

SCHEDULES

SCHEDULE 4

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),

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- (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.
- (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;

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- (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—
- (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.