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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 478**

**CHILDREN**

**The Disqualification for Caring for Children  
Regulations (Northern Ireland) 1996**

*Made - - - - 8th October 1996*

*Coming into operation 4th November 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995<sup>(1)</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Disqualification for Caring for Children Regulations (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In these Regulations “the Order” means the Children (Northern Ireland) Order 1995.

**Disqualification from fostering a child privately or registration under Part XI of the Order**

2. For the purposes of Articles 109 (persons disqualified from being private foster parents) and 122 (persons disqualified from child minding or providing day care) of the Order, a person is disqualified from fostering a child privately or registering under Article 118 of the Order (registration for child minding and day care) if—

- (a) he is a parent of a child who at any time has been made the subject of an order under—
  - (i) Article 50(1)(a) of the Order (care order),
  - (ii) section 31(1)(a) of the Children Act 1989<sup>(2)</sup> (care order),
  - (iii) section 44(1) of the Social Work (Scotland) Act 1968<sup>(3)</sup> (supervision requirement);
- (b) one of the following orders has been made at any time with respect to a child so as to remove the child from his care or prevent the child living with him—
  - (i) an order under Article 50(1)(a) of the Order (care order),
  - (ii) any order that would have been deemed to be a care order by virtue of paragraph 11, 12 or 30 of Schedule 8 to the Order (transitional provisions for children in

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(1) S.I.1995/755 (N.I. 2)

(2) 1989 c. 41

(3) 1968 c. 49

- compulsory care) had it been in operation immediately before the day on which Part V of the Order comes into operation,
- (iii) a fit person order or training school order made under the Children and Young Persons Act (Northern Ireland) 1968(4) or the Children and Young Persons Act (Northern Ireland) 1950(5),
  - (iv) a parental rights order under section 104 of the Children and Young Persons Act (Northern Ireland) 1968(6) or section 82 of the Children and Young Persons Act (Northern Ireland) 1950,
  - (v) an order under section 31(1)(a) of the Children Act 1989 or an order under section 1(3)(c) or 7(7)(a) of the Children and Young Persons Act 1969(7) (care orders),
  - (vi) any other order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the Children Act 1989 (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part IV of that Act came into force,
  - (vii) a supervision order which imposes a residence requirement under section 12AA of the Children and Young Persons Act 1969(8) (requirement that young offender live in local authority accommodation), or
  - (viii) an approved school order or a fit person order under section 9(1)(a) or (b) of the Children and Young Persons Act 1933(9) or section 61(1)(a) or (b) of the Children and Young Persons (Scotland) Act 1937(10);
- (c) a supervision requirement has been imposed under section 44(1) of the Social Work (Scotland) Act 1968 at any time with respect to any child for the purpose of removing that child from his care, or his rights and powers with respect to any child had at any time been vested in a local authority in Scotland under that Act or the Children Act 1948(11);
- (d) an order has been made at any time, for the purposes of removing a child who was being kept, or was about to be received, by him, under—
- (i) Article 35 of the Adoption (Northern Ireland) Order 1987(12) (removal of protected children from unsuitable surroundings),
  - (ii) section 34 of the Adoption Act 1976(13) or section 43 of the Adoption Act 1958(14) (removal of protected children from unsuitable surroundings), or
  - (iii) section 34 of the Adoption (Scotland) Act 1978(15) (removal of protected children from unsuitable surroundings);
- (e) an order removing a child from his care has been made at any time under—

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(4) 1968 c. 34 (N.I.)

(5) 1950 c. 5 (N.I.); the whole Act was repealed by Schedule 8 to the Children and Young Persons Act (Northern Ireland) 1968, except for certain provisions which are not relevant to these Regulations

(6) Part VI of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(7) 1969 c. 54; sections 1(3)(c) and 7(7)(a) were repealed by Schedule 15 to the Children Act 1989

(8) Section 12AA was inserted by paragraph 23 of Schedule 12 to the Children Act 1989 and amended by Schedule 13 to the Criminal Justice Act 1991 (c. 53)

(9) 1933 c. 12; section 9 was repealed by the Schedule to the Scrap Metal Dealers Act 1964 (c. 69)

(10) 1937 c. 37; section 61 was repealed by Schedule 9 to the Social Work (Scotland) Act 1968

(11) 1948 c. 43; the whole Act, as it extends to Scotland, was repealed by Schedule 9 to the Social Work (Scotland) Act 1968

(12) S.I. 1987/2203 (N.I. 22); Article 35 is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(13) 1976 c. 36; section 34 was repealed by Schedule 15 to the Children Act 1989

(14) 1958 c. 5; the whole Act was repealed by Schedule 4 to the Adoption Act 1976

(15) 1978 c. 28

- (i) section 8(1) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(16)</sup> or section 6(1) of the Children and Young Persons Act (Northern Ireland) 1950 (removal of foster children),
  - (ii) section 12 of the Foster Children Act 1980<sup>(17)</sup> or Part I of the Children Act 1958<sup>(18)</sup> (removal of foster children), or
  - (iii) section 12 of the Foster Children (Scotland) Act 1984<sup>(19)</sup> (removal of foster children);
- (f) he has been convicted of any offence mentioned in the Schedule;
- (g) there has been a refusal to register a voluntary home in relation to an application made by him under—
- (i) Article 80 of the Order (application for registration),
  - (ii) section 127(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1968<sup>(20)</sup> or section 99(2) and (3) of the Children and Young Persons Act (Northern Ireland) 1950 (application for registration), or
  - (iii) paragraph 1(1) and (2) of Schedule 5 to the Children Act 1989 or section 57(2) and (3) of the Child Care Act 1980<sup>(21)</sup> (application for registration);
- (h) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a voluntary home which was removed from the register under—
- (i) Article 82 of the Order (cancellation of registration),
  - (ii) Article 87 of the Order (appeals),
  - (iii) section 127(4) of the Children and Young Persons Act (Northern Ireland) 1968 or section 99(4) of the Children and Young Persons Act (Northern Ireland) 1950 (cancellation of registration),
  - (iv) section 128 of the Children and Young Persons Act (Northern Ireland) 1968 or section 100 of the Children and Young Persons Act (Northern Ireland) 1950 (appeals),
  - (v) paragraph 1(4) of Schedule 5 to the Children Act 1989 or section 57(4) of the Child Care Act 1980 (cancellation of registration), or
  - (vi) paragraph 5 of Schedule 5 to the Children Act 1989 or section 58 of the Child Care Act 1980 (appeals);
- (i) there has been a refusal to register a registered children’s home in relation to an application made by him under—
- (i) Article 96 of the Order (application for registration), or
  - (ii) paragraph 1 of Schedule 6 to the Children Act 1989 (application for registration);
- (j) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a registered children’s home and that home was removed from the register under—
- (i) Article 98 of the Order (cancellation of registration),
  - (ii) Article 103 of the Order (appeals),
  - (iii) paragraph 4 of Schedule 6 to the Children Act 1989 (cancellation of registration), or

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<sup>(16)</sup> Part I of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(17)</sup> 1980 c. 6; the whole Act was repealed by Schedule 15 to the Children Act 1989

<sup>(18)</sup> 1958 c. 65; the whole Act was repealed by the Foster Children Act 1980

<sup>(19)</sup> 1984 c. 56

<sup>(20)</sup> Part VIII of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

<sup>(21)</sup> 1980 c. 5; the whole Act was repealed by Schedule 15 to the Children Act 1989

- (iv) paragraph 8 of Schedule 6 to the Children Act 1989 (appeals);
- (k) he is a person in respect of whom a prohibition has been imposed under—
  - (i) Article 110 of the Order (power to prohibit private fostering),
  - (ii) a notice in writing is given by a Board or Health and Social Services trust under section 1(3) of the Children and Young Persons Act (Northern Ireland) 1968 (withholding consent to the care and maintenance of a child being undertaken by a person),
  - (iii) section 69 of the Children Act 1989, section 10 of the Foster Children Act 1980 or Part I of the Children Act 1958 (power to prohibit private fostering), or
  - (iv) section 10 of the Foster Children (Scotland) Act 1984 (power to prohibit private fostering);
- (l) he has at any time been refused registration in respect of nurseries, day care or child minding or had any such registration cancelled under—
  - (i) Part XI of the Order (child minding and day care for young children),
  - (ii) section 11(5) (refusal to register) or section 15 (cancellation of registration) of the Children and Young Persons Act (Northern Ireland) 1968,
  - (iii) Part X of the Children Act 1989 (child minding and day care for young children), or
  - (iv) section 1 (refusal to register) or section 5 (cancellation of registration) of the Nurseries and Child-Minders Regulation Act 1948<sup>(22)</sup>; or
- (m) he has at any time been refused registration or had such registration cancelled under section 62 of the Social Work (Scotland) Act 1968<sup>(23)</sup> (registration of establishments).

Sealed with the Official Seal of the Department of Health and Social Services on 8th October 1996.

L.S.

*P. A. Conliffe*  
Assistant Secretary

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<sup>(22)</sup> 1948 c. 53; the whole Act was repealed by Schedule 15 to the Children Act 1989

<sup>(23)</sup> Section 62 was amended by section 3 of the Registered Establishments (Scotland) Act 1987 (c. 40)

## SCHEDULE

Regulation 2(f)

### Offences which disqualify persons from private fostering and registering under Article 118 of the Order

1. Offences specified in Schedule 1 to the Children and Young Persons Act (Northern Ireland) 1968(24), the Homosexual Offences (Northern Ireland) Order 1982(25), Schedule 1 to the Children and Young Persons Act 1933(26) and Schedule 1 to the Criminal Procedure (Scotland) Act 1975(27).

2. Any offence involving injury or threat of injury to another person.

3. Offences under any of the following—

- (a) Article 37(1)(b) or (c) of the Adoption (Northern Ireland) Order 1987(28), section 36(1)(b) or (c) of the Adoption Act 1976(29) or section 36(1)(b) or (c) of the Adoption (Scotland) Act 1978 (refusing to allow the visiting of a protected child or inspection of the premises or refusing to comply with or obstructing the removal of the child);
- (b) Article 63(15), 68 or 69(9) of the Order, section 9(1)(e) and (f), 32(3), 140(6) 144(3) of the Children and Young Persons Act (Northern Ireland) 1968(30), section 44(15), 49 or 50(9) of the Children Act 1989, section 17(8) or 71 of the Social Work (Scotland) Act 1968, sections 6 to 10 of the Child Abduction Act 1984(31) or section 32(3) of the Children and Young Persons Act 1969(32); (offences of intentional obstruction of a person executing an emergency protection order, a place of safety order, or abduction or obstruction of lawful recovery of an abducted child);
- (c) Article 132 of the Order, section 14 of the Children and Young Persons Act (Northern Ireland) 1968 or section 78 of the Children Act 1989 (providing day care or acting as a child minder in unregistered premises or contravening an enforcement order);
- (d) Article 79(3) of the Order, section 127(5) or 129(3) of the Children and Young Persons Act (Northern Ireland) 1968(33), section 99(5) or 101(3) of the Children and Young Persons Act (Northern Ireland) 1950, paragraph 1(5) of Schedule 5 to the Children Act 1989, section 57(5) of the Child Care Act 1980 or section 29(5) of the Children Act 1948 (carrying on a voluntary home without it being registered or in contravention of a condition attached to registration);
- (e) Article 95(3) of the Order or section 63(10) of the Children Act 1989 (caring for and accommodating a child in a children's home which is not registered), or Article 97(4) of

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(24) 1968 c. 34 (N.I.); Schedule 1 has been amended by Article 12 of, and Schedule 1 to, the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6)); Article 7(2) of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I. 17)); Schedule 5 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) and paragraph 54 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)). Reference in the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) to offences under Schedule 1 include an offence under the Protection of Children (Northern Ireland) Order 1978

(25) S.I. 1982/1536 (N.I. 19)

(26) 1933 c. 12; Schedule 1 has been amended by sections 48 and 51 of, and Schedules 3 and 4 to, the Sexual Offences Act 1956 (c. 69), section 1(5) of the Protection of Children Act 1978 (c. 37) as supplemented by section 160 of the Criminal Justice Act 1988 (c. 33) and further amended by section 170 of, and paragraphs 8 and 9 of Schedule 15 to, that Act and Schedule 16 to that Act

(27) 1975 c. 21; Schedule 1 has been amended by section 21 of, and Schedules 1 and 2 to, the Sexual Offences (Scotland) Act 1976 (c. 67). Section 3(2) of, and Schedule 2 to, the Incest and Related Offences Act 1986 (c. 36) and section 170 of, and paragraphs 50 and 51 of Schedule 15 to, the Criminal Justice Act 1988

(28) Article 37(1)(c) is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(29) Section 36(1)(c) was repealed by Schedule 15 to the Children Act 1989

(30) Part I and section 32 of the Act are repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

(31) 1984 c. 37

(32) 1969 c. 54; section 32(3) was amended by paragraph 16 of Schedule 2 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41)

(33) Part VIII of the Act is repealed from 4th November 1996 by Schedule 10 to the Children (Northern Ireland) Order 1995

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- the Order or paragraph 2(3) of Schedule 6 to the Children Act 1989 (breach of conditions attaching to registration of registered children's home);
- (f) Article 117 of the Order, section 9(1) of the Children and Young Persons Act (Northern Ireland) 1968, section 2(8) of the Children and Young Persons Act (Northern Ireland) 1950, section 70 of the Children Act 1989, section 16 of the Foster Children Act 1980, section 14 of the Children Act 1958 or section 15 of the Foster Children (Scotland) Act 1984 (offences in respect of private fostering);
  - (g) section 6(5), 60(3), 61, 62 or 68(3) of the Social Work (Scotland) Act 1968 (refusal of registration and offences in respect of day care or residential care);
  - (h) the common law offence in Scotland of plagium (theft of a child below the age of puberty);
  - (i) section 52(1)(a) or section 52A of the Civic Government (Scotland) Act 1982<sup>(34)</sup> (offences relating to indecent photography of children).
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#### EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations specify various circumstances in which a person—

- (a) is disqualified from fostering a child privately; and
- (b) is disqualified from being registered as a child minder on domestic premises or as a person who provides day care for children under the age of 12 on non-domestic premises.

Articles 109(1) and (2) and 122(1) and (2) of the Children (Northern Ireland) Order 1995 are the enabling provisions under which these Regulations are made. They were brought into operation on 18th July 1996 by virtue of Article 2(1) of, and Schedule 1 to, the Children (1995 Order) (Commencement No. 3) Order (Northern Ireland) 1996 ([S.R. 1996 No. 297 \(C. 17\)](#)).

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<sup>(34)</sup> 1982 c. 45; section 52A was inserted by section 161 of the Criminal Justice Act 1988