



Sexual Offences Act 2003

2003 CHAPTER 42

PART 1 **E+W+N.I.**

SEXUAL OFFENCES

Abuse of position of trust

21 Positions of trust **E+W+N.I.**

- [^{F1}(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) ^{F2} . . . , or
 - (b) accommodation is provided by a voluntary organisation under section 59(1) of that Act ^{F3} . . . ,
- 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) [^{F4}in Wales,] an independent clinic,
 - (c) a care home, ^{F5} . . .
 - (d) a community home, voluntary home or children's home, [^{F6}or]

Status: Point in time view as at 01/10/2010. This version of this provision has been superseded.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,^{F7} . . .
- (f) ^{F8}
- 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) ^{F9}
- (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
- [^{F10}(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),^{F11} . . .
- (b) ^{F11}
- (9) This subsection applies if A, as a person who is to report to the court under section 7 of the Children Act 1989^{F12} . . . 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,^{F13} . . .
- (b) ^{F13}
- 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 [^{F14}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)^{F15} . . . ,
- 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)(b) inserted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **art. 13(2)**
- F5** 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**
- F6** 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**
- F7** 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**
- F8** 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**
- F9** 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**
- F10** 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)**
- F11** 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**
- F12** 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**
- F13** 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**
- F14** 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)**
- F15** 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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