
STATUTORY INSTRUMENTS

2007 No. 723

The Childcare (Disqualification) Regulations 2007

Citation and commencement

1. These Regulations may be cited as the Childcare (Disqualification) Regulations 2007 and come into force on 6th April 2007.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Childcare Act 2006;

“the 1989 Act” means the Children Act 1989(1);

“the 2000 Act” means the Criminal Justice and Court Services Act 2000(2);

“direction” means a direction made, or which has effect as if made, under section 142 of the Education Act 2002(3) on the grounds set out in subsection (4)(a), (b) or (d) of that section;

“relevant order” and “senior court” have the same meanings as in section 30(1) of the 2000 Act.

(2) In these Regulations a person has been “found to have committed” an offence if—

(a) he has been convicted of an offence;

(b) he has been found not guilty of an offence by reason of insanity;

(c) he has been found to be under a disability and to have done the act charged against him in respect of such an offence; or

(d) on or after 6th April 2007 he has been given a caution(4) in respect of an offence by a police officer after he has admitted that offence.

(3) In these Regulations a person has been found to have committed an offence that is “related to” an offence if he has been found to have committed an offence of—

(a) attempting, conspiring or incitement to commit that offence; or

(b) aiding, abetting, counselling or procuring the commission of that offence.

Care of children and offences against children or adults

3.—(1) Subject to paragraph (9) and regulation 8, a person is disqualified from registration if any of the following provisions of this regulation apply to him.

(2) Any of the orders or other determinations specified in Schedule 1 has been made—

(a) with respect to him;

(1) 1989 c. 41.

(2) 2000 c. 43.

(3) 2002 c. 32.

(4) Section 75(6) of the Childcare Act 2006 provides that “caution” includes a reprimand or warning within the meaning of section 65 of the Crime and Disorder Act 1998 (c. 37).

- (b) which prevents him from being registered in relation to any facility in which children are looked after or from being involved in the management of or otherwise concerned with the provision of any such facility; or
 - (c) with respect to a child who has been in his care.
- (3) An order has been made with respect to him under section 104 of the Sexual Offences Act 2003~~(5)~~.
- (4) He has been found to have committed an offence against a child within the meaning of section 26(1) of the 2000 Act.
- (5) He—
- (a) has been found to have committed any offence specified in paragraph 1 of Schedule 2 or an offence that is related to such an offence; or
 - (b) falls within paragraph 2 of that Schedule,
- despite the fact that the statutory offences in that Schedule have been repealed.
- (6) He has been found to have committed any offence other than an offence referred to in paragraph (4) or (5) involving bodily injury to, or death of, a child.
- (7) He has been found to have committed any offence specified in Schedule 3 or an offence that is related to such an offence.
- (8) He has been—
- (a) found to have committed any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act or an offence that is related to such an offence; or
 - (b) charged with any offence, committed against a person aged 18 or over, mentioned in paragraph 2 of Schedule 4 to the 2000 Act or an offence that is related to such an offence in respect of which a relevant order has been imposed by a senior court.
- (9) A person shall not be disqualified from registration under paragraphs (1) to (8) in respect of any order, determination or offence if—
- (a) he has successfully appealed against the order, determination or conviction;
 - (b) a caution in respect of that offence has been withdrawn or set aside; or
 - (c) a direction based wholly or in part on the offence has been revoked.

Overseas offences

- 4.—(1) Subject to regulation 8, a person is disqualified from registration if he has been found to have done an act which—
- (a) constituted an offence under the law in force in a country outside the United Kingdom; and
 - (b) would constitute an offence requiring disqualification from registration under these Regulations if it had been done in any part of the United Kingdom.
- (2) In paragraph (1) a person has been “found to have done an act which constituted an offence” if, under the law in force in a country outside the United Kingdom—
- (a) he has been convicted of an offence (whether or not he has been punished for it);
 - (b) he has been cautioned in respect of an offence;
 - (c) a court exercising jurisdiction under that law has made in respect of an offence a finding equivalent to a finding that he is not guilty by reason of insanity; or

(d) such a court has made in respect of an offence a finding equivalent to a finding that he is under a disability and did the act charged against him.

(3) A person shall not be disqualified from registration under paragraph (1) in respect of any finding if, under the law in force in the country concerned, such finding has been reversed.

(4) An act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law for the purposes of this regulation however it is described in that law.

Protection of Children Act list

5. A person who is included in the list kept under section 1 of the Protection of Children Act 1999⁽⁶⁾ (list of those considered by the Secretary of State unsuitable to work with children) is disqualified from registration.

Direction in relation to the employment of teachers etc.

6.—(1) Subject to regulation 8, a person is disqualified from registration if any of the following provisions of this regulation apply to him.

(2) He is subject to a direction.

(3) He is a person in respect of whom an order has been made under article 70(2)(e) of the Education and Libraries (Northern Ireland) Order 1986 or article 8 of the Education and Libraries (Northern Ireland) Order 1987⁽⁷⁾.

Persons living or working on premises where a disqualified person lives

7. Subject to regulation 8, a person who lives—

- (a) in the same household as another person who is disqualified from registration; or
- (b) in a household in which any such person is employed,

is disqualified from registration.

Waivers

8.—(1) Subject to paragraph (3), where a person would be disqualified from registration by virtue of regulation 3, 4, 6(1) and 6(3) or 7 but that person has disclosed to the Chief Inspector the facts which would otherwise cause him to be disqualified, the Chief Inspector may give her consent to waive the disqualification and that person shall not, in respect of the facts so disclosed, be regarded as disqualified from registration for the purposes of regulations 3, 4, 6(1) and 6(3) or 7.

(2) Any consent given by the Chief Inspector under paragraph (1) shall be in writing and shall specify the extent to which the disqualification from registration is waived.

(3) In relation to a person who would be disqualified from registration by virtue of regulation 3(4), this regulation shall not apply where a court has made an order under section 28(4), 29(4) or 29A(2) of the 2000 Act.

Appeals

9. Any determination made by the Chief Inspector as to whether to give consent under regulation 8 is a prescribed determination for the purposes of section 74(2) of the Act.

⁽⁶⁾ 1999 c. 14.

⁽⁷⁾ S.I. 1986/594 (N.I.3). Article 70(2)(e) was substituted by article 8 of the 1987 Order (S.I. 1987/167) (N.I.2). The 1986 Order was amended by article 15 of the Protection of Children and Vulnerable Adults (N.I.) Order 2003 (S.I. 2003/417) (N.I.4).

Duty of disclosure

10.—(1) A person who has been registered under Chapter 4 of Part 3 of the Act has a continuing duty throughout the period of his registration to provide the Chief Inspector with the information listed in paragraph (2) in respect of the persons listed in paragraph (3) in relation to any order, determination, conviction or other ground for disqualification from registration under these Regulations.

(2) A registered person must provide the following information to the Chief Inspector for the purposes of paragraph (1)—

- (a) details of the precise nature of the order, determination, conviction or other ground for disqualification from registration;
- (b) the date when the order, determination or conviction was made or when any other ground for disqualification from registration arose;
- (c) the body or court by which any order, determination or conviction was made and the sentence, if any, imposed;
- (d) in relation to any order or conviction, a certified copy of the relevant order or court order.

(3) The persons in respect of whom the information listed in paragraph (2) must be supplied for the purposes of paragraph (1) are—

- (a) the registered person; and
- (b) any person who lives in the same household as the registered person or who is employed in that household.

(4) The information referred to in paragraph (2) must be provided to the Chief Inspector within 14 days of the time when the registered person became aware of that information or ought reasonably to have become aware of it if he had made reasonable enquiries.

(5) Any allegation that a registered person has failed to meet the requirements prescribed in this regulation may be taken into account by the Chief Inspector in the exercise of her functions under Part 3 of the Act.

(6) Any allegation that a registered person has failed to meet the requirements prescribed in this regulation may be taken into account in any proceedings under Part 3 of the Act.

6th March 2007

Beverley Hughes
Minister of State
Department for Education and Skills