
STATUTORY INSTRUMENTS

1991 No. 2094

The Disqualification for Caring for Children Regulations 1991

Citation commencement interpretation and extent

1.—(1) These Regulations may be cited as the Disqualification for Caring for Children Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations unless the context otherwise requires—

- (a) “the Act” means the Children Act 1989;
- (b) any reference to a Schedule is to the Schedule to these Regulations.

(3) These Regulations extend to Scotland only in so far as they provide for disqualification from registration under Part X of the Act (childminding and day care).

Disqualification from fostering a child privately or registration under Part X of the Act

2. For the purpose of section 68 (persons disqualified from being private foster parents) and of paragraph 2 of Schedule 9 to the Act (disqualification from registration), a person is disqualified from fostering a child privately or registering under section 71 of the Act (registration for child-minding and day-care) if—

- (a) he is a parent of a child who at any time has been made the subject of an order under section 31(1)(a) of the Act (care order);
- (b) one of the following orders has been made at any time with respect to a child so as to remove the child from his care or prevent the child living with him—
 - (i) an order under section 31(1)(a) of the Act or an order under section 1(3)(c) or 7(7) (a) of the Children and Young Persons Act 1969(1) (care orders),
 - (ii) any other order that would have been deemed to be a care order by virtue of paragraph 15 of Schedule 14 to the Act (transitional provisions for children in compulsory care) had it been in force immediately before the day on which Part IV of the Act comes into force,
 - (iii) a supervision order which imposes a residence requirement under section 12AA of the Children and Young Persons Act 1969(2) (requirement that young offender live in local authority accommodation),
 - (iv) an approved school order or a fit person order under section 9(1)(a) or (b) of the Children and Young Persons Act 1933(3) or section 61(1)(a) or (b) of the Children and Young Persons (Scotland) Act 1937(4), or
 - (v) a fit person order, parental rights order or a training school order under the Children and Young Persons Act (Northern Ireland) 1968(5), or the Children and Young Persons Act (Northern Ireland) 1950(6);

(1) 1969 c. 54.

(2) Section 12AA was inserted by paragraph 23 of Schedule 12 to the Children Act 1989.

(3) 1933 c. 12.

(4) 1937 c. 37.

(5) 1968 c. 34 (N.I.).

- (c) a supervision requirement has been imposed under the Social Work (Scotland) Act 1968(7) at any time with respect to any child for the purpose of removing that child from his care;
- (d) his rights and powers with respect to the child had at any time been vested in a local authority in Scotland under the Social Work (Scotland) Act 1968 or the Children Act 1948(8);
- (e) an order has been made at any time, for the purposes of removing a child who was being kept, or was about to be received, by him, under—
 - (i) section 34 of the Adoption Act 1976(9) or section 43 of the Adoption Act 1958(10) (removal of protected children from unsuitable surroundings),
 - (ii) section 34 of the Adoption (Scotland) Act 1978(11) (removal of protected children from unsuitable surroundings), or
 - (iii) article 35 of the Adoption (Northern Ireland) Order 1987(12) (removal of protected children from unsuitable surroundings);
- (f) an order removing a child from his care has been made at any time under—
 - (i) section 12 of the Foster Children Act 1980(13) or Part I of the Children Act 1958(14) (removal of foster children),
 - (ii) section 12 of the Foster Children (Scotland) Act 1984(15) (removal of foster children), or
 - (iii) section 8(1) of the Children and Young Persons Act (Northern Ireland) 1968 or section 6(1) of the Children and Young Persons Act (Northern Ireland) 1950 (removal of foster children);
- (g) he has been convicted of any offence mentioned in the Schedule;
- (h) he is a person who carried on, or was otherwise concerned with the management of, or had any financial interest in, a voluntary home which was removed from the register under
 - (i) section 57(4) of the Child Care Act 1980(16),
 - (ii) paragraph 1(4) of Schedule 5 to the Act,
 - (iii) section 99(4) of the Children and Young Persons Act (Northern Ireland) 1950, or
 - (iv) section 127(4) of the Children and Young Persons Act (Northern Ireland) 1968;
- (i) there has been a refusal to register a voluntary home in relation to an application made by him under—
 - (i) section 57(3) of the Child Care Act 1980(17),
 - (ii) paragraph 1(2) of Schedule 5 to the Act,
 - (iii) paragraph 5 of Schedule 5 to the Act,
 - (iv) section 99(3) of the Children and Young Persons Act (Northern Ireland) 1950, or

(6) 1950 c. 5 (N.I.).

(7) 1968 c. 49.

(8) 1948 c. 43.

(9) 1976 c. 36. Section 34 of the Adoption Act 1976 was repealed on 14th October 1991 by Schedule 15 of the Children Act 1989 (Commencement and Transitional Provisions) Order 1991 (S.I.1991/828).

(10) 1958 c. 5; this was repealed by the Adoption Act 1976.

(11) 1978 c. 28.

(12) S.I. 1987/2203 (N.I. 22).

(13) 1980 c. 6.

(14) 1958 c. 65; this was repealed by the Foster Children Act 1980.

(15) 1984 c. 56.

(16) 1980 c. 5. Section 57(4) was amended by section 11 of and paragraph 39 of Schedule 4, Part II to the Health and Social Services and Social Security Adjudications Act 1983.

(17) Section 57(3) was amended by section 11 of and paragraph 39 of Schedule 4, Part II to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

- (v) section 127(3) of the Children and Young Persons Act (Northern Ireland) 1968;
- (j) there has been a refusal to register a registered children's home in relation to an application made by him under paragraph 1 of Schedule 6 to the Act (application for registration);
- (k) he is a person who carried on or was otherwise concerned with the management of or had any financial interest in a registered children's home and that home was removed from the register under paragraph 4 of Schedule 6 to the Act (cancellation of registration);
- (l) he is a person in respect of whom a prohibition has been imposed under—
 - (i) section 69 of the Act (power to prohibit private fostering),
 - (ii) section 10 of the Foster Children Act 1980 or Part I of the Children Act 1958 (power to prohibit private fostering), or
 - (iii) section 10 of the Foster Children (Scotland) Act 1984, or a notice in writing is given by a Health and Social Services Board under section 1(3) of the Children and Young Persons Act (Northern Ireland) 1968⁽¹⁸⁾ (withholding consent to the care and maintenance of the child being undertaken by a person);
- (m) he has at any time been refused registration in respect of nurseries day care or child minding or had any such registration cancelled under—
 - (i) section 1 of the Nurseries and Child-Minders Regulation Act 1948⁽¹⁹⁾,
 - (ii) section 5 of the Nurseries and Child-Minders Regulation Act 1948,
 - (iii) Part X of the Act,
 - (iv) section 11(5) of the Children and Young Persons Act (Northern Ireland) 1968, or
 - (v) section 15 of the Children and Young Persons Act (Northern Ireland) 1968.
- (n) he has at any time been refused registration or had such registration cancelled under section 62 of the Social Work (Scotland) Act 1968⁽²⁰⁾(registration of establishments).

Disqualification in relation to voluntary homes

3.—(1) A person who is disqualified under section 68 of the Act from fostering a child privately shall not carry on, or be otherwise concerned in the management of, or have any financial interest in, a voluntary home unless he has—

- (a) disclosed to the Secretary of State the fact that he is so disqualified; and
 - (b) obtained his written consent.
- (2) No person shall employ a person who is so disqualified in a voluntary home unless he has—
- (a) disclosed to the Secretary of State the fact that that person is so disqualified; and
 - (b) obtained the written consent of the Secretary of State.
- (3) Where the Secretary of State refuses to give his consent under this regulation he shall inform the person carrying on or intending to carry on the voluntary home by a written notice which states—
- (a) the reason for the refusal;
 - (b) the right to appeal against the refusal to a Registered Homes Tribunal under paragraph 5 of Schedule 5 to the Act; and
 - (c) the time within which he may do so.

⁽¹⁸⁾ Section 1(3) was amended by Schedule 16 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

⁽¹⁹⁾ 1948 c. 53. Section 1 was amended by section 60 of the Health Services and Public Health Act 1968 (c. 46).

⁽²⁰⁾ Section 62 was amended by section 3 of the Registered Establishments (Scotland) Act 1987 (c. 40).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) Any person who contravenes paragraph (1) or (2) of this regulation shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.

Signed by authority of the Secretary of State for Health.

16th September 1991

Virginia Bottomley
Minister of State,
Department of Health

17th September 1991

Michael Forsyth
Minister of State, Scottish Office