committed the offence against a child is to be read as a reference to his being under that age when the order under this Article was made,
- (b) in paragraphs (3)(a) and (4)(a), references to the relevant date are to be read as references to the date on which the order under this Article was made,
- (c) in paragraph (5)(a), the reference to the individual's circumstances changing since the disqualification order was made is to be read as a reference to his circumstances changing since the order under this Article was made.

(6) For the purposes of this Article a disqualification order is no longer in force if a direction under Article 27(3) has been given in respect of it and it is not restored by virtue of an order under this Article.]

**F28** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**F29** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

## *Effect of disqualification from working with children*

### Persons disqualified from working with children: offences

#### 30



**30.**—<sup>F30</sup>(1) An individual who is disqualified from working with children is guilty of an offence if he knowingly applies for, offers to do, accepts or does any work in a regulated position.

(2) An individual is guilty of an offence if he knowingly—

- (a) offers work in a regulated position to, or procures work in a regulated position for, an individual who is disqualified from working with children, or
- (b) fails to remove such an individual from such work.

(3) It is a defence for an individual charged with an offence under paragraph (1) to prove that he did not know, and could not reasonably be expected to know, that he was disqualified from working with children.

(4) An individual is disqualified from working with children for the purposes of this Chapter if—

- (a) he is included (otherwise than provisionally) in the list kept under Article 3;
- (b) he is included in the list kept for the purposes of regulations under sub-paragraph (e) of Article 70(2) or sub-paragraph (b) of Article 88A(2) of the Education and Libraries (Northern Ireland) Order 1986 (NI 3) on the grounds mentioned in head (iii) of the sub-paragraph in question; or
- (c) he is subject to a disqualification order.

(5) An individual who is guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 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 5 years, or to a fine, or to both.]

**F30** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Meaning of “regulated position”

### 31

**31.**—<sup>F31</sup>(1) The regulated positions for the purposes of this Chapter are—

- (a) a position whose normal duties include work in an establishment mentioned in paragraph (2),
- (b) a position whose normal duties include work on day care premises,
- (c) a position whose normal duties include caring for, training, advising, counselling, supervising or being in sole charge of children,
- (d) a position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person,
- (e) a position whose normal duties include caring for children under the age of 16 in the course of the children's employment,
- (f) a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children's employment,
- (g) a position mentioned in paragraph (6),
- (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.

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*Status: Point in time view as at 12/10/2009.*

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- (2) The establishments referred to in paragraph (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children by virtue of an order of a court or under any statutory provision,
  - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
  - (c) a residential care home or nursing home which is exclusively or mainly for children,
  - (d) an educational institution,
  - (e) a children's home.
- (3) For the purposes of this Article, work done on any premises is treated as not being done on day care premises to the extent that—
- (a) it is done in a part of the premises in which children are not looked after, or
  - (b) it is done at times when children are not looked after there.
- (4) The duties referred to in paragraph (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, advising, counselling, supervising or being in sole charge of children in the course of the children's employment, or
  - (b) duties involving contact with children in the course of the children's employment.
- (5) The reference in paragraph (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this paragraph, “carer” means a person who holds a position such as is mentioned in paragraph (1)(c).
- (6) The positions mentioned in paragraph (1)(g) are—
- (a) member of a Health and Social Services Board or a [<sup>F32</sup>Health and Social Care trust] ,
  - (b) director of [<sup>F33</sup>social care] ,
  - (c) member, or chief education officer, of an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986 (NI 3).
  - (d) member of the governing body of an educational institution,
  - (e) trustee of a children's charity,
  - (f) Commissioner for Children and Young People for Northern Ireland.
- (7) For the purposes of paragraph (1)(h), the holder of a position—
- (a) only supervises an individual if he supervises the day-to-day performance of the individual's duties, and
  - (b) only manages an individual if the individual is directly responsible to him for the performance of his duties or he has authority to dismiss the individual.
- (8) For the purposes of this Article, a charity is a children's charity if the individuals who are workers for the charity normally include individuals working in regulated positions.
- (9) For the purposes of this Article, an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this paragraph do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (10) For the purposes of this Article, the following are responsible persons in relation to a child—
- (a) the child's parent or guardian and any adult with whom the child lives,
  - (b) the person in charge of any establishment mentioned in paragraph (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person,

(c) a person registered under Part XI of the Children Order for providing day care on premises on which the child is cared for, and

(d) any person holding a position mentioned in paragraph (6).

(11) For the purposes of this Article “employment” means paid employment, whether under a contract of service or apprenticeship or under a contract for services.

(12) For the purpose of amending the definition of “regulated position”, the Department may by order make any amendment of this Article (apart from this paragraph) which it thinks appropriate.

(13) No order shall be made under paragraph (12) unless a draft of the order has been laid before and approved by resolution of the Assembly.]

- F31** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**
- F32** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F33** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

## Disqualification in other jurisdictions

### 32

**32.**—<sup>F34</sup>(1) The Department may by order provide that Article 30 shall apply in relation to an individual falling within paragraph (2) as it applies in relation to an individual who is disqualified from working with children.

(2) An individual falls within this paragraph if, under the law of any other jurisdiction (except England and Wales), he is subject to a prohibition or disqualification which, in the opinion of the Department, corresponds to disqualification (by any of the means mentioned in Article 30(4)) from working with children.]

- F34** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## Rehabilitation of offenders

### 33

**33.**—<sup>F35</sup>(1) Where a disqualification order is made in respect of an individual's conviction of an offence, the rehabilitation period which, in accordance with Article 8 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (NI 27) is applicable to the conviction is to be determined as if that order had not been made; and a disqualification order is not a sentence for the purposes of that Order.

(2) In this Article, “conviction” has the same meaning as in that Order.]

- F35** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351](#)

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*Changes to legislation: There are currently no known outstanding effects for the The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. (See end of Document for details)*

(N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

## *Interpretation of Chapter II*

### **Interpretation of this Chapter**

#### **34**

**34.**—<sup>F36</sup>(1) In this Chapter—

“children’s home” has the<sup>F37</sup> same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003],

“day care premises” means premises—

- (a) in respect of which a person is registered under Part XI of the Children Order for providing day care, or
- (b) in which an authority provides day care under Article 19 of that Order,

“disqualification order” has the meaning given by Article 25,

“educational institution” means an institution which is exclusively or mainly for the provision of full-time education to children,

“hospital” has the meaning given by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14),

“work” includes—

- (a) work of any kind, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract, and
- (b) an office established by or by virtue of a statutory provision,

and “working” is to be read accordingly.

(2) In this Chapter references, in relation to a suspended sentence, to taking effect are to taking effect by virtue of an order under section 19 of the Treatment of Offenders Act (Northern Ireland) 1968 (c.29).]

**F36** Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**F37** 2003 NI 9

## **F38F38** PART III

### PROTECTION OF VULNERABLE ADULTS

**F38** Pt. III (arts. 35-49) repealed (12.10.2009) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, **Sch.** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8))

*List of persons unsuitable to work with vulnerable adults*

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*Inclusion in list under Article 35*

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*Appeals and applications to . . . Care Tribunal*

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*Effect of inclusion in list*

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*Supplementary*

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*Part IV rep. by 2003 NI 9*

*Status: Point in time view as at 12/10/2009.*

*Changes to legislation: There are currently no known outstanding effects for the The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. (See end of Document for details)*

## SCHEDULE

Article 22

## MEANING OF “OFFENCE AGAINST A CHILD”

## 1

[<sup>F51</sup>The offences mentioned in Article 22(1)(a) are—

- (a) an offence under section 4 of the Criminal Law Amendment Act 1885 (c.69) (defilement of girl under 14),
- (b) an offence under section 5 of that Act (defilement of girl under 17),
- (c) an offence under section 6 of that Act (permitting defilement of young girls on premises),
- (d) an offence under section 7 of that Act (abduction of girl with intent to have carnal knowledge),
- (e) an offence under section 1 of the Infanticide Act (Northern Ireland) 1939 (c. 5) (infanticide),
- (f) an offence under section 20 of the Children and Young Persons Act (Northern Ireland) 1968 (c.34) (cruelty to children),
- (g) an offence under section 21 of that Act (causing or encouraging seduction or prostitution of girl under 17),
- (h) an offence under section 22 of that Act (indecent conduct towards child),
- (i) an offence under section 23 of that Act (allowing child or young person to be in brothel),
- (j) an offence under Article 3 of the Protection of Children (Northern Ireland) Order 1978 (NI 17) (indecent photographs of children),
- (k) an offence under Article 9 of the Criminal Justice (Northern Ireland) Order 1980 (NI 6) (inciting girl under 16 to incest),
- (l) an offence under Article 3 of the Child Abduction (Northern Ireland) Order 1985 (NI 17) (abduction of child by parent),
- (m) an offence under Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (NI 17) (possession of indecent photograph of child),
- (n) an offence under section 3 of the Sexual Offences (Amendment) Act 2000 (c.44) (abuse of trust).

[<sup>F52</sup>(o) any offence under any of sections 15 to 21 and 47 to 50 of the Sexual Offences Act 2003.]]

**F51** Sch. repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**F52** 2003 c. 42

**Modifications etc. (not altering text)**

**C3** Sch. 1 para. 1 modified (temp. from 17.7.2008) by [Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769 \(N.I. 2\)\)](#), arts. 1(2)(c), 82(1), **Sch. 2 para. 2(2)**

## 2

[<sup>F53</sup>The offences mentioned in Article 22(1)(b) are—

- (a) murder,
- (b) manslaughter,

- (c) rape,
- (d) kidnapping,
- (e) false imprisonment,
- (f) an offence under section 18 or 20 of the Offences against the Person Act 1861 (c. 100) (wounding and causing grievous bodily harm),
- (g) an offence under section 47 of that Act (assault occasioning actual bodily harm),
- (h) an offence under section 52 of that Act (indecent assault on a female),
- (i) an offence under section 53, 54 or 55 of that Act (abduction of woman or girl),
- (j) an offence under section 61 or 62 of that Act (buggery, attempted buggery, assault with intent to commit buggery and indecent assault on a male),
- (k) an offence under section 2 or 3 of the Criminal Law Amendment Act 1885 (c.69) (procuring girl or woman),
- (l) an offence under section 8 of that Act (unlawful detention of girl or woman with intent to have carnal knowledge).
- [<sup>F54</sup>(m) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).]]

**F53** Sch. repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**F54** 2004 c. 19

**Modifications etc. (not altering text)**

**C4** Sch. 1 para. 2 modified (temp. from 17.7.2008) by Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), arts. 1(2)(c), 82(1), **Sch. 2 para. 2(3)**

**3**

[<sup>F55</sup>A person falls within this paragraph if—

- (a) he commits an offence under section 16 of the Offences against the Person Act 1861 (c. 100) (threats to kill) by making a threat to kill a child,
- (b) he commits an offence under section 1 of the Punishment of Incest Act 1908 (c.45) (incest by a man) by having sexual intercourse with a child,
- (c) she commits an offence under section 2 of that Act (incest by a woman) by allowing a child to have sexual intercourse with her,
- (d) he commits an offence under section 9(1)(a) of the Theft (Northern Ireland) Act 1969 (c.16) (burglary), by entering a building or part of a building with intent to rape a child,
- (e) he commits an offence under section 4(3) of the Misuse of Drugs Act 1971 (c. 38) by—
  - (i) supplying or offering to supply a Class A drug to a child,
  - (ii) being concerned in the supplying of such a drug to a child, or
  - (iii) being concerned in the making to a child of an offer to supply such a drug,
- (f) he commits an offence under Article 7 of the Homosexual Offences (Northern Ireland) Order 1982 (NI 19) (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,

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- (g) he commits an offence under Article 8 of that Order (living on earnings of male prostitution) by living wholly or in part on the earnings of prostitution of a child,
- (h) he commits an offence under Article 122 or 123 of the Mental Health (Northern Ireland) Order 1986 (NI 4) (protection of patients) in relation to a child,
- (i) he commits an offence of—
  - (i) aiding, abetting, counselling, procuring or inciting the commission of an offence against a child, or
  - (ii) conspiring or attempting to commit such an offence.]

**F55** Sch. repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

**Modifications etc. (not altering text)**

- C5** Sch. 1 para. 3 modified (temp. from 17.7.2008) by Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), arts. 1(2)(c), 82(1), **Sch. 2 para. 2(4)**
- C6** Sch. para. 3(i)(i) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 49** (with Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)**



**Status:**

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