



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 5

SAFEGUARDING VULNERABLE GROUPS, CRIMINAL RECORDS ETC.

CHAPTER 1

SAFEGUARDING OF VULNERABLE GROUPS

Restrictions on scope of regulation: England and Wales

66 Restriction of scope of regulated activities: vulnerable adults

- (1) Parts 2 and 3 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (regulated activity relating to vulnerable adults and the period condition) are amended as follows.
- (2) For paragraph 7(1) to (3) (main activities which are regulated activity) substitute—
 - “(1) Each of the following is a regulated activity relating to vulnerable adults—
 - (a) the provision to an adult of health care by, or under the direction or supervision of, a health care professional,
 - (b) the provision to an adult of relevant personal care,
 - (c) the provision by a social care worker of relevant social work to an adult who is a client or potential client,
 - (d) the provision of assistance in relation to general household matters to an adult who is in need of it by reason of age, illness or disability,
 - (e) any relevant assistance in the conduct of an adult’s own affairs,
 - (f) the conveying by persons of a prescribed description in such circumstances as may be prescribed of adults who need to be conveyed by reason of age, illness or disability,
 - (g) such activities—

Status: This is the original version (as it was originally enacted).

- (i) involving, or connected with, the provision of health care or relevant personal care to adults, and
 - (ii) not falling within any of the above paragraphs,
- as are of a prescribed description.
- (2) Health care includes all forms of health care provided for individuals, whether relating to physical or mental health and also includes palliative care and procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition.
- (3) A health care professional is a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.
- (3A) Any reference in this Part of this Schedule to health care provided by, or under the direction or supervision of, a health care professional includes a reference to first aid provided to an adult by any person acting on behalf of an organisation established for the purpose of providing first aid.
- (3B) Relevant personal care means—
- (a) physical assistance, given to a person who is in need of it by reason of age, illness or disability, in connection with—
 - (i) eating or drinking (including the administration of parenteral nutrition),
 - (ii) toileting (including in relation to the process of menstruation),
 - (iii) washing or bathing,
 - (iv) dressing,
 - (v) oral care, or
 - (vi) the care of skin, hair or nails,
 - (b) the prompting, together with supervision, of a person who is in need of it by reason of age, illness or disability in relation to the performance of any of the activities listed in paragraph (a) where the person is unable to make a decision in relation to performing such an activity without such prompting and supervision, or
 - (c) any form of training, instruction, advice or guidance which—
 - (i) relates to the performance of any of the activities listed in paragraph (a),
 - (ii) is given to a person who is in need of it by reason of age, illness or disability, and
 - (iii) does not fall within paragraph (b).
- (3C) Relevant social work has the meaning given by section 55(4) of the Care Standards Act 2000 and social care worker means a person who is a social care worker by virtue of section 55(2)(a) of that Act.
- (3D) Assistance in relation to general household matters is day to day assistance in relation to the running of the household of the person concerned where the assistance is the carrying out of one or more of the following activities on behalf of that person—
- (a) managing the person’s cash,
 - (b) paying the person’s bills,

- (c) shopping.
- (3E) Relevant assistance in the conduct of a person’s own affairs is anything done on behalf of the person by virtue of—
- (a) a lasting power of attorney created in respect of the person in accordance with section 9 of the Mental Capacity Act 2005,
 - (b) an enduring power of attorney (within the meaning of Schedule 4 to that Act) in respect of the person which is—
 - (i) registered in accordance with that Schedule, or
 - (ii) the subject of an application to be so registered,
 - (c) an order made under section 16 of that Act by the Court of Protection in relation to the making of decisions on the person’s behalf,
 - (d) the appointment of an independent mental health advocate or (as the case may be) an independent mental capacity advocate in respect of the person in pursuance of arrangements under section 130A of the Mental Health Act 1983 or section 35 of the Mental Capacity Act 2005,
 - (e) the provision of independent advocacy services (within the meaning of section 248 of the National Health Service Act 2006 or section 187 of the National Health Service (Wales) Act 2006) in respect of the person, or
 - (f) the appointment of a representative to receive payments on behalf of the person in pursuance of regulations made under the Social Security Administration Act 1992.”
- (3) Omit paragraph 7(4) (certain activities in care homes to be regulated activity).
- (4) In paragraph 7(5) (day to day management or supervision of certain activities to be regulated activity) omit “or (4)”.
- (5) In paragraph 7(7)(f) (inspection functions) omit “English local authority social services or”.
- (6) Omit paragraph 7(8A) (certain functions of Care Quality Commission to be regulated activity).
- (7) In paragraph 7(9) (functions of certain persons to be regulated activity) for “a person mentioned in paragraph 8(1)” substitute “the Commissioner for older people in Wales or the deputy Commissioner for older people in Wales”.
- (8) Omit paragraph 8 (the persons referred to in paragraph 7(9) whose functions are to be regulated activity).
- (9) In paragraph 10(2) (the period condition)—
- (a) omit “or 7(1)(a), (b), (c), (d) or (g)”, and
 - (b) in paragraph (b), omit “or vulnerable adults (as the case may be)”.