



# Sexual Offences Act 2003

## 2003 CHAPTER 42

### PART 1

#### SEXUAL OFFENCES

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

## 21 Positions of trust

- [<sup>F1</sup>(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) <sup>F2</sup> . . . , or
  - (b) accommodation is provided by a voluntary organisation under section 59(1) of that Act <sup>F3</sup> . . . ,
- 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, <sup>F4</sup> . . .
  - (d) a community home, voluntary home or children's home, [<sup>F5</sup>or]

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*Status: Point in time view as at 02/02/2009. This version of this provision has been superseded.*  
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- (e) a home provided under section 82(5) of the Children Act 1989, <sup>F6</sup> . . .
- (f) <sup>F7</sup> . . . . .

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) <sup>F8</sup> . . . . .

(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
  - [<sup>F9</sup>(b) section 68, 70(1)(b) or 74 of the Education and Skills Act 2008.]
- 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), <sup>F10</sup> . . .
- (b) <sup>F10</sup> . . . . .

(9) This subsection applies if A, as a person who is to report to the court under section 7 of the Children Act 1989 <sup>F11</sup> . . . 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, <sup>F12</sup> . . .
- (b) <sup>F12</sup> . . . . .

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>F13</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) <sup>F14</sup> . . . ,

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

(13) This subsection applies if—

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- (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.]

#### Textual Amendments

- F1** Ss. 16-24 repealed (N.I.) (2.2.2009) by The Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), arts. 1, 78(b), **Sch. 3** (with Sch. 2 par. 1); S.R. 2008/510, **art. 2**
- F2** Words in s. 21(3)(a) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(2)(a)**; S.R. 2008/510, **art. 2**
- F3** Words in s. 21(3)(b) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(2)(b)**; S.R. 2008/510, **art. 2**
- F4** Words in s. 21(4)(c) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(a)**; S.R. 2008/510, **art. 2**
- F5** Word in s. 21(4)(d) inserted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(b)**; S.R. 2008/510, **art. 2**
- F6** Word in s. 21(4)(e) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(c)**; S.R. 2008/510, **art. 2**
- F7** S. 21(4)(f) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(3)(d)**; S.R. 2008/510, **art. 2**
- F8** S. 21(6) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(4)**; S.R. 2008/510, **art. 2**
- F9** S. 21(7)(b) substituted (26.1.2009) by Education and Skills Act 2008 (c. 25), ss. 169(1), 173(4), **Sch. 1 para. 81**; S.I. 2008/3077, **art. 4(g)**
- F10** S. 21(8)(b) and preceding word omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(5)**; S.R. 2008/510, **art. 2**
- F11** Words in s. 21(9) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(6)**; S.R. 2008/510, **art. 2**
- F12** S. 21(10)(b) and preceding word omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(7)**; S.R. 2008/510, **art. 2**
- F13** 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)**
- F14** Words in s. 21(12)(c) omitted (2.2.2009) by virtue of The Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779), arts. 2(3), **6(8)**; S.R. 2008/510, **art. 2**

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