



Criminal Justice and Court Services Act 2000

2000 CHAPTER 43

PART II

PROTECTION OF CHILDREN

Modifications etc. (not altering text)

- C1** Pt. II applied (E.W.) (11.2.2008 for specified purposes, 20.1.2009 in so far as not already in force) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), s. 65, [Sch. 3 para. 3\(5\)\(a\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2007/3545, art. 4(a); S.I. 2009/39, art. 2(1)(k)

Disqualification orders

26 Meaning of “offence against a child”.

- [^{F1}(1) For the purposes of this Part, an individual commits an offence against a child if—
- (a) he commits any offence mentioned in paragraph 1 of Schedule 4,
 - (b) he commits against a child any offence mentioned in paragraph 2 of that Schedule, or
 - (c) he falls within paragraph 3 of that Schedule,
- and references to being convicted of, or charged with, an offence against a child are to be read accordingly.
- (2) The Secretary of State may by order amend Schedule 4 so as to add, modify or omit any entry.]

Extent Information

- E1** s.26 extends to UK. See s.81(1)(2)(a) for the extent

Status: Point in time view as at 01/04/2014.

Changes to legislation: Criminal Justice and Court Services Act 2000, Part II is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- F1** Ss. 26-37 repealed (E.W.) (12.10.2009 for specified purposes, 30.3.2010 for specified purposes, 17.6.2013 in so far as not already in force) by [Safeguarding Vulnerable Groups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)**)

27 Equivalent armed forces offences.

[^{F1}(1) For the purposes of this Part, an individual is treated as being convicted of or (as the case may be) charged with an offence against a child if he is convicted of or charged with an equivalent armed forces offence.

(2) In subsection (1), “equivalent armed forces offence” means [^{F2}an offence under section 42 of the Armed Forces Act 2006] constituted by an act or omission which—

- (a) is an offence against a child, or
- (b) would, if committed in England or Wales, be an offence against a child.

[^{F3}(3) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of subsection (2) of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (2) of this section.]]

Extent Information

- E2** s.27 extends to UK. see s.81(1)(2)(a) for the extent

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** Words in s. 27(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 179(2)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F3** S. 27(3) substituted for s. 27(3)-(5) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 179(3)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

28 Disqualification from working with children: adults.

[^{F1}(1) This section applies where either of the conditions set out below is satisfied in the case of an individual.

(2) The first condition is that—

- (a) the individual is convicted of an offence against a child committed when he was aged 18 or over, and
- (b) a qualifying sentence is imposed by a [^{F4}superior court] in respect of the conviction.

(3) The second condition is that—

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- (a) the individual is charged with an offence against a child committed when he was aged 18 or over, and
 - (b) a relevant order is made by a [^{F5}superior court] in respect of the act or omission charged against him as the offence.
- (4) Subject to subsection (5), the court must order the individual to be disqualified from working with children.
- (5) An order shall not be made under this section if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.
- (6) If the court does not make an order under this section, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.]

Extent Information

E3 s.28 extends to UK.see s.81(1)(2)(a) for the extent

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** Words in s. 28(2)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 35\(a\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F5** Words in s. 28(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 35\(a\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

29 Disqualification from working with children: juveniles.

- [^{F1}(1) This section applies where either of the conditions set out below is satisfied in the case of an individual.
- (2) The first condition is that—
- (a) the individual is convicted of an offence against a child committed at a time when the individual was under the age of 18, and
 - (b) a qualifying sentence is imposed by a [^{F6}superior court] in respect of the conviction.
- (3) The second condition is that—
- (a) the individual is charged with an offence against a child committed at a time when the individual was under the age of 18, and
 - (b) a relevant order is made by a [^{F7}superior court] in respect of the act or omission charged against him as the offence.
- (4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.
- (5) If the court makes an order under this section, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.]

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Extent Information

E4 s.29 extends to UK. see s.81(1)(2)(a) for the extent

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\(b\)](#))
- F6** Words in s. 29(2)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 35\(b\)](#); S.I. 2009/1604, art. 2(d)
- F7** Words in s. 29(3)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 35\(b\)](#); S.I. 2009/1604, art. 2(d)

^{F1}29A Disqualification at discretion of court: adults and juveniles

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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\(b\)](#))

^{F1}29B Subsequent application for order under section 28 or 29

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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\(b\)](#))

30 Sections 28 and 29: supplemental.

[^{F1}(1) In sections 28 and this section—

“guardianship order” means a guardianship order within the meaning of the Army Act 1955, the Air Force Act 1955, the Naval Discipline Act 1957 or the Mental Health Act 1983,

“qualifying sentence” means—

- ((a)) a sentence of imprisonment for a term of 12 months or more,
- ((b)) a sentence of detention in a young offender institution for a term of 12 months or more,
- ((c)) a sentence of detention during Her Majesty’s pleasure,

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- ((d)) a sentence of detention for a period of 12 months or more under section 91 of the M5Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
 - ((e)) a detention and training order for a term of 12 months or more,
 - ((f)) a sentence of detention for a term of 12 months or more imposed by a court-martial or the Courts-Martial Appeal Court,
 - ((g)) a hospital order within the meaning of the Mental Health Act 1983, or
 - ((h)) a guardianship order
- “relevant order” means—
- ((a)) an order made by the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court that the individual in question be admitted to hospital, or
 - ((b)) a guardianship order,
- “senior court” means the Crown Court, the Court of Appeal, a court-martial or the Courts-Martial Appeal Court.
- (2) The reference to detention in paragraph (f) of the above definition of “qualifying sentence” includes a reference to detention by virtue of a custodial order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the Army Act 1955,
 - (b) in relation to an individual on whom a sentence has been passed, or in relation to whom an order has been made, as mentioned in subsection (2) or (3) of section 28 or 29, references to his sentence are to that sentence or order.]

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\(b\)](#))

31 Appeals.

- [^{F1}(1) An individual may appeal against a disqualification order—
- (a) where the first condition mentioned in section 28 or 29 is satisfied in his case, as if the order were a sentence passed on him for the offence of which he has been convicted,
 - (b) where the second condition mentioned in section 28 or 29 is satisfied in his case, as if he had been convicted of an offence on indictment and the order were a sentence passed on him for the offence.
- [^{F8}(c) where an order is made under section 29A, as if the order were a sentence passed on him for the offence of which he has been convicted.]
- (2) In relation to a disqualification order made by [^{F9}the Court Martial], subsection (1)(b) has effect as if the reference to conviction on indictment were a reference to conviction by [^{F9}the Court Martial].]

Extent Information

- E5** s.31 extends to UK.see s.81(1)(2)(a) for the extent

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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)**)
- F8** S. 31(1)(c) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 30 para. 4**; S.I. 2004/829, art. 3(1)(2)(a)
- F9** Words in s. 31(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 181**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

32 Review of disqualification.

- [^{F1}(1) Subject to section 33, an individual who is subject to a disqualification order may make an application to the Tribunal under this section.
- (2) On an application under this section the Tribunal must determine whether or not the individual is to continue to be subject to the order.
- (3) If the Tribunal is satisfied that the individual is suitable to work with children, it must direct that the order is to cease to have effect; otherwise it must dismiss the application.]

Extent Information

- E6** s.32 extends to UK.see s.81(1)(2)(a) for the extent

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)**)

33 Conditions for application under section 32.

- [^{F1}(1) An individual may only make an application under section 32 with the leave of the Tribunal.
- (2) An application for leave under this section may not be made unless the appropriate conditions are satisfied in the individual's case.
- (3) In the case of an individual who was under the age of 18 when he committed the offence against a child, the appropriate conditions are satisfied if—
- at least five years have elapsed since the relevant date, and
 - in the period of five years ending with the time when he makes the application under this section, he has made no other such application.
- (4) In the case of any other individual, the appropriate conditions are satisfied if—
- at least ten years have elapsed since the relevant date, and
 - in the period of ten years ending with the time when he makes the application under this section, he has made no other such application.

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- (5) The Tribunal may not grant an application under this section unless it considers—
- (a) that the individual’s circumstances have changed since the order was made or, as the case may be, since he last made an application under this section, and
 - (b) that the change is such that leave should be granted.
- (6) In this section, “the relevant date” means—
- (a) in relation to an individual whose sentence is an actual term of custody, the day on which he is released or, if later, the day on which the disqualification order is made,
 - (b) in relation to an individual whose sentence is suspended and does not take effect, the day on which the disqualification order is made,
 - (c) in relation to an individual whose sentence is an order for admission to hospital—
 - (i) if he is detained in a hospital pursuant to the order, the day on which he ceases to be liable to be detained there, or
 - (ii) if he is not so detained, the day on which the disqualification order is made,
 - (d) in relation to an individual whose sentence is a guardianship order, the day on which the disqualification order is made.
- [^{F10}(e) in relation to an individual not falling within any of paragraphs (a) to (d), the day on which the disqualification order is made.]
- (7) In this section—
- “actual term of custody” means a term of imprisonment or detention which is not suspended, or is suspended but takes effect,
 - “guardianship order” has the same meaning as in section 30,
 - “order for admission to hospital” means—
 - (a) ^{F11}...
 - (b) a hospital order within the meaning of the ^{M1}Mental Health Act 1983.
- [^{F12}(8) In subsection (7) “detention” means detention (or detention and training)—
- (a) under any sentence or order falling within paragraphs (b) to [^{F13}(e)] of the definition of “qualifying sentence” in section 30(1), or
 - (b) under any sentence or order which would fall within those paragraphs if it were for a term or period of 12 months or more.]]

Extent Information

E7 s.33 extends to UK.see s.81(1)(2)(a) for the extent

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)**)
- F10** S. 33(6)(e) inserted (E.W.) (1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 30 para. 5(2)**; S.I. 2004/829, **art. 3(1)(2)(a)**
- F11** Words in s. 33(7) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 182(a)**, **Sch. 17**; S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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F12 S. 33(8) substituted (E.W.)(1.5.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 30 para. 5(3)**; [S.I. 2004/829](#), art. 3(1)(2)(a)

F13 Word in s. 33(8)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 182(b)**; [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

Marginal Citations

M1 [1983 c. 20](#).

34 Restoration of disqualification order.

[^{F1}(1) If it appears to a chief officer of police or [^{F14}a director of social services of a local authority][^{F14}a director of children’s services of a local authority in England or a director of social services of a local authority in Wales] that the conditions set out in subsection (2) are satisfied in the case of an individual, the chief officer or (as the case may be) the director may apply to the High Court for an order under this section to be made in respect of the individual.

(2) The conditions are that—

- (a) a disqualification order made in respect of the individual is no longer in force, and
- (b) the individual has acted in such a way (whether before or after the order ceased to be in force) as to give reasonable cause to believe that an order under this section is necessary to protect children in general, or any children in particular, from serious harm from him.

(3) An application under this section may be made at any time after the disqualification order ceased to be in force.

(4) If the High Court is satisfied that the conditions set out in subsection (2) are satisfied, it must order that the disqualification order is to be restored; otherwise it must dismiss the application.

(5) Where an order is made under this section, section 33 has effect with the following modifications—

- (a) in subsection (3), the reference to the individual being under the age of 18 when he committed the offence against a child is to be read as a reference to his being under that age when the order under this section was made,
- (b) in subsections (3)(a) and (4)(a), references to the relevant date are to be read as references to the date on which the order under this section was made,
- (c) in subsection (5)(a), the reference to the individual’s circumstances changing since the disqualification order was made is to be read as a reference to his circumstances changing since the order under this section was made.

(6) For the purposes of this section a disqualification order is no longer in force if a direction under section 32(3) has been given in respect of it and it is not restored by virtue of an order under this section.]

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 \(c. 47\)](#),

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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)**)

F14 Words in s. 34(1) substituted (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(2)**; S.I. 2007/1792, art. 2

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 ^{M2}Protection of Children Act 1999 (individuals considered unsuitable to work with children),
 - [^{F15}(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,]
 - (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 ^{M3}Education Act 1996, or
 - (d) he is subject to a disqualification order.
- ^{F16}(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)**)

F15 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**

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F16 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)

C2 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

M2 1999 c. 14.

M3 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),
- (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 ^{M4}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

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- (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,
 - [^{F17}(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 [^{F18}in Wales],
 - (d) chief education officer of a [^{F19}local authority][^{F20}in Wales],
 - (e) charity trustee of a children’s charity,
 - (f) member of the Youth Justice Board for England and Wales,
 - [^{F21}(fa) Children’s Commissioner ^{F22}... 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—
 - (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—
- (a) member, or director of social services, of a Health and Social Services Board established under Article 16 of the ^{M5}Health and Personal Social Services (Northern Ireland) Order 1972,
 - (b) member, or executive director of social work, of a Health and Social Services trust established under Article 10 of the ^{M6}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 ^{M7}Education and Libraries (Northern Ireland) Order 1986.
 - [^{F23}(d) Commissioner for Children and Young People for Northern Ireland appointed under the Commissioner for Children and Young People (Northern Ireland) Order 2003.]
- (9) Any reference in subsection (7) to a committee includes a reference to any sub-committee which discharges any functions of that committee.

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- (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,
 - [^{F24}(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,
 - (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 ^{M8}Local Government Act 2000,
- “detention” means detention by virtue of an order of a court or under an enactment,
- [^{F25}“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 ^{M9}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.]

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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\(b\)](#))
- F17** 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
- F18** 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
- F19** 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\(2\)](#)
- F20** 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
- F21** S. 36(6)(fa) inserted (15.11.2004) by [Children Act 2004 \(c. 31\)](#), s. 67(1), [Sch. 1 para. 11](#)
- F22** 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\(2\)](#)
- F23** 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)
- F24** 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)
- F25** 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\(3\)](#)

Marginal Citations

- M4** 1989 c. 41.
- M5** S.I. 1972/1265 (N.I. 14).
- M6** S.I. 1991/194 (N.I. 1).
- M7** S.I. 1986/594 (N.I. 3).
- M8** 2000 c. 22.
- M9** 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\(b\)](#))

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38 Rehabilitation of offenders.

[^{F26}(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 ^{M10}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

F26 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

M10 1974 c. 53.

Indecent conduct towards children

^{F27}39 Extension of offence: conduct towards 14 and 15 year olds.

.....

Textual Amendments

F27 S. 39 repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, **Sch. 6** para. 44(2), **Sch. 7**; S.I. 2004/874, **art. 2**

40 Extension of corresponding Northern Ireland offence: conduct towards 14 to 16 year olds.

[^{F28}(1) The Children and Young Persons Act (Northern Ireland) 1968 is amended as follows.

(2) At the end of section 22 (indecent conduct towards child) there is inserted—

“(2) In this section, “child” means a person under the age of seventeen.”

(3) In section 180(1) (interpretation), in the definition of “child”—

- (a) after “ “child”” there is inserted “ , except when used in section 22, ”, and
- (b) at the end there is inserted “ and, when used in section 22, has the meaning assigned to it by that section ”.]

Textual Amendments

F28 S. 40 repealed (N.I.) (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769\)](#), art. 1(3), **Sch. 1** para. 28, **Sch. 3**; S.R. 2008/510, **art. 2**

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Indecent photographs of children: increase of maximum penalties

41 Indecent photographs of children: increase of maximum penalties.

- (1) In section 6(2) of the ^{M11}Protection of Children Act 1978 (punishments), for “three” there is substituted “ ten ”.
- (2) In Article 3(4)(a) of the ^{M12}Protection of Children (Northern Ireland) Order 1978 (indecent photographs of children), for “three” there is substituted “ ten ”.
- (3) In section 160 of the ^{M13}Criminal Justice Act 1988 (summary offence of possession of indecent photograph of child)—
 - (a) after subsection (2) there is inserted—

“(2A) A person shall be liable on conviction on indictment of an offence under this section to imprisonment for a term not exceeding five years or a fine, or both.”,
 - (b) for the sidenote there is substituted “ Possession of indecent photograph of child ”.
- (4) In Article 15 of the ^{M14}Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (summary offence of possession of indecent photograph of child)—
 - (a) after paragraph (2) there is inserted—

“(2A) A person shall be liable on conviction on indictment of an offence under paragraph (1) to imprisonment for a term not exceeding five years or a fine, or both.”,
 - (b) for the heading there is substituted “ Possession of indecent photograph of child ”.

Marginal Citations

- M11** 1978 c. 37.
M12 S.I. 1978/1047 (N.I. 17).
M13 1988 c. 33.
M14 S.I. 1988/1847 (N.I. 17).

General

42 Interpretation of Part II.

- (1) In this Part—

^{F29}
...

“care home” has the same meaning as in the ^{M15}Care Standards Act 2000,
[^{F30}“charity trustee” has the same meaning as in the Charities Act 2011],
“child” means a person under the age of 18,
“children’s home” has—

 - (a) in relation to England and Wales, the same meaning as in the Care Standards Act 2000,
 - (b) in relation to Northern Ireland, the meaning which would be given by Article 90(1) of the ^{M16}Children (Northern Ireland) Order 1995 if, in

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- Article 91(2) of that Order, sub-paragraphs (a), (f) and (g) and the words after sub-paragraph (h) were omitted,
- “Class A drug” has the same meaning as in the ^{M17}Misuse of Drugs Act 1971,
- [^{F31}“day care premises” means—
- (a) in relation to England, premises in respect of which a person is registered, otherwise than as a childminder, under Part 3 of the Childcare Act 2006,
- (b) in relation to Wales, premises in respect of which a person is registered under Part 10A of the Children Act 1989 for providing day care,]
- [^{F32}“disqualification order” has the meaning given by section 30,]
- “educational institution” means an institution which is exclusively or mainly for the provision of full-time education to children,
- “employment” means paid employment, whether under a contract of service or apprenticeship or under a contract for services,
- “hospital” has—
- (a) in relation to England and Wales, the meaning given by section 128(1) of [^{F33}the National Health Service Act 2006 or the National Health Service (Wales) Act 2006],
- (b) in relation to Northern Ireland, the meaning given by Article 2(2) of the ^{M18}Health and Personal Social Services (Northern Ireland) Order 1972,
- “local authority” has the same meaning as in the ^{M19}Education Act 1996,
- “nursing home” has the meaning given by Article 16 of the ^{M20}Registered Homes (Northern Ireland) Order 1992,
- “private hospital” has the meaning given by Article 90(2) of the ^{M21}Mental Health (Northern Ireland) Order 1986,
- “residential care home” has the meaning given by Article 3 of the ^{M22}Registered Homes (Northern Ireland) Order 1992,
- “the Tribunal” means the [^{F34}First-tier Tribunal],
- “voluntary home” has the meaning given by Article 74(1) of the ^{M23}Children (Northern Ireland) Order 1995,
- “work” includes—
- (a) work of any kind, 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) an office established by or by virtue of an enactment,
- and “working” is to be read accordingly.

F35

Textual Amendments

- F29** Words in s. 42(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 183\(a\)](#), [Sch. 17](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F30** Words in s. 42(1) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 91](#) (with s. 20(2), [Sch. 8](#)) (substituting words themselves substituted immediately before the Charities Act 2011 (c. 25) comes into force by [The Charities \(Pre-consolidation Amendments\) Order 2011 \(S.I. 2011/1396\)](#), [art. 1](#), [Sch. para. 48\(a\)](#))

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- F31** Words in s. 42(1) substituted (6.4.2007) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 40](#); S.I. 2007/1019, art. 4 (with art. 6Sch. para. 6)
- F32** Words in s. 42(1) 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 (see S.I. 2013/1180, art. 2(b))
- F33** Words in s. 42(1) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 213](#) (with Sch. 3 Pt. 1)
- F34** Words in s. 42(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\), art. 1\(1\), Sch. 3 para. 189](#)
- F35** S. 42(2) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 183\(b\), Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M15** 2000 c. 14.
M16 S.I. 1995/755 (N.I. 2).
M17 1971 c. 38.
M18 S.I. 1972/1265 (N.I. 14).
M19 1996 c. 56.
M20 S.I. 1992/3204 (N.I. 20).
M21 S.I. 1986/595 (N.I. 4).
M22 S.I. 1992/3204 (N.I. 20).
M23 S.I. 1995/755 (N.I. 2).

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