

2010 No. 161

PROTECTION OF VULNERABLE ADULTS

**The Protection of Vulnerable Groups (Scotland) Act 2007
(Prescribed Services) (Protected Adults) Regulations 2010**

Made - - - - - *21st April 2010*

Laid before the Scottish Parliament *22nd April 2010*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 94(1)(b) and (d) of the Protection of Vulnerable Groups (Scotland) Act 2007(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 and come into force on the same day as section 44 of the Protection of Vulnerable Groups (Scotland) Act 2007.

Interpretation

2. In these Regulations—

“the Act” means the Protection of Vulnerable Groups (Scotland) Act 2007.

Prescribed services

3. For the purposes of section 94(1)(b)(i) and (ii) of the Act, a prescribed service is a service provided by a health body acting in exercise of functions conferred by the National Health Service (Scotland) Act 1978(b) which concerns the treatment, care and support of, and provision of advice and assistance to, individuals in relation to their health and well-being.

4. For the purposes of section 94(1)(b)(iii), (iv), (v) and (vi) of the Act, a prescribed service is a service provided by an independent health care service as defined by section 2(5) and section 77 of the Regulation of Care (Scotland) Act 2001(c) which concerns the treatment, care and support of, and provision of advice and assistance to, individuals in relation to their health and well-being.

5. For the purposes of section 94(1)(d) of the Act a prescribed welfare service is a welfare service(d) that—

(a) is provided in the course of work to one or more persons over the age of 16;

(a) 2007 asp 14. Section 97(1) contains a definition of “prescribed” relevant to the statutory powers under which these Regulations are made.

(b) 1978 c. 29.

(c) 2001 asp 8.

(d) Section 94(5) contains a definition of “welfare service”.

- (b) is delivered on behalf of an organisation;
- (c) requires training to be undertaken by the person delivering the service;
- (d) has a frequency and formality attached to the service; and
- (e) either—
 - (i) requires a contract to be agreed between the service provider and the recipient of the service prior to the services being carried out; or
 - (ii) is personalised to an individual's needs.

6. Regulation 5 is to be read in conjunction with section 94(5) of the Act.

St Andrew's House,
Edinburgh
21st April 2010

ADAM INGRAM
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 94 of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the Act”) defines a protected adult for the purposes of the Act. Section 94(1)(b) lists prescribed services, and section 97 of the Act provides that ‘prescribed’ means prescribed in Regulations. These Regulations prescribe certain services, receipt of which will confer protected adult status on an individual.

Regulation 3 provides that for the purposes of section 94(1)(b)(i) and (ii) of the Act, a service provided by a health body acting in exercise of functions conferred by the National Health Service (Scotland) Act 1978, concerning the treatment, care and support of, and provision of advice and assistance to individuals in relation to their health and well-being, is a prescribed service.

Regulation 4 provides that for the purposes of section 94(1)(b)(iii), (iv), (v) and (vi) of the Act, a service provided by an independent health care service as defined by sections 2(5) and 77 of the Regulation of Care (Scotland) Act 2001, concerning the treatment, care and support of, and provision of advice and assistance to individuals in relation to their health and well-being, is a prescribed service.

Regulation 5 prescribes welfare services for the purposes of section 94(1)(d) of the Act. Paragraphs (a) to (d) specify the mandatory elements required to qualify as a welfare service. Paragraph (e) specifies an additional element which qualifies a service as a welfare service and that is either where (i) there is an agreed contract in place between the organisation providing the service and the recipient, or where (ii) a particular service is being delivered in order to meet an individual’s needs. Therefore in order to qualify as a welfare service, the service must include the mandatory elements in paragraphs (a) to (d) and either the requirement in paragraph (e)(i) or the requirement in paragraph (e)(ii).

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