



Sexual Offences Act 2003

2003 CHAPTER 42

PART 1

SEXUAL OFFENCES

Care workers for persons with a mental disorder

42 Care workers: interpretation

(1) For the purposes of sections 38 to 41, a person (A) is involved in the care of another person (B) in a way that falls within this section if any of subsections (2) to (4) applies.

(2) This subsection applies if—

- (a) B is accommodated and cared for in a care home, community home, voluntary home [^{F1}, children's home, or premises in Wales at which a secure accommodation service is provided], and
- (b) A has functions to perform ^{F2}... in the course of employment [^{F3}in the home or the premises] which have brought him or are likely to bring him into regular face to face contact with B.

[^{F4}(3) This subsection applies if B is a patient for whom services are provided—

- (a) by a National Health Service body or an independent medical agency;
- (b) in an independent hospital; or
- (c) in Wales, in an independent clinic,

and A has functions to perform for the body or agency or in the hospital or clinic in the course of employment which have brought A or are likely to bring A into regular face to face contact with B.]

(4) This subsection applies if A—

- (a) is, whether or not in the course of employment, a provider of care, assistance or services to B in connection with B's mental disorder, and
- (b) as such, has had or is likely to have regular face to face contact with B.

Changes to legislation: Sexual Offences Act 2003, Section 42 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(5) In this section—

[^{F5}“care home” means—

- (a) an establishment in England which is a care home for the purposes of the Care Standards Act 2000 (c. 14); and
- (b) a place in Wales at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to persons aged 18 or over;]

[^{F6}“children’s home”—

- (a) has the meaning given by section 1 of the Care Standards Act 2000 in relation to a children’s home in England, and
- (b) means a place in Wales at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 is provided wholly or mainly to persons under the age of 18;]

“community home” has the meaning given by section 53 of the Children Act 1989 (c. 41);

“employment” 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;

[^{F7}“independent clinic” has the meaning given by section 2 of the Care Standards Act 2000;

“independent hospital”—

- (a) in England, means—
 - (i) a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; or
 - (ii) any other establishment in which any of the services listed in section 22(6) are provided and which is not a health service hospital as so defined; and
- (b) in Wales, has the meaning given by section 2 of the Care Standards Act 2000;

“independent medical agency” means an undertaking (not being an independent hospital, or in Wales an independent clinic) which consists of or includes the provision of services by medical practitioners;]

“National Health Service body” means—

- (a) a [^{F8}Local Health Board],
- (b) a National Health Service trust,
- (ba) [^{F9}the Secretary of State in relation to the exercise of functions under section 2A or 2B of, or paragraph 7C, 8 or 12 of Schedule 1 to, the National Health Service Act 2006,
- (bb) a local authority in relation to the exercise of functions under section 2B or 111 of, or any of paragraphs 1 to 7B, or 13 of Schedule 1 to, the National Health Service Act 2006,]
- (c) ^{F10} ...
- (d) a Special Health Authority;

[^{F11}“secure accommodation service” has the meaning given in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;]

“voluntary home” has the meaning given by section 60(3) of the Children Act 1989.

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- [^{F12}(6) In subsection (5), in the definition of “independent medical agency”, “undertaking” includes any business or profession and—
- (a) in relation to a public or local authority, includes the exercise of any functions of that authority; and
 - (b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body.]

Textual Amendments

- F1** Words in s. 42(2)(a) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(a)
- F2** Words in s. 42(2)(b) omitted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(b)(i)
- F3** Words in s. 42(2)(b) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(b)(ii)
- F4** S. 42(3) substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), **art. 13(4)(a)**
- F5** Words in s. 42(5) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(c)(i)
- F6** Words in s. 42(5) substituted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(c)(ii)
- F7** S. 42(5): definitions of "independent clinic", "independent hospital" and "independent medical emergency" substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), **art. 13(4)(b)**
- F8** S. 42(5): words in definition of "National Health Service body" substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), **art. 3**, **Sch. para. 33**
- F9** S. 42(5) definition of “National Health Service body” paras. (ba), (bb) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **s. 306(4)**, **Sch. 5 para. 117(a)**; [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)
- F10** S. 42(5) definition of “National Health Service body” para. (c) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **s. 306(4)**, **Sch. 5 para. 117(b)**; [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)
- F11** Words in s. 42(5) inserted (2.4.2018) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments\) Regulations 2018 \(S.I. 2018/195\)](#), **regs. 2(1)**, 23(c)(iii)
- F12** S. 42(6) added (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), **art. 13(4)(c)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 60B(5)(i) substituted for s. 60B(5)(i)(ii) by [2015 c. 9 \(N.I.\) Sch. 1 para. 123\(1\)Sch. 9 Pt. 1](#) (This amendment not applied to legislation.gov.uk. S. 60B already repealed (N.I.) (14.1.2015) by [2015 c. 2 \(N.I.\), s. 28\(2\), Sch. 5](#); and omitted (E.W.) (31.7.2015) by virtue of [2015 c. 30, Sch. 5 para. 5\(2\)](#); S.I. 2015/1476, reg. 2(j))
- s. 103C(4B) inserted by [2022 c. 32 s. 178\(7\)\(b\)](#)
- s. 103E(5C)(5D) inserted by [2022 c. 32 s. 178\(8\)](#)
- s. 103F(3B) inserted by [2022 c. 32 s. 178\(9\)\(a\)](#)
- s. 103FA103FB inserted by [2022 c. 32 s. 178\(10\)](#)
- s. 108(9) inserted by [2011 c. 18 s. 17\(2\)](#)
- s. 122A(8A) inserted by [2022 c. 32 s. 178\(11\)\(a\)](#)
- s. 122A(9B) inserted by [2022 c. 32 s. 178\(11\)\(b\)](#)
- s. 122D(4C)(4D) inserted by [2022 c. 32 s. 178\(12\)](#)
- s. 122E(3B) inserted by [2022 c. 32 s. 178\(13\)\(a\)](#)
- s. 122EA122EB inserted by [2022 c. 32 s. 178\(14\)](#)
- s. 136ZA(3) inserted by [2022 c. 32 s. 178\(15\)](#)