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STATUTORY INSTRUMENTS

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**2007 No. 1351**

**The Safeguarding Vulnerable Groups  
(Northern Ireland) Order 2007**

*Controlled activity*

**Controlled activity relating to children**

**25.**—(1) A reference to a controlled activity relating to children must be construed in accordance with this Article.

(2) An activity which falls within any of paragraphs (3) to (7) is a controlled activity to the extent that it is not a regulated activity relating to children.

(3) An activity falls within this paragraph if—

- (a) it consists in or is carried out in connection with any form of health care, treatment or therapy to which paragraph (8) applies,
- (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
- (c) it gives the person an opportunity mentioned in paragraph (9).

(4) An activity falls within this paragraph if—

- (a) it is carried out in an institution of further education,
- (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days,
- (c) it is carried out by the person while engaging in any form of work (whether or not for gain),
- (d) it is carried out for or in connection with the purposes of the institution, and
- (e) it gives the person the opportunity mentioned in paragraph (9)(a).

(5) An activity falls within this paragraph if—

- (a) it consists in making payments under Article 18C of the Children Order or the provision of assistance either in connection with the making of such payments or securing the provision of services paid for out of them,
- (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
- (c) it gives the person the opportunity mentioned in paragraph (9)(a).

(6) An activity falls within this paragraph if it is carried out as mentioned in paragraph (10) frequently and it gives a person carrying out the activity the opportunity to have access to—

- (a) health, educational or personal social services records relating to children;
- (b) information provided pursuant to Article 24 of the [Education \(Northern Ireland\) Order 2006 \(NI 11\)](#);

- (c) in the case of a person carrying out an activity mentioned in paragraph (10)(a), records of family proceedings (within the meaning of Article 8(3) of the Children Order) held by an HSS body.
- (7) An activity falls within this paragraph if it consists in or involves on a regular basis the day to day management or supervision of a person carrying out an activity which falls within paragraph (3), (4) or (6).
- (8) This paragraph applies to health care, treatment or therapy which is provided for a child—
- (a) in pursuance of arrangements made by or under a statutory provision,
  - (b) in an establishment in relation to which a requirement to register arises under Article 12 of the 2003 Order, or
  - (c) by an agency in relation to which such a requirement arises.
- (9) The opportunities are—
- (a) opportunity to have any form of contact with children;
  - (b) opportunity to have access to the health records of children.
- (10) The activity is carried out—
- (a) for, or on behalf of, an education and library board;
  - (b) for, or on behalf of, an HSS body in the exercise of its functions relating to personal social services;
  - (c) for, or on behalf of, the Council for the Curriculum, Examinations and Assessments;
  - (d) for, or on behalf of, inspectors appointed under Article 102 of the Education and Libraries (Northern Ireland) Order 1986;
  - (e) for, or on behalf of, an establishment or agency in respect of which a requirement to register arises under Article 12 of the 2003 Order.
- (11) In this Article “personal social services records” means records obtained or held by an HSS body in the exercise of its functions relating to personal social services.
- (12) The Secretary of State may, by order, amend paragraphs (2) to (11) (including by adding new paragraphs or omitting or varying any of the paragraphs or anything contained in them).

### **Controlled activity relating to vulnerable adults**

**26.—**(1) A reference to a controlled activity relating to vulnerable adults must be construed in accordance with this Article.

(2) An activity which is ancillary to or is carried out wholly or mainly in relation to an activity which falls within paragraph (4) is a controlled activity to the extent that it is not a regulated activity relating to vulnerable adults if—

- (a) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
- (b) it gives the person an opportunity mentioned in paragraph (5).

(3) An activity which consists in or involves on a regular basis the day to day management or supervision of a person carrying out an activity mentioned in paragraph (2) is also a controlled activity relating to vulnerable adults.

(4) Each of the following falls within this paragraph—

- (a) the provision of primary care services;
- (b) the provision of hospital services;
- (c) the provision of domiciliary care;

- (d) the making of arrangements in connection with an adult placement scheme;
  - (e) the provision of personal social services;
  - (f) the making of payments under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (c. 6);
  - (g) such other activity as is prescribed.
- (5) The opportunities are—
- (a) opportunity to have any form of contact with a vulnerable adult;
  - (b) opportunity to have access to the health records or personal social services records (within the meaning of Article 25(11)) of a vulnerable adult;
  - (c) opportunity to have access to such other information as may be prescribed relating to a vulnerable adult.
- (6) In this Article—
- “adult placement scheme” means a scheme—
- (a) under which an individual agrees with the person carrying on the scheme to provide care or support (which may include accommodation) to an adult who is in need of it, and
  - (b) in respect of which a requirement to register arises under Article 12 of the 2003 Order;
- “domiciliary care” must be construed in accordance with Article 3(4) and (5);
- “hospital services” means in-patient or out-patient services provided by—
- (a) an HSS body;
  - (b) an independent hospital (within the meaning of Article 2 of the 2003 Order);
  - (c) an independent clinic (within the meaning of that Article);
  - (d) an independent medical agency (within the meaning of that Article);
- “primary care services” means any of the following—
- (a) primary medical services or primary dental services provided under the 1972 Order;
  - (b) general ophthalmic services provided in accordance with Article 62 of that Order;
  - (c) pharmaceutical services provided in pursuance of arrangements made under Article 63 of that Order ;
  - (d) a service which corresponds to a service mentioned in any of sub-paragraphs (a) to (c) but which is provided otherwise than by virtue of arrangements made pursuant to a statutory provision mentioned in that sub-paragraph.

### **Controlled activity: regulations**

- 27.—(1) The Secretary of State may, by regulations, make provision as to—
- (a) the persons who are permitted to engage in controlled activity;
  - (b) the steps which must be taken by a responsible person in connection with permitting another to engage in controlled activity;
  - (c) circumstances in which a responsible person must not permit another to engage in controlled activity.
- (2) The regulations may—
- (a) include provision for a responsible person who contravenes any provision of the regulations to be guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale;
  - (b) in relation to such an offence, make provision corresponding to Articles 22, 23 and 24.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (3) A person is a responsible person if—
- (a) he is responsible for the management or control of a controlled activity, and
  - (b) if the controlled activity is carried out for the purposes of an organisation, his exercise of that responsibility is not subject to supervision or direction by any other person for those purposes.