



Criminal Justice and Court Services Act 2000

2000 CHAPTER 43

PART II

PROTECTION OF CHILDREN

Effect of disqualification from working with children

35 Persons disqualified from working with children: offences.

- [^{F1}(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 subsection (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 Part if—
- (a) he is included (otherwise than provisionally) in the list kept under section 1 of the ^{M1}Protection of Children Act 1999 (individuals considered unsuitable to work with children),
 - [^{F2}(b) he is subject to a direction under section 142 of the Education Act 2002 (prohibition from teaching, &c. given on the grounds that he is unsuitable to work with children,]

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- (c) he is included, on the grounds that he is unsuitable to work with children, in any list kept by the Secretary of State or the National Assembly for Wales of persons disqualified under section 470 or 471 of the ^{M2}Education Act 1996, or
- (d) he is subject to a disqualification order.

^{F3}(5)

- (6) An individual who is guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six 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 five years, or to a fine, or to both.]

Textual Amendments

- F1** Ss. 26-37 repealed (E.W.) (12.10.2009 for specified purposes, 30.3.2010 for specified purposes, 17.6.2013 in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 3**; S.I. 2010/1101, **art. 5**; S.I. 2012/2231, **art. 4** (with S.I. 2013/1180, **art. 2(b)**)
- F2** S. 35(4)(b) substituted (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, **Sch. 21 para. 128(2)** (with ss. 210(8), 214(4)); S.I. 2002/3185, **art. 5**, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**
- F3** S. 35(5) repealed (31.3.2003 for W., 1.6.2003 for E.) by 2002 c. 32, s. 206, 215(2), **Sch. 21 para. 128(3)**, **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/3158, **art. 5**, **Sch. Pt. II**; S.I. 2003/1115, **art. 3**

Modifications etc. (not altering text)

- C1** S. 35 applied (7.3.2005) by [The Disqualification from Working with Children \(Scotland\) Order 2005 \(S.I. 2005/267\)](#), **arts. 1, 2**

Marginal Citations

- M1** 1999 c. 14.
- M2** 1996 c. 56.

36 Meaning of “regulated position”.

[^{F1}(1) The regulated positions for the purposes of this Part are—

- (a) a position whose normal duties include work in an establishment mentioned in subsection (2),
- (b) a position whose normal duties include work on day care premises,
- (c) a position whose normal duties include caring for, training, 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 subsection (6),

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- (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.
- (2) The establishments referred to in subsection (1)(a) are—
- (a) an institution which is exclusively or mainly for the detention of children,
 - (b) a hospital which is exclusively or mainly for the reception and treatment of children,
 - (c) a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
 - (d) an educational institution,
 - (e) a children’s home or voluntary home,
 - (f) a home provided under section 82(5) of the ^{M3}Children Act 1989.
- (3) For the purposes of this section, 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 subsection (1)(c) and (d) do not include (respectively)—
- (a) caring for, training, 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 subsection (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this subsection, “carer” means a person who holds a position such as is mentioned in subsection (1)(c).
- (6) The positions mentioned in subsection (1)(g) are—
- (a) member of the governing body of an educational institution,
 - (b) member of a relevant local government body,
 - ^{F4}(ba) director of children’s services and director of adult social services of a local authority in England,]
 - (c) director of social services of a local authority ^{F5}in Wales],
 - (d) chief education officer of a ^{F6}local authority][^{F7}in Wales],
 - (e) charity trustee of a children’s charity,
 - (f) member of the Youth Justice Board for England and Wales,
 - ^{F8}(fa) Children’s Commissioner ^{F9}... appointed under Part 1 of the Children Act 2004,]
 - (g) Children’s Commissioner for Wales or deputy Children’s Commissioner for Wales,
 - (h) member, or chief executive, of the Children and Family Court Advisory and Support Service.
- (7) For the purposes of subsection (6), a person is a member of a relevant local government body if—
- (a) he is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions, of a local authority,
 - (b) he is a member of an executive of a local authority which discharges any such functions,
 - (c) he is a member of—

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- (i) a committee of an executive of a local authority, or
 - (ii) an area committee, or any other committee, of a local authority,

which discharges any such functions.
- (8) In its application to Northern Ireland, subsection (6) is to be read as mentioning also the following positions—
 - [^{F10}(a) a position whose normal duties consist wholly or mainly of the direction or oversight of the exercise of the functions of the Department of Health in Northern Ireland that are mentioned in subsection (8A).]
 - (b) member, or executive director of social work, of a [^{F11}Health and Social Care trust] established under Article 10 of the ^{M4}Health and Personal Social Services (Northern Ireland) Order 1991,
 - (c) member, or chief education officer, of an education and library board established under Article 3 of the ^{M5}Education and Libraries (Northern Ireland) Order 1986.
 - [^{F12}(d) Commissioner for Children and Young People for Northern Ireland appointed under the Commissioner for Children and Young People (Northern Ireland) Order 2003.]
- [^{F13}(8A) The functions referred to in subsection (8)(a) are those functions of the Department that relate to, or are exercised in connection with, the social care and children functions of Health and Social Care trusts (within the meaning given by Article 10A of the Health and Personal Social Services (Northern Ireland) Order 1991).]
- (9) Any reference in subsection (7) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (10) For the purposes of subsection (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.
- (11) For the purposes of this section, a charity is a children's charity if the individuals who are workers for the charity normally include individuals working in regulated positions.
- (12) For the purposes of this section, 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 subsection do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (13) For the purposes of this section, 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 subsection (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person,
 - [^{F14}(c) in relation to England—
 - (i) a person registered under Part 3 of the Childcare Act 2006, otherwise than as a childminder, for providing care on premises on which the child is cared for,

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- (ii) a person registered under Part 3 of that Act as a childminder who is providing early years or later years childminding (within the meaning of that Part of that Act) for the child,
 - (ca) in relation to Wales, a person registered under Part 10A of the Children Act 1989 for providing day care on premises on which the child is cared for, and]
 - (d) any person holding a position mentioned in subsection (6).
- (14) In this section—
- “area committee” has the same meaning as in section 18 of the ^{M6}Local Government Act 2000,
 - “detention” means detention by virtue of an order of a court or under an enactment,
 - [^{F15}“education functions” in relation to a local authority has the meaning given by section 579(1) of the Education Act 1996,]
 - “executive”, in relation to a local authority, has the same meaning as in Part II of the Local Government Act 2000,
 - “social services functions”, in relation to a local authority, has the same meaning as in the ^{M7}Local Authority Social Services Act 1970.
- (15) For the purpose of amending the definition of “regulated position”, the Secretary of State may by order make any amendment of this section (apart from this subsection) which he thinks appropriate.]

Textual Amendments

- F1** Ss. 26-37 repealed (E.W.) (12.10.2009 for specified purposes, 30.3.2010 for specified purposes, 17.6.2013 in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 3**; S.I. 2010/1101, **art. 5**; S.I. 2012/2231, **art. 4** (with S.I. 2013/1180, **art. 2(b)**)
- F4** S. 36(6)(ba) inserted (E.W.) (with effect in accordance with s. 18(9) of the commencing S.I.) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 7(3)(a)**; S.I. 2007/1792, **art. 2**
- F5** Words in s. 36(6)(c) inserted (E.W.) (with effect in accordance with s. 18(9) of the commencing S.I.) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 7(3)(b)**; S.I. 2007/1792, **art. 2**
- F6** Words in s. 36(6)(d) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1**, **Sch. 2 para. 49(2)**
- F7** Words in s. 36(6)(d) inserted (E.W.) (with effect in accordance with s. 18(9) of the commencing S.I.) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 7(3)(c)**; S.I. 2007/1792, **art. 2**
- F8** S. 36(6)(fa) inserted (15.11.2004) by [Children Act 2004 \(c. 31\)](#), s. 67(1), **Sch. 1 para. 11**
- F9** Words in s. 36(6)(fa) omitted (1.4.2014) by virtue of [Children and Families Act 2014 \(c. 6\)](#), s. 139(5), **Sch. 5 para. 9(2)**
- F10** S. 36(8)(a) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 188(2)**; S.R. 2022/102, **art. 2(b)**
- F11** Words in s. 36(8)(b) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 188(3)**; S.R. 2022/102, **art. 2(b)**
- F12** S. 36(8)(d) added (14.3.2003) by [The Commissioner for Children and Young People \(Northern Ireland\) Order 2003 \(S.I. 2003/439\)](#), **art. 1(2)(b)**, **Sch. 2 para. 16** (with **art. 27**)
- F13** S. 36(8A) inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 188(4)**; S.R. 2022/102, **art. 2(b)**
- F14** S. 36(13)(c)(ca) substituted for s. 36(13)(c) (6.4.2007) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 2 para. 39**; S.I. 2007/1019, **art. 4** (with **art. 6Sch. para. 5**)
- F15** Words in s. 36(14) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1**, **Sch. 2 para. 49(3)**

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Marginal Citations

- M3** 1989 c. 41.
M4 S.I. 1991/194 (N.I. 1).
M5 S.I. 1986/594 (N.I. 3).
M6 2000 c. 22.
M7 1970 c. 42.

37 Disqualification in Scotland or Northern Ireland.

- [^{F1}(1) The Secretary of State may by order provide that section 35 shall apply in relation to an individual falling within subsection (2) as it applies in relation to an individual who is disqualified from working with children.
- (2) An individual falls within this subsection if, under the law of Scotland or Northern Ireland, he is subject to a prohibition or disqualification which, in the opinion of the Secretary of State, corresponds to disqualification (by any of the means mentioned in section 35(4)) from working with children.]

Textual Amendments

- F1** Ss. 26-37 repealed (E.W.) (12.10.2009 for specified purposes, 30.3.2010 for specified purposes, 17.6.2013 in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 3**; S.I. 2010/1101, **art. 5**; S.I. 2012/2231, **art. 4** (with S.I. 2013/1180, **art. 2(b)**)

38 Rehabilitation of offenders.

- [^{F16}(1) Where a disqualification order is made in respect of an individual's conviction of an offence, the rehabilitation period which, in accordance with section 6 of the ^{M8}Rehabilitation of Offenders Act 1974, 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 Act.
- (2) In this section, "conviction" has the same meaning as in that Act.]

Textual Amendments

- F16** Ss. 26-38 repealed (E.W.) (12.10.2009 for specified purposes, 30.3.2010 for specified purposes) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 3**; S.I. 2010/1101, **art. 5**

Marginal Citations

- M8** 1974 c. 53.

Changes to legislation:

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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. 64(1)(a)(aa) substituted for s. 64(1)(a) by [2003 c. 44 s. 266\(2\)](#)
- s. 64(4A) inserted by [2003 c. 44 s. 266\(3\)](#)
- s. 64(5)(f) and word inserted by [2003 c. 44 s. 266\(4\)](#)
- s. 64(5)(f) words inserted by [2006 c. 52 Sch. 16 para. 185\(a\)](#)
- s. 64(5)(f) words inserted by [2012 c. 10 Sch. 21 para. 18](#)
- s. 64(5)(f) words inserted by [2012 c. 10 Sch. 22 para. 19](#)
- s. 64(6) amendment to earlier affecting provision [2003 c. 44 s. 266\(5\)](#) by [S.I. 2008/912 Sch. 1 para. 19\(15\)](#)
- s. 64(6) inserted by [2003 c. 44 s. 266\(5\)](#)
- s. 64(6) words repealed by [2004 c. 31 Sch. 5 Pt. 4](#)
- s. 64(8) words inserted by [2021 c. 11 Sch. 13 para. 38\(5\)](#)
- s. 85(7B) applied (with modifications) by [S.I. 2014/3141 Sch. 3 para. 5\(7\)](#)