



# Sexual Offences (Amendment) Act 2000

## 2000 CHAPTER 44

### 4 Meaning of “position of trust”.

- [<sup>F1</sup>(1) For the purposes of section 3 above, a person aged 18 or over (“ A ”) is in a position of trust in relation to a person under that age (“ B ”) if any of the four conditions set out below, or any condition specified in an order made by the Secretary of State by statutory instrument, is fulfilled.
- (2) The first condition is that A looks after persons under 18 who are detained in an institution by virtue of an order of a court or under an enactment, and B is so detained in that institution.
- (3) The second condition is that 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 under section 23(2) of the <sup>M1</sup> Children Act 1989 or Article 27(2) of the <sup>M2</sup> Children (Northern Ireland) Order 1995;
  - (b) accommodation is provided by a voluntary organisation under section 59(1) of that Act or Article 75(1) of that Order; or
  - (c) accommodation is provided by an authority under section 26(1) of the <sup>M3</sup> Children (Scotland) Act 1995,
- and B is resident, and is so provided with accommodation and maintenance or accommodation, in that place.
- (4) The third condition is that A looks after persons under 18 who are accommodated and cared for in an institution which is—
- (a) a hospital;
  - (b) a [<sup>F2</sup>residential care home, nursing home, mental nursing home or] private hospital;
  - [<sup>F3</sup>( bb ) provided by a care home service;]
  - (c) a community home, voluntary home, children’s home or residential establishment; or
  - (d) a home provided under section 82(5) of the <sup>M4</sup> Children Act 1989,
- and B is accommodated and cared for in that institution.

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- (5) The fourth condition is that A looks after persons under 18 who are receiving full-time education at an educational institution, and B is receiving such education at that institution.
- (6) No order shall be made under subsection (1) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (7) A person looks after persons under 18 for the purposes of this section if he is regularly involved in caring for, training, supervising or being in sole charge of such persons.
- (8) For the purposes of this section a person receives full-time education at an educational institution if—
- (a) he is registered or otherwise enrolled as a full-time pupil or student at the institution; or
  - (b) he receives education at the institution under arrangements with another educational institution at which he is so registered or otherwise enrolled.
- (9) In this section, except where the context otherwise requires—
- “ authority ” means—
- (a) in relation to Great Britain, a local authority; and
  - (b) in relation to Northern Ireland, an authority within the meaning given by Article 2(2) of the <sup>M5</sup> Children (Northern Ireland) Order 1995;
- [<sup>F4</sup> “ care home service ” has the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8); ]
- “ children’s home ” has—
- (a) in relation to England and Wales, the meaning which would be given by subsection (3) of section 63 of the <sup>M6</sup> Children Act 1989 if the reference in paragraph (a) of that subsection to more than three children were a reference to one or more children; and
  - (b) in relation to Northern Ireland, the meaning which would be given by Article 90(1) of the <sup>M7</sup> Children (Northern Ireland) Order 1995 if, in Article 91(2) of that Order, paragraphs (f) and (g) and the words after paragraph (h) were omitted;
- “ community home ” has the meaning given by section 53(1) of the <sup>M8</sup> Children Act 1989;
- “ hospital ” has—
- (a) in relation to England and Wales, the meaning given by section 128(1) of the <sup>M9</sup> National Health Service Act 1977;
  - (b) in relation to Scotland, the meaning given by section 108(1) of the <sup>M10</sup> National Health Service (Scotland) Act 1978; and
  - (c) in relation to Northern Ireland, the meaning given by Article 2(2) of the <sup>M11</sup> Health and Personal Social Services (Northern Ireland) Order 1972;
- “ mental nursing home ” has, in relation to England and Wales, the meaning given by section 22(1) of the <sup>M12</sup> Registered Homes Act 1984;
- “ nursing home ”—
- (a) in relation to England and Wales, has the meaning given by section 21(1) of the <sup>M13</sup> Registered Homes Act 1984;
  - (b) [<sup>F5</sup> . . . ] and
  - (c) in relation to Northern Ireland, has the meaning given by Article 16(1) of the <sup>M14</sup> Registered Homes (Northern Ireland) Order 1992;

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- “ private hospital ” [F<sup>6</sup> has ] —
- (a) in relation to Scotland, [F<sup>7</sup> the meaning given by section 12(2) of the <sup>M15</sup> Mental Health (Scotland) Act 1984 ] ; and
  - (b) in relation to Northern Ireland, [F<sup>8</sup> has ] the meaning given by Article 90(2) of the <sup>M16</sup> Mental Health (Northern Ireland) Order 1986;
- “ residential care home ”—
- (a) in relation to England and Wales, has the meaning given by section 1(2) of the <sup>M17</sup> Registered Homes Act 1984;
  - (b) [F<sup>9</sup> . . . ] and
  - (c) in relation to Northern Ireland, has the meaning given by Article 3(1) of the <sup>M18</sup> Registered Homes (Northern Ireland) Order 1992;
- “ residential establishment ” has the meaning given by section 93(1) of the <sup>M19</sup> Children (Scotland) Act 1995 as the meaning of that expression in relation to a place in Scotland;
- “ voluntary home ” has—
- (a) in relation to England and Wales, the meaning given by section 60(3) of the <sup>M20</sup> Children Act 1989; and
  - (b) in relation to Northern Ireland, the meaning given by Article 74(1) of the <sup>M21</sup> Children (Northern Ireland) Order 1995. ]

#### Textual Amendments

- F1** S. 4 repealed (E.W.N.I.) (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 45\(4\)](#), [Sch. 7](#); [S.I. 2004/874](#), art. 2
- F2** Words in s. 4(4)(b) repealed (S.) (1.4.2002) by [2001 asp 8](#), s. 79, [Sch. 3 para. 25\(2\)\(a\)](#); [S.S.I. 2002/162](#) art. 2(f)(h) (subject to arts. 3-13)
- F3** S. 4(4)(bb) inserted (S.) (1.4.2002) by [2001 asp 8](#), s. 79, [Sch. 3 para. 25\(2\)\(b\)](#); [S.S.I. 2002/162](#), [art. 2\(f\)\(h\)](#) (subject to arts. 3-13)
- F4** S. 4(9): definition of “care home service” inserted (S.) (1.4.2002) by [2001 asp 8](#), s. 79, [Sch. 3 para. 25\(3\)\(a\)](#); [S.S.I. 2002/162](#), [art. 2\(f\)\(h\)](#) (subject to arts. 3-13)
- F5** S. 4(9): para. (b) in the definition of “nursing home” repealed (1.4.2002) by [2001 asp 8](#), s. 79, [Sch. 3 para. 25\(3\)\(b\)](#); [S.S.I. 2002/162](#), [art. 2\(f\)\(h\)](#) (subject to arts. 3-13)
- F6** Word in s. 4(9) omitted (S.) (27.9.2005) by virtue of [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, [Sch. 1 para. 29\(2\)\(a\)](#)
- F7** Words in s. 4(9) substituted (S.) (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, [Sch. 1 para. 29\(2\)\(b\)](#)
- F8** Word in s. 4(9) inserted (S.) (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, [Sch. 1 para. 29\(2\)\(c\)](#)
- F9** S. 4(9): para. (b) in the definition of “residential care home” repealed (1.4.2002) by [2001 asp 8](#), s. 79, [Sch. 3 para. 25\(3\)\(c\)](#); [S.S.I. 2002/162](#), [art. 2\(f\)\(h\)](#) (subject to arts. 3-13)

#### Commencement Information

- I1** S. 4 wholly in force; s. 4 not in force at Royal Assent see s. 7(3); s. 4(1)- (3)(a)(b)(4)(5)-(9) in force for E.W.N.I. at 8.1.2001 by [S.I. 2000/3303](#), [art. 2](#); s. 4(1)(2)(3)(c)(4)(a)-(c)(5)-(9) in force for S. by [S.S.I. 2000/452](#), [art. 2\(d\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Sexual Offences (Amendment) Act 2000, Section 4. (See end of Document for details)

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**Marginal Citations**

- M1** 1989 c. 41.
- M2** S.I. 1995/755 (N.I. 2).
- M3** 1995 c. 36.
- M4** 1989 c. 41.
- M5** S.I. 1995/755 (N.I. 2).
- M6** 1989 c. 41.
- M7** S.I. 1995/755 (N.I. 2).
- M8** 1989 c. 41.
- M9** 1977 c. 49.
- M10** 1978 c. 29.
- M11** S.I. 1972/1265 (N.I. 14).
- M12** 1984 c. 23.
- M13** 1984 c. 23.
- M14** S.I. 1992/3204 (N.I. 20).
- M15** 1984 c. 36.
- M16** S.I. 1986/595 (N.I. 4).
- M17** 1984 c. 23.
- M18** S.I. 1992/3204 (N.I. 20).
- M19** 1995 c. 36.
- M20** 1989 c. 41.
- M21** S.I. 1995/755 (N.I. 2).

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