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## SCHEDULE 2

(introduced by section 91)

### REGULATED WORK WITH CHILDREN

#### PART 1

##### PRELIMINARY

###### *Regulated work with children*

- 1 Regulated work with children is [<sup>F1</sup> work done in Scotland ] in—
- (a) a position whose normal duties include carrying out an activity mentioned in Part 2,
  - [<sup>F2</sup>(b) a position—
    - (i) which is not a position mentioned in sub-paragraph (a),
    - (ii) whose normal duties include work in an establishment mentioned in Part 3, and
    - (iii) which gives the holder of the position, when doing anything permitted or required in connection with the position, the opportunity to have unsupervised contact with children,]
  - (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).

#### Textual Amendments

- F1** Words in Sch. 2 para. 1 substituted (18.4.2010 for specified purposes, coming into force in accordance with art. 1(2)) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Miscellaneous Provisions\) Order 2010 \(S.S.I. 2010/446\)](#), arts. 1(2), 12
- F2** Sch. 2 para. 1(b) substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 3

#### Commencement Information

- I1** Sch. 2 para. 1 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

#### *Definitions in relation to unsupervised contact with children*

- [<sup>F3</sup>1A. In this schedule—
- “unsupervised contact with children” means contact with children in the absence of—
- (a) a responsible person,
  - (b) a person carrying out an activity mentioned in paragraph 3, 4 or 5, or
  - (c) 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,

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“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.]

#### Textual Amendments

- F3** Sch. 2 para. 1A inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 4

#### *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.

#### Commencement Information

- I2** Sch. 2 para. 2 in force at 28.2.2011 by [S.S.I. 2011/157](#), art. 2(a)

#### *Application of sections 35 and 36 to host parenting*

- [<sup>F4</sup>2A. Work which—
- (a) consists of being a host parent (see paragraph 11A), but
  - (b) does not include carrying out any other activity mentioned in Part 2 otherwise than in connection with being a host parent,
- is not regulated work with children for the purposes of sections 35 and 36.]

#### Textual Amendments

- F4** Sch. 2 para. 2A inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 5

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## 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).

#### Commencement Information

**I3** Sch. 2 para. 3 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *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).

#### Commencement Information

**I4** Sch. 2 para. 4 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *Being in sole charge of children*

- 5 Being in sole charge of children.

#### Commencement Information

**I5** Sch. 2 para. 5 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *Unsupervised contact with children*

- [<sup>F5</sup>6 Unsupervised contact with children under arrangements made by a responsible person.]

#### Textual Amendments

**F5** Sch. 2 para. 6 substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 6

#### Commencement Information

**I6** Sch. 2 para. 6 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *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

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guidance to a child or to particular children which is merely incidental to providing advice or guidance to individuals who are not children).

#### Commencement Information

**I7** Sch. 2 para. 7 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *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.

#### Commencement Information

**I8** Sch. 2 para. 8 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *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 <sup>[F6]</sup> schedule 12 to the 2010 Act ].

#### Textual Amendments

**F6** Words in Sch. 2 para. 9 substituted (1.10.2010 for specified purposes) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 14 para. 35(b)**; [S.S.I. 2010/321](#), art. 3, Sch.

#### Commencement Information

**I9** Sch. 2 para. 9 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

#### *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 <sup>[F7]</sup> section 10F of the National Health Service (Scotland) Act 1978 (c. 29)].

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#### Textual Amendments

**F7** Words in Sch. 2 para. 10 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 17 para. 36\(e\)](#); [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

#### Commencement Information

**I10** Sch. 2 para. 10 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

#### *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 <sup>F8</sup> schedule 12 to the 2010 Act ], is provided.

#### Textual Amendments

**F8** Words in Sch. 2 para. 11 substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [Sch. 14 para. 35\(c\)](#); [S.S.I. 2010/321](#), art. 3, Sch.; [S.S.I. 2011/122](#), art. 2, Sch.

#### Commencement Information

**I11** Sch. 2 para. 11 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

#### *Being a host parent*

- <sup>F9</sup>11A. Being a host parent.

A “host parent” is a person—

- (a) who provides overnight accommodation for, or otherwise looks after, a child (as if the child were part of that person’s family) in connection with an organised activity in which the child is participating, but
- (b) who is not responsible for looking after the child when the child is participating in that activity.]

#### Textual Amendments

**F9** Sch. 2 para. 11A inserted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), arts. 1, 7

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### 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.

##### **Commencement Information**

**I12** Sch. 2 para. 12 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

##### *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).

##### **Commencement Information**

**I13** Sch. 2 para. 13 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

##### *Educational institutions etc.*

- 14 A school.

##### **Commencement Information**

**I14** Sch. 2 para. 14 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 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.

##### **Commencement Information**

**I15** Sch. 2 para. 15 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 16 A hostel used mainly by pupils attending a school or institution mentioned in paragraph 14 or 15 respectively.

##### **Commencement Information**

**I16** Sch. 2 para. 16 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

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### *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).

#### **Commencement Information**

**I17** Sch. 2 para. 17 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

## **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).

#### **Commencement Information**

**I18** Sch. 2 para. 18 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

#### *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.

#### **Commencement Information**

**I19** Sch. 2 para. 19 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

#### *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,

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- (d) a sub-committee which discharges any functions of any committee mentioned in sub-paragraph (b) or (c).

**Commencement Information**

**I20** Sch. 2 para. 20 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Chief social work officer*

- 21 Chief social work officer of a council.

**Commencement Information**

**I21** Sch. 2 para. 21 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Chief education officer*

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

**Commencement Information**

**I22** Sch. 2 para. 22 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Commissioner for Children and Young People in Scotland*

- 23 Commissioner for Children and Young People in Scotland.

**Commencement Information**

**I23** Sch. 2 para. 23 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

- 24 Member of that Commissioner's staff.

**Commencement Information**

**I24** Sch. 2 para. 24 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Registrar of Independent Schools in Scotland*

- 25 Registrar of Independent Schools in Scotland.

**Commencement Information**

**I25** Sch. 2 para. 25 in force at 28.2.2011 by [S.S.I. 2011/157](#), **art. 2(a)**

*Fostering*

- 26 Foster carer.



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#### Commencement Information

**I26** Sch. 2 para. 26 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

*[<sup>F10</sup>Charity trustee of a children’s charity.]*

#### Textual Amendments

**F10** Sch. 2 para. 27 substituted (28.2.2011 coming into force in accordance with art. 1) by [The Protection of Vulnerable Groups \(Scotland\) Act 2007 \(Modification of Regulated Work with Children\) Order 2010 \(S.S.I. 2010/240\)](#), [arts. 1, 8](#)

- 27 “Children’s charity” means a charity whose—
- (a) main purpose is to provide benefits for children, and
  - (b) principal means of delivery of those benefits is by its workers doing regulated work with children.
- An individual works for a charity if the individual works under any arrangements made by the charity.

#### Commencement Information

**I27** Sch. 2 para. 27 in force at 28.2.2011 by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

## PART 5

### GENERAL

#### *Power to amend schedule*

- 28 Ministers may by order modify this schedule as they think appropriate.

#### Commencement Information

**I28** Sch. 2 para. 28 in force at 18.4.2010 for specified purposes by [S.S.I. 2010/133](#), [art. 2](#), [Sch.](#)  
**I29** Sch. 2 para. 28 in force at 28.2.2011 in so far as not already in force by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

- 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.

#### Commencement Information

**I30** Sch. 2 para. 29 in force at 18.4.2010 for specified purposes by [S.S.I. 2010/133](#), [art. 2](#), [Sch.](#)  
**I31** Sch. 2 para. 29 in force at 28.2.2011 in so far as not already in force by [S.S.I. 2011/157](#), [art. 2\(a\)](#)

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