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STATUTORY INSTRUMENTS

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**2015 No. 541**

**The Children's Homes (England) Regulations 2015**

**PART 1**

**General**

**Excepted establishments**

**3.—(1)** For the purposes of the Care Standards Act 2000, establishments of the following descriptions are excepted from being a children's home—

- (a) an institution within the further education sector, as defined by section 91(3) of the Further and Higher Education Act 1992<sup>(1)</sup>;
- (b) a 16 to 19 Academy, as defined by section 1B of the Academies Act 2010<sup>(2)</sup>;
- (c) an establishment—
  - (i) that would (apart from this sub-paragraph) be a home merely because it provides accommodation for children for the purposes of a holiday, or for cultural, educational, recreational or sporting activities; and
  - (ii) at which accommodation for any one child is not provided for those purposes for more than 27 days in any twelve month period;
- (d) premises—
  - (i) that would (apart from this sub-paragraph) be a home merely because they are used to provide childcare; and
  - (ii) at which such childcare is not provided in relation to any one child for more than 27 days in any twelve month period;
- (e) an establishment that would (apart from this sub-paragraph) be a home merely because it provides accommodation for children aged 16 and over—
  - (i) to enable the children to undergo an apprenticeship or training;
  - (ii) for the purposes of a holiday; or
  - (iii) for cultural, educational, recreational or sporting purposes;
- (f) an establishment that would (apart from this sub-paragraph) be a home merely because it provides care and accommodation for children as a holiday scheme for disabled children, as defined in regulation 2 of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013<sup>(3)</sup>;
- (g) an approved bail hostel or an approved probation hostel;

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(1) 1992 c.13. Section 91(3) of the Further and Higher Education Act 1992 was amended by paragraph 13 of Schedule 8 to the ASCLA 2009.

(2) 2010 c.32. Section 1B of the Academies Act 2010 was inserted by section 53 of the Education Act 2011 (c.21).

(3) S.I. 2013/1394.

(h) an institution provided for the detention of young offenders under section 43(1) of the Prison Act 1952<sup>(4)</sup>.

(2) The exception in paragraph (1)(d) does not apply to any establishment or premises in which the children who are accommodated are wholly or mainly of a description falling within section 3(2) of the Care Standards Act 2000.

(3) In determining for the purposes of paragraph (1)(d) whether accommodation has been provided for more than 27 days, no account is to be taken of any day which includes a period of 9 hours or more during which—

- (a) the child is in the care of a parent or relative; and
- (b) childcare is not provided for that child.

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(4) 1952 c.52. Section 43 of the Prison Act 1952 was amended by: section 11 to the Criminal Justice Act 1982 (c.48); section 170 of, and Schedules 15 and 16 to, the Criminal Justice Act 1988 (c.33); sections 5, 18 and 168 of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c.33); section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c.37); section 165 of, and paragraph 5 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c.6); section 41 of, and paragraph 36 of Schedule 3 to, the Criminal Justice Act 2003 (c.44); section 148 of, and paragraph 3 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c.4, “the CJIA 2008”) and section 105 of, and paragraph 4 of Schedule 12 to, the LASPOA 2012. There are other amendments to section 43 that are not relevant to these Regulations. Sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c.43) also make provision for section 43(1)(a) to be repealed (on a date to be appointed).