

Protection of Vulnerable Groups (Scotland) Act 2007

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PROSPECTIVE

SCHEDULE 2

REGULATED WORK WITH CHILDREN

(introduced by section 91)

PART 1

PRELIMINARY

Regulated work with children

1 Regulated work with children is work in—

- (a) a position whose normal duties include carrying out an activity mentioned in Part 2,
- (b) a position (other than a position mentioned in sub-paragraph (a)) whose normal duties include work in an establishment mentioned in Part 3,
- (c) a position mentioned in Part 4, or
- (d) a position whose normal duties include the day to day supervision or management of an individual doing regulated work with children by virtue of sub-paragraph (a) or (b).

Exceptions relating to children's employment and work

2 Work which would be regulated work with children by virtue of any of paragraphs 3 to 7 is not, despite those provisions, regulated work with children if—

- (a) the activity concerned is carried out in relation to children aged 16 or 17 in the course of the children's work, or
- (b) in the case of the activities referred to in paragraphs 5 and 6, the activity is carried out in relation to children under the age of 16 in the course of the children's employment.

PART 2

ACTIVITIES

Caring for children

3 Caring for children (except caring for children which is merely incidental to caring for individuals who are not children).

Teaching, instructing, training or supervising children

4 Teaching, instructing, training or supervising children (except teaching, instructing, or training children which is merely incidental to teaching, instructing, or training individuals who are not children).

Being in sole charge of children

5 Being in sole charge of children.

Unsupervised contact with children

6 Contact with children—

- (a) under arrangements made by a responsible person, but
- (b) in the absence of—
 - (i) a responsible person,
 - (ii) a person carrying out an activity mentioned in paragraph 3, 4 or 5, or
 - (iii) an individual who, in relation to a child, has agreed to supervise the contact under arrangements made by the child's parent or guardian or any person aged 18 or over with whom the child lives in the course of a family or personal relationship.

"Responsible person" means, in relation to a child, any of the following persons—

- (a) the child's parent or guardian,
- (b) any person aged 18 or over with whom the child lives,
- (c) the person in charge of any establishment mentioned in Part 3 in which the child is accommodated, is a patient or receives education (and any person acting on behalf of

such a person),

- (d) a person who provides day care of children, within the meaning of section 2 of the 2001 Act,
- (e) any person holding a position mentioned in Part 4, and
- (f) any person holding a position in a children's charity, within the meaning of paragraph 27.

"Family relationship" and "personal relationship" have the meanings given in section 95.

Providing advice or guidance to children

- 7 Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training (except providing advice or guidance to a child or to particular children which is merely incidental to providing advice or guidance to individuals who are not children).

Moderating certain interactive communication services

- 8 Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children. A person moderates such a service if, for the purpose of protecting children, the person 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.

But a person only moderates such a service as mentioned in sub-paragraph (b) or (c) if the person has—

- (i) access to the content of the matter, or
- (ii) contact with users of the service.

Provision of care home services

- 9 Providing, or working for an organisation which provides, a care home service which is provided exclusively or mainly for children (but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children). "Care home service" has the same meaning as in the 2001 Act.

Provision of independent health care services

- 10 Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children (but only if doing anything permitted or required in connection with the position gives the holder of the position the opportunity to have contact with children). "Independent health care service" has the same meaning as in the 2001 Act.

Work on day care premises

- 11 Work on any part of day care premises at times when children are being looked after in that part. "Day care premises" means premises at which day care of children, within the meaning of section 2 of the 2001 Act, is provided.

PART 3

ESTABLISHMENTS

Children's detention institution

- 12 An institution which is exclusively or mainly for the detention of children. "Detention" means detention by virtue of an order of a court or under an enactment.

Children's hospital

- 13 A hospital which is exclusively or mainly for the reception and treatment of children. "Hospital" has the meaning given by section 108(1) (interpretation) of the National Health Service (Scotland) Act 1978 (c. 29).

Educational institutions etc.

- 14 A school.
- 15 A further education institution. "Further education institution" means a body listed under the heading "Institutions formerly eligible for funding by the Scottish Further Education Funding Council" in schedule 2 to the Further and Higher Education (Scotland) Act 2005 (asp 6).
Ministers may by order amend the definition of "further education institution" so as to include or exclude bodies listed in that schedule.
- 16 A hostel used mainly by pupils attending a school or institution mentioned in paragraph 14 or 15 respectively.

Children's home

- 17 A home which is exclusively or mainly for children and is provided by a council under—
- (a) section 59 (provision by councils of residential and other establishments) of the Social Work (Scotland) Act 1968 (c. 49), or
 - (b) section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

PART 4
POSITIONS

Manager of educational institutions etc.

- 18 Manager, or member of a governing body, body of trustees or other body responsible for the management, of a school, further education institution or hostel mentioned in paragraphs 14 to 16 (but not a member of a council).

Member of council committee

- 19 Member of—
- (a) a committee (including joint committee) of a council which is concerned with the provision of education, accommodation, social services or health care services to children,
 - (b) a sub-committee which discharges any functions of any such committee.

Member of children's panel etc.

- 20 Member of—
- (a) a children's panel established by section 39(1) of the Children (Scotland) Act 1995 (c. 36),
 - (b) a Children's Panel Advisory Committee,
 - (c) a joint advisory committee established under paragraph 8(1) of Schedule 1 to that Act,
 - (d) a sub-committee which discharges any functions of any committee mentioned in sub-paragraph (b) or (c).

Chief social work officer

- 21 Chief social work officer of a council.

Chief education officer

- 22 Chief education officer (however called) of a council.

Commissioner for Children and Young People in Scotland

- 23 Commissioner for Children and Young People in Scotland.

- 24 Member of that Commissioner's staff.

Registrar of Independent Schools in Scotland

- 25 Registrar of Independent Schools in Scotland.

Fostering

- 26 Foster carer.

Charity trustee

- 27 Charity trustee of a children's charity. "Children's charity" means a charity whose—
- (a) workers normally include individuals doing regulated work with children (other than work which is regulated work with children by virtue only of this paragraph), or
 - (b) main purpose is to provide benefits for children.

An individual works for a charity if the individual works under any arrangements made by the charity (other than arrangements made for purposes which are incidental to the purposes for which the charity is established).

PART 5
GENERAL

Power to amend schedule

- 28 Ministers may by order modify this schedule as they think appropriate.
- 29 An order under paragraph 28 may disapply or otherwise modify the application of sections 34 to 37 in relation to particular kinds of regulated work with children.