



Protection of Children Act 1999

1999 CHAPTER 14

General

7 Effect of inclusion in either list

- (1) Where a child care organisation proposes to offer an individual employment in a child care position, the organisation—
 - (a) shall ascertain whether the individual is included in the list kept under section 1 above, or the list kept for the purposes of regulations made under section 218(6) of the 1988 Act; and
 - (b) if he is included in either list, shall not offer him employment in such a position.
- (2) Where a child care organisation proposes to offer employment in a child care position to an individual who has been supplied by an organisation which carries on an employment agency, or an agency for the supply of nurses, there is a sufficient compliance with subsection (1) above if the child care organisation—
 - (a) satisfies itself that, on a date within the last 12 months, the other organisation ascertained whether the individual was included in the list kept under section 1 above, or the list kept for the purposes of regulations made under section 218(6) of the 1988 Act;
 - (b) obtains written confirmation of the facts as ascertained by that organisation; and
 - (c) if the individual was included in either list on that date, does not offer him employment in a child care position.
- (3) It is immaterial for the purposes of subsection (1) or (2) above whether the individual is already employed by the child care organisation.
- (4) Any reference in this section to inclusion in the list kept for the purposes of regulations made under subsection (6) of section 218 of the 1988 Act is a reference to inclusion in that list on the grounds mentioned in subsection (6ZA)(c) of that section.

8 Searches of both lists under Part V of Police Act 1997

- (1) After subsection (3) of section 113 of the Police Act 1997 (criminal record certificates) there shall be inserted the following subsections—

“(3A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s suitability for a position (whether paid or unpaid) within subsection (3B), the criminal record certificate shall also state—

- (a) whether the applicant is included in the list kept under section 1 of the Protection of Children Act 1999, or the list kept for the purposes of regulations made under section 218(6) of the Education Reform Act 1988; and
- (b) if he is included in either list, such details of his inclusion as may be prescribed, including (in the case of the latter list) the grounds on which he is so included.

(3B) A position is within this subsection if it is—

- (a) a child care position within the meaning of the Protection of Children Act 1999;
- (b) a position employment or further employment in which may be prohibited or restricted by regulations made under subsection (6) of section 218 of the Education Reform Act 1988;
- (c) a position such that the holder’s access to persons aged under 19 may be prohibited or restricted by regulations under subsection (6A) of that section; or
- (d) a position of such other description as may be prescribed;

and the reference to employment or further employment in paragraph (b) shall be construed in accordance with subsection (13) of that section.”

- (2) After subsection (6) of section 115 of that Act (enhanced criminal record certificates) there shall be inserted the following subsection—

“(6A) If an application under this section is accompanied by a statement by the registered person that the certificate is required for the purpose of considering the applicant’s suitability for a position (whether paid or unpaid) falling within subsection (3B) of section 113, the enhanced criminal record certificate shall also state—

- (a) whether the applicant is included in the list kept under section 1 of the Protection of Children Act 1999, or the list kept for the purposes of regulations made under section 218(6) of the Education Reform Act 1988; and
- (b) if he is included in either list, such details of his inclusion as may be prescribed, including (in the case of the latter list) the grounds on which he is so included.”

9 The Tribunal

- (1) There shall be a tribunal (“the Tribunal”) which shall exercise the jurisdiction conferred on it by section 4 and regulations made under section 6 above.

- (2) The Secretary of State may by regulations make provision about the proceedings of the Tribunal on an appeal or determination under section 4 or regulations made under section 6 above.
- (3) The regulations may, in particular, include provision—
- (a) as to the manner in which appeals are to be instituted or applications for determinations are to be made;
 - (b) as to the period within which appeals are to be instituted;
 - (c) as to the circumstances in which applications for leave may be made;
 - (d) for enabling any functions which relate to applications for leave or other matters preliminary or incidental to an appeal or determination to be performed by the President, or by the chairman;
 - (e) for the holding of hearings in private in prescribed circumstances;
 - (f) for imposing reporting restrictions in prescribed circumstances;
 - (g) as to the persons who may appear on behalf of the parties;
 - (h) for granting any person such discovery or inspection of documents or right to further particulars as might be granted by a county court;
 - (i) for obtaining a medical report in a case where the decision appealed against was made on medical grounds;
 - (j) for requiring persons to attend to give evidence and produce documents;
 - (k) for authorising the administration of oaths to witnesses;
 - (l) for the determination of appeals or issues or applications for leave without a hearing in prescribed circumstances;
 - (m) as to the withdrawal of appeals or applications for determinations;
 - (n) for the award of costs or expenses;
 - (o) for taxing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be taxed in the county court);
 - (p) for the recording and proof of decisions and orders of the Tribunal;
 - (q) for enabling the Tribunal to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with the regulations; and
 - (r) for notification of the result of an appeal or determination to be given to such persons as may be prescribed.
- (4) Part I of the Arbitration Act 1996 shall not apply to any proceedings before the Tribunal but regulations may make provision corresponding to any provision of that Act.
- (5) Any person who without reasonable excuse fails to comply with—
- (a) any requirement imposed by the regulations by virtue of subsection (3)(f) above;
 - (b) any requirement in respect of the discovery or inspection of documents imposed by the regulations by virtue of subsection (3)(h) above; or
 - (c) any requirement imposed by the regulations by virtue of subsection (3)(j) above,
- is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) An appeal shall lie to the High Court on a point of law from a decision of the Tribunal.
- (7) The Schedule to this Act shall have effect with respect to the Tribunal.