

SAFEGUARDING VULNERABLE GROUPS ACT 2006

EXPLANATORY NOTES

REGULATED ACTIVITY

Section 5: Regulated activity

41. **Section 5** provides that regulated activity relating to children and vulnerable adults is as set out in Schedule 4 to the Act. Broadly speaking, regulated activity includes work (paid and unpaid) which involves certain close contact with children or vulnerable adults. Subsequent sections create a series of offences in relation to regulated activity. So, for example, an individual commits an offence if he engages in regulated activity whilst barred. Other offences relate to the person who permits an individual to engage in regulated activity. For example, an employer may be guilty of an offence if he fails to carry out appropriate checks before permitting an employee to engage in regulated activity.
42. The section allows the Secretary of State to amend the definition of regulated activity by order under the affirmative resolution procedure. Elsewhere in the Act the definition of regulated activity is modified for the purposes of particular provisions so that the frequency of an activity is irrelevant. The power to amend the definition of regulated activity includes the power to amend these modifications.

Schedule 4: Regulated activity

Part 1: Regulated activity relating to children

43. This Part defines regulated activity relating to children. Broadly speaking, the principal activities are -
 - a. Certain types of close contact activity (specified in paragraph 2(1)) carried out frequently, on three or more days in a 30-day period, or overnight. Examples include, teaching, supervising, advising, or caring for children. This also includes the moderation of internet chatrooms likely to be used wholly or mainly by children (paragraph 2(1)(e)).
 - b. Any activity carried out frequently or on three or more days in a 30-day period in an establishment specified in paragraph 3(1) which gives a person the opportunity to have contact with children in pursuance of his duties there (e.g. a school secretary).
 - c. The provision of childminding where there is a requirement to be registered under the provisions of the Childcare Act 2006 or there would be a requirement to be registered but for the fact that the individual does not provide childcare for a child below the age of eight (paragraph 1(3)). Similarly childminders in Wales are also covered, but here the requirement to register arises from the Children Act 1989 (Paragraph 1(6)).

These notes refer to the Safeguarding Vulnerable Groups Act 2006 (c.47) which received Royal Assent on 8 November 2006

- d. Fostering a child (see below – section 53).
 - e. The exercise of functions of the Children and Family Courts Advisory and Support Services (CAFCASS) support officers and their Welsh equivalent.
 - f. The inspection of establishments specified in paragraph 3(1) (e.g. a school) on behalf of the organisations specified in paragraph 1(10) (e.g. OFSTED; Healthcare Commission) and the inspection of generalist health establishments specified in paragraph 1(12) and 1(13) on behalf of the organisations specified in paragraph 1(11).
 - g. The day-to-day management or supervision on a regular basis of any person carrying out the activities mentioned in a, b, e and f above.
 - h. The exercise of a function of the positions specified in paragraph 4(1) (e.g. school governor, Children’s Commissioner, trustee of a children’s charity, operator of the Information Sharing Index set up under the Children Act 2004).
44. Paragraph 2(2) of Schedule 4 provides that teaching, training, supervising etc. a child in the course of his employment will not be regulated activity. However this will not be the case where the child is under 16 and it is a person’s principal responsibility to be engaged in that particular activity in relation to the child.

Part 2: Regulated Activity Relating to Vulnerable Adults

45. This Part defines regulated activity relating vulnerable adults. Broadly speaking, the principal activities are -
- a. Certain types of activity (specified in paragraph 7(1)) carried out frequently, on three or more days in a 30-day period, or overnight. This includes teaching, training, advising, and caring for vulnerable adults.
 - b. Any activity carried out frequently, or on three or more days in a 30-day period in a care home which gives a person the opportunity to have contact with vulnerable adults as a result of his duties or anything he is allowed to do there.
 - c. The day-to-day management or supervision on a regular basis of any person carrying out the activities mentioned in a and b above.
 - d. The inspection of establishments specified in paragraph 7(7) (e.g. a care home) by an organisation specified in paragraph 7(6) (e.g. the Healthcare Commission).
 - e. The exercise of a function of the positions specified in paragraph 7(9) (e.g. the director of adult social services or a trustee of vulnerable adults’ charity).

Part 3: The period condition

46. This Part defines the period condition for the purposes of regulated activity. The requirements to check and be subject to monitoring kick in primarily when an activity is carried out frequently or the period condition is satisfied. Paragraph 10(1) defines this as activity which takes place on more than two days in a 30-day period. For certain activities, such as caring for children or providing treatment for a vulnerable adult, the requirements to check and be subject to monitoring apply also when the activity takes place overnight and the individual has the opportunity for face to face contact with children or vulnerable adults.
47. It is important to note that section 58 of the Act prevents any activity within the context of a familial relationship and certain types of activity within the context of a friendship from being a regulated activity relating to children or vulnerable adults for the purpose of the Act.