

STATUTORY INSTRUMENTS

2003 No. 417 (N.I. 4)

The Protection of Children and Vulnerable
Adults (Northern Ireland) Order 2003

27th February 2003

FI

Annotations:

- F1** Order repealed (prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)) and the repeal being partly in operation, as to which see individual Articles

PART I

INTRODUCTORY

Title and commencement

1.

1.—^{F2}(1) This Order may be cited as the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003.

(2) This Part comes into operation on the expiration of two weeks from the date on which this Order is made.

(3) The remaining provisions of this Order come into operation on such day or days as the Department may by order appoint.

(4) An order under this Article may contain such transitional provisions as the Department thinks necessary or expedient.]

Annotations:

Subordinate Legislation Made

- P1** [Art. 1\(3\)](#) partly exercised: 30.11.2004 appointed by [S.R. 2004/466](#), **art. 2**;
1.4.2005 by [S.R. 2005/104](#), **art. 2**;
30.7.2007 by [S.R. 2007/334](#), **art. 2**
- F2** [Arts. 1-2, 22-34](#) repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); [S.R. 2009/346](#), **art. 4** (with arts. 5, 6, 7 (as amended by [S.R. 2010/145](#), arts. 6, 7, 8)); [S.R. 2010/145](#), **art. 3**

Interpretation: general

2.

2.—^[F3](1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“adult” means a person who is not a child;

“child” means a person under the age of 18;

“the Children Order” means the Children (Northern Ireland) Order 1995 (NI 2);

“the Department” means the Department of Health, Social Services and Public Safety;

“director of ^[F4]social care]” means—

(a) a director of ^[F4]social care] of a Health and Social Services Board; or

(b) an executive director of social work of a ^[F5]Health and Social Care trust] ;

“employment” (except in Article 31)—

(a) means any employment, whether paid or unpaid and whether under a contract of service or apprenticeship, under a contract for services, or otherwise than under a contract; and

(b) includes an office established by or by virtue of a prescribed statutory provision,

and references to an individual being employed shall be construed accordingly;

“employment agency” and “employment business” have the same meanings as in the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (NI 20); but no business which is an employment business shall be taken to be an employment agency;

^[F6]“nursing agency” and “nursing home” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;]

“organisation” means a body corporate or unincorporate or an individual who employs others in the course of a business;

“the Pre-Employment Consultancy Service Register” means the list kept under that name by the Department;

“prescribed” means prescribed by regulations;

^[F6]“the Regulation and Improvement Authority” means the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority;]

“regulations” means regulations made by the Department subject to negative resolution;

“residential care home” has the^[F6] same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003];

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).

(3) For the purposes of this Order, an individual is made redundant if—

(a) he is dismissed; and

(b) for the purposes of the Employment Rights (Northern Ireland) Order 1996 (NI 16) the dismissal is by reason of redundancy.]

Annotations:

F3 Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351\)](#)

- (N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**
- F4** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**
- F5** Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F6** 2003 NI 9

PART II

PROTECTION OF CHILDREN

^{F7}CHAPTER I

PERSONS UNSUITABLE TO WORK WITH CHILDREN

Annotations:

- F7** Pt. II Ch. I (arts. 3-21) repealed (12.10.2009) by Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch. (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8))

List of persons unsuitable to work with children

.....

Inclusion in list under Article 3

.....

Appeals and applications to Social Care Tribunal

.....

List in connection with prohibiting or restricting employment in schools, etc.

.....

Effect of inclusion in either list

.....

Supplementary

.....

CHAPTER II

DISQUALIFICATION FROM WORKING WITH CHILDREN

Disqualification orders

Meaning of “offence against a child”

22.

22.—^{F20}(1) For the purposes of this Chapter, an individual commits an offence against a child if—

- (a) he commits any offence mentioned in paragraph 1 of the Schedule,
- (b) he commits against a child any offence mentioned in paragraph 2 of the Schedule, or
- (c) he falls within paragraph 3 of the Schedule,

and references to being convicted of, or charged with, an offence against a child are to be read accordingly.

(2) The Department may by order amend the Schedule so as to add, modify or omit any entry.

(3) No order shall be made under paragraph (2) unless a draft of the order has been laid before and approved by resolution of the Assembly.]

Annotations:

F20 Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

Disqualification of adults from working with children

23.

23.—^{F21}(1) This Article applies where either of the conditions set out below is satisfied in the case of an individual.

(2) The first condition is that—

- (a) the individual is convicted on indictment of an offence against a child committed when he was aged 18 or over, and
- (b) a qualifying sentence is imposed by the court in respect of the conviction.

(3) The second condition is that—

- (a) the individual is charged on indictment with an offence against a child committed when he was aged 18 or over, and
- (b) a relevant order is made by the court in respect of the act or omission charged against him as the offence.

(4) Subject to paragraph (5), the court must order the individual to be disqualified from working with children.

(5) An order shall not be made under this Article if the court is satisfied, having regard to all the circumstances, that it is unlikely that the individual will commit any further offence against a child.

(6) If the court does not make an order under this Article, it must state its reasons for not doing so and cause those reasons to be included in the record of the proceedings.]

Annotations:

F21 Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

Disqualification of juveniles from working with children

24.

24.—^[F22](1) This Article applies where either of the conditions set out below is satisfied in the case of an individual.

(2) The first condition is that—

- (a) the individual is convicted on indictment of an offence against a child committed at a time when the individual was under the age of 18, and
- (b) a qualifying sentence is imposed by the court in respect of the conviction.

(3) The second condition is that—

- (a) the individual is charged on indictment with an offence against a child committed at a time when the individual was under the age of 18, and
- (b) a relevant order is made by the court in respect of the act or omission charged against him as the offence.

(4) If the court is satisfied, having regard to all the circumstances, that it is likely that the individual will commit a further offence against a child, it must order the individual to be disqualified from working with children.

(5) If the court makes an order under this Article, it must state its reasons for doing so and cause those reasons to be included in the record of the proceedings.]

Annotations:

F22 Arts. 1-2, 22-34 repealed (12.10.2009 for specified purposes, 7.4.2010 for specified purposes, otherwise prosp.) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(2), **Sch. 8** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 4** (with arts. 5, 6, 7 (as amended by S.R. 2010/145, arts. 6, 7, 8)); S.R. 2010/145, **art. 3**

Articles 23 and 24: supplementary

25.

25.—^[F23](1) In Articles 23 and 24—

“qualifying sentence” means—

- (a) a sentence of imprisonment for a term of 12 months or more,
- (b) an order for detention in a young offenders centre for a term of 12 months or more,
- (c) a sentence of detention during the pleasure of the Secretary of State under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (NI 9),
- (d) a hospital order within the meaning of the Mental Health (Northern Ireland) Order 1986 (NI 4), or
- (e) a guardianship order within the meaning of that Order;

“relevant order” means—

- (a) an order that the individual in question be admitted to hospital, or
- (b) a guardianship order within the meaning of the Mental Health (Northern Ireland) Order 1986.

(2) In this Chapter references to a sentence of imprisonment or order for detention include references to a suspended sentence or order.