



Sexual Offences (Amendment) Act 2000

2000 CHAPTER 44

4 Meaning of “position of trust”.

[^{F1}(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 ^{M1} Children Act 1989 or Article 27(2) of the ^{M2} 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 ^{M3} 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 [^{F2}residential care home, nursing home, mental nursing home or] private hospital;

[^{F3}(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 ^{M4} Children Act 1989,

and B is accommodated and cared for in that institution.

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)

- (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 ^{M5} Children (Northern Ireland) Order 1995;
- [^{F4} “ 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 ^{M6} 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 ^{M7} 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 ^{M8} Children Act 1989;
- “ hospital ” has—
- (a) in relation to England and Wales, the meaning given by section 128(1) of the ^{M9} National Health Service Act 1977;
 - (b) in relation to Scotland, the meaning given by section 108(1) of the ^{M10} National Health Service (Scotland) Act 1978; and
 - (c) in relation to Northern Ireland, the meaning given by Article 2(2) of the ^{M11} 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 ^{M12} Registered Homes Act 1984;
- “ nursing home ”—
- (a) in relation to England and Wales, has the meaning given by section 21(1) of the ^{M13} Registered Homes Act 1984;
 - (b) [^{F5} . . .] and
 - (c) in relation to Northern Ireland, has the meaning given by Article 16(1) of the ^{M14} Registered Homes (Northern Ireland) Order 1992;

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)

- “ private hospital ” [F6 has] —
- (a) in relation to Scotland, [F7 the meaning given by section 12(2) of the M15 Mental Health (Scotland) Act 1984] ; and
 - (b) in relation to Northern Ireland, [F8 has] the meaning given by Article 90(2) of the M16 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 M17 Registered Homes Act 1984;
 - (b) [F9 . . .] and
 - (c) in relation to Northern Ireland, has the meaning given by Article 3(1) of the M18 Registered Homes (Northern Ireland) Order 1992;
- “ residential establishment ” has the meaning given by section 93(1) of the M19 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 M20 Children Act 1989; and
 - (b) in relation to Northern Ireland, the meaning given by Article 74(1) of the M21 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\(d\)](#)

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)

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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