



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 1

#### SEXUAL OFFENCES

##### *Abuse of position of trust*

#### **21 Positions of trust**

- (1) For the purposes of sections 16 to 19, a person (A) is in a position of trust in relation to another person (B) if—
  - (a) any of the following subsections applies, or
  - (b) any condition specified in an order made by the Secretary of State is met.
- (2) This subsection applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under an enactment, and B is so detained in that institution.
- (3) This subsection 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 section 23(2) of the Children Act 1989 (c. 41) or Article 27(2) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), or
  - (b) accommodation is provided by a voluntary organisation under section 59(1) of that Act or 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 subsection 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 care home, residential care home or private hospital,

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*Status: Point in time view as at 01/04/2005. This version of this provision has been superseded.*

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- (d) a community home, voluntary home or children's home,
  - (e) a home provided under section 82(5) of the Children Act 1989, or
  - (f) a residential family centre,
- and B is accommodated and cared for in that institution.
- (5) This subsection 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 subsection applies if A is appointed to be the guardian of B under Article 159 or 160 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).
- (7) This subsection applies if A is engaged in the provision of services under, or pursuant to anything done under—
- (a) sections 8 to 10 of the Employment and Training Act 1973 (c. 50), or
  - (b) section 114 of the Learning and Skills Act 2000 (c. 21),
- and, in that capacity, looks after B on an individual basis.
- (8) This subsection applies if A regularly has unsupervised contact with B (whether face to face or by any other means)—
- (a) in the exercise of functions of a local authority under section 20 or 21 of the Children Act 1989 (c. 41), or
  - (b) in the exercise of functions of an authority under Article 21 or 23 of the Children (Northern Ireland) Order 1995.
- (9) This subsection applies if A, as a person who is to report to the court under section 7 of the Children Act 1989 or Article 4 of the Children (Northern Ireland) Order 1995 on matters relating to the welfare of B, regularly has unsupervised contact with B (whether face to face or by any other means).
- (10) This subsection applies if A is a personal adviser appointed for B under—
- (a) section 23B(2) of, or paragraph 19C of Schedule 2 to, the Children Act 1989, or
  - (b) Article 34A(10) or 34C(2) of the Children (Northern Ireland) Order 1995,
- and, in that capacity, looks after B on an individual basis.
- (11) This subsection 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.
- (12) This subsection applies if A—
- (a) is an officer of the Service [<sup>F1</sup>or Welsh family proceedings officer (within the meaning given by section 35 of the Children Act 2004)] appointed for B under section 41(1) of the Children Act 1989,
  - (b) is appointed a children's guardian of B under rule 6 or rule 18 of the Adoption Rules 1984 (S.I. 1984/265), or
  - (c) is appointed to be the guardian ad litem of B under rule 9.5 of the Family Proceedings Rules 1991 (S. I. 1991/1247) or under Article 60(1) of the Children (Northern Ireland) Order 1995,

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and, in that capacity, regularly has unsupervised contact with B (whether face to face or by any other means).

(13) This subsection applies if—

- (a) B is subject to requirements imposed by or under an enactment 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.

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**Textual Amendments**

- F1** Words in s. 21(12)(a) inserted (E.W.) (1.4.2005) by [Children Act 2004 \(c. 31\)](#), ss. 40, 67, [Sch. 3 para. 18](#); S.I. 2005/700, [art. 2\(2\)](#)

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