

SCHEDULES

SCHEDULE 4

Section 5

REGULATED ACTIVITY

PART 1

REGULATED ACTIVITY RELATING TO CHILDREN

Regulated activity: general

- 1 (1) An activity is a regulated activity relating to children if—
- (a) it is mentioned in paragraph 2(1), and
 - (b) it is carried out frequently by the same person or the period condition is satisfied.
- (2) An activity is a regulated activity relating to children if—
- (a) it is carried out frequently by the same person or the period condition is satisfied,
 - (b) it is carried out in an establishment mentioned in paragraph 3(1),
 - (c) it is carried out by a 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 establishment, and
 - (e) it gives that person the opportunity, in consequence of anything he is permitted or required to do in connection with the activity, to have contact with children.
- (3) Each of the following, if carried out in England, is a regulated activity relating to children—
- (a) providing early years childminding in respect of which a requirement to register arises by section 33(1) of the Childcare Act 2006 (c. 21) (requirement to register);
 - (b) providing later years childminding in respect of which a requirement to register arises by section 52(1) of that Act (requirement to register);
 - (c) providing early years childminding or later years childminding, if it is provided by a person who is registered by virtue of section 62(1) of that Act (voluntary registration of childminders);
 - (d) providing later years childminding for a child who has attained the age of eight, if a requirement to register would arise in respect of that provision by section 52(1) of that Act if the child had not attained that age.
- (4) Any expression used both in sub-paragraph (3) and in Part 3 of the Childcare Act 2006 has the meaning given by that Act.

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- (5) It is a regulated activity relating to children to foster a child (as mentioned in section 53).
- (6) Each of the following, if carried out in Wales, is a regulated activity relating to children—
- (a) acting as a child minder so as to give rise to a requirement to register under section 79D of the Children Act 1989 (c. 41);
 - (b) an activity which would give rise to such a requirement if the child in relation to whom the activity is carried out were under the age of eight.
- (7) For the purposes of sub-paragraph (6), “acting as a child minder” must be construed in accordance with section 79A of that Act.
- (8) The exercise of any function of the following is a regulated activity relating to children—
- (a) officer of the Children and Family Court Advisory and Support Service;
 - (b) Welsh family proceedings officer (within the meaning of Part 4 of the Children Act 2004 (c. 31)).
- (9) The exercise of a function of a person mentioned in paragraph 4(1) is a regulated activity relating to children.
- (10) The exercise of a function of any of the following so far as it relates to the inspection of an establishment mentioned in paragraph 3(1) is a regulated activity relating to children—
- (a) HM Chief Inspector of Schools in England;
 - (b) HM Chief Inspector of Education and Training in Wales;
 - (c) a body approved in pursuance of section 163(1)(b) of the Education Act 2002 (c. 32) to inspect a registered independent school;
 - (d) HM Chief Inspector of Prisons;
 - (e) the Commission for Social Care Inspection;
 - (f) the Commission for Healthcare Audit and Inspection;
 - (g) the National Assembly for Wales.
- (11) The exercise of a function of—
- (a) the Commission for Healthcare Audit and Inspection, or
 - (b) the National Assembly for Wales,
- so far as it relates to the inspection of an establishment, agency or body falling within sub-paragraph (12) is a regulated activity relating to children.
- (12) An establishment, agency or body falls within this sub-paragraph if it is—
- (a) an establishment in relation to which a requirement to register arises under section 11 of the Care Standards Act 2000 (c. 14),
 - (b) an agency in relation to which such a requirement arises, or
 - (c) an NHS body within the meaning of section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43),
- and it provides any form of treatment or therapy for children.
- (13) In sub-paragraph (12)(c) the reference to an NHS body includes a reference to any person who provides, or is to provide, health care for the body (wherever the health care is or is to be provided).

Status: This is the original version (as it was originally enacted).

- (14) Any 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 sub-paragraph (1), (2), (8), (10) or (11) is a regulated activity relating to children.

Activities

- 2 (1) The activities referred to in paragraph 1(1) are—
- (a) any form of teaching, training or instruction of children, unless the teaching, training or instruction is merely incidental to teaching, training or instruction of persons who are not children;
 - (b) any form of care for or supervision of children, unless the care or supervision is merely incidental to care for or supervision of persons who are not children;
 - (c) any form of advice or guidance provided wholly or mainly for children, if the advice or guidance relates to their physical, emotional or educational well-being;
 - (d) any form of treatment or therapy provided for a child;
 - (e) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by children;
 - (f) driving a vehicle which is being used only for the purpose of conveying children and any person supervising or caring for the children pursuant to arrangements made in prescribed circumstances.
- (2) Sub-paragraph (1)(a), (b), (c) and (d) do not include—
- (a) teaching, training or instruction provided to a child in the course of his employment;
 - (b) care for or supervision of a child in the course of his employment;
 - (c) advice or guidance provided for a child in the course of his employment;
 - (d) treatment or therapy provided for a child in the course of his employment.
- (3) Sub-paragraph (2) does not apply if—
- (a) the child has not attained the age of 16, and
 - (b) the activity is carried out by a person in respect of whom arrangements exist principally for that purpose.
- (4) For the purposes of sub-paragraph (1)(e) a person moderates a public electronic interactive communication service if, for the purpose of protecting children, he has any function relating to—
- (a) monitoring the content of matter which forms any part of the service,
 - (b) removing matter from, or preventing the addition of matter to, the service, or
 - (c) controlling access to, or use of, the service.
- (5) But a person does not moderate a public electronic interactive communications service as mentioned in sub-paragraph (4)(b) or (c) unless he has—
- (a) access to the content of the matter;
 - (b) contact with users of the service.
- (6) In sub-paragraph (2) employment includes any form of work which is carried out under the supervision or control of another, whether or not the person carrying it out is paid for doing so.

Status: This is the original version (as it was originally enacted).

Establishments

- 3 (1) The establishments referred to in paragraph 1(2) and (10) are—
- (a) an educational institution which is exclusively or mainly for the provision of full-time education to children;
 - (b) an establishment which is exclusively or mainly for the provision of nursery education (within the meaning of section 117 of the School Standards and Framework Act 1998 (c. 31));
 - (c) a hospital which is exclusively or mainly for the reception and treatment of children;
 - (d) an institution which is exclusively or mainly for the detention of children;
 - (e) a children’s home (within the meaning of section 1 of the Care Standards Act 2000 (c. 14));
 - (f) a home provided in pursuance of arrangements under section 82(5) of the Children Act 1989 (c. 41);
 - (g) relevant childcare premises.
- (2) Relevant childcare premises are any part of premises on which a person carries on—
- (a) any form of childcare (within the meaning of section 18 of the Childcare Act 2006 (c. 21)) in respect of which he must be registered under that Act;
 - (b) any form of such childcare in respect of which he may be registered under that Act, whether or not he is so registered;
 - (c) any form of day care (within the meaning of section 79A of the Children Act 1989 (c. 41)) in respect of which he must be registered under that Act.

Positions

- 4 (1) The persons referred to in paragraph 1(9) are—
- (a) member of the governing body of an educational establishment mentioned in section 8(5);
 - (b) member of a relevant local government body;
 - (c) director of children’s services of a local authority in England;
 - (d) director of adult social services of a local authority in England;
 - (e) director of social services of a local authority in Wales;
 - (f) chief education officer of a local authority in Wales;
 - (g) charity trustee of a children’s charity;
 - (h) member of the Youth Justice Board for England and Wales;
 - (i) Children’s Commissioner or deputy Children’s Commissioner appointed under Part 1 of the Children Act 2004 (c. 31);
 - (j) Children’s Commissioner for Wales or deputy Children’s Commissioner for Wales;
 - (k) operator of a database established in pursuance of section 12(1)(a) or (b) or 29(1)(a) or (b) of the Children Act 2004;
 - (l) member of a Local Safeguarding Children Board established under section 13 or 31 of that Act;
 - (m) member or chief executive of the Children and Family Court Advisory and Support Service;
 - (n) a deputy appointed in respect of a child under section 16(2)(b) of the Mental Capacity Act 2005 (c. 9);

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- (o) member, chief executive or member of staff of IBB.
- (2) For the purposes of sub-paragraph (1)(b), a person is a member of a relevant local government body if—
- (a) he is a member of a local authority and discharges any education functions, or social services functions, of a local authority;
 - (b) he is a member of an executive of a local authority which discharges any such functions;
 - (c) he is a member of a committee of an executive of a local authority which discharges any such functions;
 - (d) he is a member of an area committee, or any other committee, of a local authority which discharges any such functions.
- (3) Any reference in sub-paragraph (2) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (4) A charity is a children’s charity if the individuals who are workers for the charity normally include individuals engaging in regulated activity relating to children.
- (5) An individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this sub-paragraph do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (6) For the purposes of sub-paragraph (1)(k), a person is the operator of a database if he—
- (a) establishes or maintains the database, or
 - (b) otherwise, exercises any function in relation to the management or control of the database.
- (7) In this paragraph—
- “area committee” has the same meaning as in section 18 of the Local Government Act 2000 (c. 22);
 - “charity” and “charity trustee” have the same meanings as in the Charities Act 1993 (c. 10);
 - “education functions”, in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority;
 - “executive”, in relation to a local authority, has the same meaning as in Part 2 of the Local Government Act 2000;
 - “local authority” has the same meaning as in the Education Act 1996 (c. 56);
 - “social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).

5 A person who is part of a group in relation to which another (P) engages in regulated activity relating to children does not engage in regulated activity only because he assists P or does anything on behalf of or under the direction of P which, but for this paragraph, would amount to engaging in regulated activity relating to children.

Status: This is the original version (as it was originally enacted).

Exceptions

- 6 The Secretary of State may, by order, provide that in such circumstances as are specified an activity which is a regulated activity in relation to children is not to be treated as a regulated activity.

PART 2

REGULATED ACTIVITY RELATING TO VULNERABLE ADULTS

- 7 (1) Each of the following is a regulated activity relating to vulnerable adults if it is carried out frequently by the same person or the period condition is satisfied—
- (a) any form of training, teaching or instruction provided wholly or mainly for vulnerable adults;
 - (b) any form of care for or supervision of vulnerable adults;
 - (c) any form of assistance, advice or guidance provided wholly or mainly for vulnerable adults;
 - (d) any form of treatment or therapy provided for a vulnerable adult;
 - (e) moderating a public electronic interactive communication service which is likely to be used wholly or mainly by vulnerable adults;
 - (f) driving a vehicle which is being used only for the purpose of conveying vulnerable adults and any person caring for the vulnerable adults pursuant to arrangements made in prescribed circumstances;
 - (g) anything done on behalf of a vulnerable adult in such circumstances as are prescribed.
- (2) For the purposes of sub-paragraph (1)(e) a person moderates a public electronic interactive communication service if, for the purpose of protecting vulnerable adults, he has any function relating to—
- (a) monitoring the content of matter which forms any part of the service,
 - (b) removing matter from, or preventing the addition of matter to, the service, or
 - (c) controlling access to, or use of, the service.
- (3) But a person does not moderate a public electronic interactive communications service as mentioned in sub-paragraph (2)(b) or (c) unless he has—
- (a) access to the content of the matter;
 - (b) contact with users of the service.
- (4) An activity carried out in a care home (for the purposes of the Care Standards Act 2000 (c. 14)) which is exclusively or mainly for vulnerable adults is a regulated activity relating to vulnerable adults if—
- (a) it is carried out at the establishment frequently by the same person or the period condition is satisfied,
 - (b) it is carried out by a person while engaging in any form of work (whether or not for gain),
 - (c) it is carried out for or in connection with the purposes of the establishment, and
 - (d) it gives that person the opportunity, in consequence of anything he is permitted or required to do in connection with the activity, to have contact with vulnerable adults.

Status: This is the original version (as it was originally enacted).

- (5) Any 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 sub-paragraph (1) or (4) is a regulated activity relating to vulnerable adults.
- (6) The exercise of the inspection functions of—
- (a) the Commission for Healthcare, Audit and Inspection;
 - (b) the Commission for Social Care Inspection;
 - (c) the National Assembly for Wales,
- is a regulated activity relating to vulnerable adults.
- (7) Inspection functions are functions relating to the inspection of—
- (a) a local authority (within the meaning of section 1 of the Local Authority Social Services Act 1970 (c. 42)) in the exercise of its social services functions (within the meaning of that Act),
 - (b) an establishment in relation to which a requirement to register arises under section 11 of the Care Standards Act 2000,
 - (c) an agency in relation to which such a requirement arises,
 - (d) a person to whom Part 2 of that Act applies in pursuance of an order under section 42 of that Act,
 - (e) an NHS body within the meaning of section 148 of the Health and Social Care (Community Health and Standards) Act 2003, or
 - (f) any person, other than a local authority, providing English local authority social services or Welsh local authority social services within the meaning of that section,
- in so far as the inspection relates to social services, care, treatment or therapy provided for vulnerable adults by the establishment, agency, person or body.
- (8) In sub-paragraph (7)(e) the reference to an NHS body includes a reference to any person who provides, or is to provide, health care for the body (wherever the health care is or is to be provided).
- (9) The exercise of a function of a person mentioned in paragraph 8(1) is a regulated activity relating to vulnerable adults.
- (10) A person who is part of a group in relation to which another (P) engages in regulated activity relating to vulnerable adults does not engage in regulated activity only because he assists P or does anything on behalf of or under the direction of P which, but for this sub-paragraph, would amount to engaging in regulated activity relating to vulnerable adults.
- 8 (1) The persons referred to in paragraph 7(9) are—
- (a) member of a relevant local government body;
 - (b) director of adult social services of a local authority in England;
 - (c) director of social services of a local authority in Wales;
 - (d) Commissioner for older people in Wales or deputy Commissioner for older people in Wales;
 - (e) charity trustee of vulnerable adults' charity;
 - (f) member or chief executive or member of staff of IBB.
- (2) For the purposes of sub-paragraph (1)(a), a person is a member of a relevant local government body if—

Status: This is the original version (as it was originally enacted).

- (a) he is a member of a local authority and discharges any social services functions of a local authority which relate wholly or mainly to vulnerable adults;
 - (b) he is a member of an executive of a local authority which discharges any such functions;
 - (c) he is a member of a committee of an executive of a local authority which discharges any such functions;
 - (d) he is a member of an area committee, or any other committee, of a local authority which discharges any such functions.
- (3) Any reference in sub-paragraph (2) to a committee includes a reference to any sub-committee which discharges any functions of that committee.
- (4) A charity is a vulnerable adults' charity if the individuals who are workers for the charity normally include individuals engaging in regulated activity relating to vulnerable adults.
- (5) An individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this sub-paragraph do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.
- (6) In this paragraph—
- “area committee” has the same meaning as in section 18 of the Local Government Act 2000 (c. 22);
 - “charity” and “charity trustee” have the same meanings as in the Charities Act 1993 (c. 10);
 - “executive”, in relation to a local authority, has the same meaning as in Part 2 of the Local Government Act 2000;
 - “local authority” has the same meaning as in the Education Act 1996 (c. 56);
 - “social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).
- (7) In relation to a local authority—
- (a) which is a children’s services authority (within the meaning of the Children Act 2004 (c. 31)), and
 - (b) which has not appointed a director of children’s services under section 18 of that Act,
- in sub-paragraph (1)(b) above the word “adult” must be ignored.
- 9 The Secretary of State may, by order, provide that in such circumstances as are specified an activity which is a regulated activity in relation to vulnerable adults is not to be treated as a regulated activity.

PART 3

THE PERIOD CONDITION

- 10 (1) The period condition is satisfied if the person carrying out the activity does so at any time on more than two days in any period of 30 days.

- (2) In relation to an activity that falls within paragraph 2(1)(a), (b), (c) or (d) or 7(1)(a), (b), (c), (d) or (g), the period condition is also satisfied if—
- (a) the person carrying out the activity does so at any time between 2 a.m. and 6 a.m, and
 - (b) the activity gives the person the opportunity to have face-to-face contact with children or vulnerable adults (as the case may be).