



Protection of Children Act 1999

1999 CHAPTER 14

Supplemental

10 Power to extend protection of Act

- (1) The Secretary of State may by order made by statutory instrument provide that this Act shall have effect as if—
 - (a) the references to children in sections 1(1), 2(7)(b), 3(3)(b) and 4(3)(b) above and section 12(1) below included references to persons aged 18 or over who are suffering from mental impairment; and
 - (b) the references to a child in sections 2(2)(a), (7)(a) and (9)(a), 3(3)(a) and 4(3)(a) and (4) above included references to a person aged 18 or over who is suffering from such impairment.
- (2) The power to make an order under this section shall include power to make such consequential, supplemental, incidental or transitional provision as the Secretary of State thinks fit.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

11 Financial provisions

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State under or by virtue of this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

12 Interpretation

- (1) In this Act—

“the 1988 Act” means the Education Reform Act 1988;

Status: This is the original version (as it was originally enacted).

“agency for the supply of nurses” has the same meaning as in the Nurses Agencies Act 1957;

“child” means a person aged under 18;

“child care organisation” means an organisation—

- (a) which is concerned with the provision of accommodation, social services or health care services to children or the supervision of children;
- (b) whose activities are regulated by or by virtue of any prescribed enactment; and
- (c) which fulfils such other conditions as may be prescribed;

“child care position” means a position which—

- (a) is concerned with the provision of accommodation, social services or health care services to children or the supervision of children;
- (b) is such as to enable the holder to have regular contact with children in the course of his duties; and
- (c) is not a position within subsection (3) below;

“the Consultancy Service Index” means the list kept under that name by the Secretary of State;

“employment”—

- (a) means any employment, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract; and
- (b) includes an office established by or by virtue of a prescribed enactment, and references to an individual being employed shall be construed accordingly;

“employment agency” has the same meaning as in the Employment Agencies Act 1973;

“harm” has the same meaning as in section 31 of the Children Act 1989;

“mental impairment” means a state of arrested or incomplete development of mind which includes a significant impairment of intelligence and social functioning;

“organisation” means a body corporate or unincorporate or an individual who employs others in the course of a business;

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Tribunal” means the tribunal established under section 9 above.

- (2) Where part of an organisation fulfils the condition in paragraph (b) of the above definition of “child care organisation” and part of it does not, this Act shall have effect as if the two parts were separate organisations.
- (3) A position is within this subsection if—
 - (a) employment or further employment in it may be prohibited or restricted by regulations made under section 218(6) of the 1988 Act; and
 - (b) it is not a position at an independent school which is a children’s home for the purposes of Part VIII of the Children Act 1989.
- (4) Regulations under this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

13 Transitional provisions

- (1) Where—
 - (a) an individual who is or has been employed in a child care position has been referred by an organisation to the Secretary of State for inclusion in the Consultancy Service Index;
 - (b) the reference has not been determined at the commencement of section 2 above; and
 - (c) any of the conditions mentioned in subsection (2), or the condition mentioned in subsection (3), of that section was fulfilled in relation to the reference,that section shall apply as if the reference had been a reference made by the organisation under subsection (1) of that section.
- (2) For the purposes of subsection (1) above, a reference of an individual for inclusion in that Index is determined only when, following the reference—
 - (a) the individual is included (otherwise than provisionally) in the Index; or
 - (b) the Secretary of State determines that he should not be included in it.
- (3) In relation to any time before the commencement of section 8 above, any organisation seeking to ascertain whether an individual to whom it proposes to offer a child care position or, in the case of an organisation which carries on an employment agency or an agency for the supply of nurses, with whom it proposes to do business is included in—
 - (a) the list kept under section 1 above; or
 - (b) the list kept for the purposes of regulations made under section 218(6) of the 1988 Act,shall be entitled to that information on making application for the purpose to the Secretary of State.
- (4) Subsection (3)(b) above is without prejudice to any right conferred otherwise than by virtue of that provision.

14 Short title, commencement and extent

- (1) This Act may be cited as the Protection of Children Act 1999.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) This Act, except section 8 and this section, extends to England and Wales only.
- (4) Section 8 above and this section extend to Northern Ireland.