
STATUTORY INSTRUMENTS

2008 No. 1769

The Sexual Offences (Northern Ireland) Order 2008

PART 3

SEXUAL OFFENCES AGAINST CHILDREN

Offences against children under 18: abuse of position of trust

Positions of trust

28.—(1) For the purposes of Articles 23 to 26 a person (A) is in a position of trust in relation to another person (B) if—

- (a) any of the following paragraphs applies, or
- (b) any condition specified in an order made by the Secretary of State is met.

(2) This paragraph applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under a statutory provision, and B is so detained in that institution.

(3) This paragraph 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 under Article 27(2) of the 1995 Order, or
- (b) accommodation is provided by a voluntary organisation under Article 75(1) of that Order, and B is resident, and is so provided with accommodation and maintenance or accommodation, in that place.

(4) This paragraph applies if A looks after persons under 18 who are accommodated and cared for in one of the following institutions—

- (a) a hospital,
- (b) an independent clinic,
- (c) a residential care home or private hospital,
- (d) a voluntary home or children's home, or
- (e) a residential family centre,

and B is accommodated and cared for in that institution.

(5) This paragraph 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.

(6) This paragraph applies if A is appointed to be the guardian of B under Article 159 or 160 of the 1995 Order.

(7) This paragraph applies if A regularly has unsupervised contact with B (whether face to face or by any other means) in the exercise of functions of an authority under Article 21 or 23 of the 1995 Order.

(8) This paragraph applies if A, as a person who is to report to the court under Article 4 of the 1995 Order on matters relating to the welfare of B, regularly has unsupervised contact with B (whether face to face or by any other means).

(9) This paragraph applies if A is a personal adviser appointed for B under Article 34A(10) or 34C(2) of the 1995 Order, and, in that capacity, looks after B on an individual basis.

(10) This paragraph 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.

(11) This paragraph applies if A is appointed to be the guardian ad litem of B under Article 60(1) of the 1995 Order, and, in that capacity, regularly has unsupervised contact with B (whether face to face or by any other means).

(12) This paragraph applies if—

- (a) B is subject to requirements imposed by or under a statutory provision 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.