

## SCHEDULES

### SCHEDULE 2 **N.I.**

#### REGULATED ACTIVITY

### **PART I** **N.I.**

#### REGULATED ACTIVITY RELATING TO CHILDREN

##### *Regulated activity: general*

#### **N.I.**

- 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 is a regulated activity relating to children—
  - (a) acting as a child minder on domestic premises;
  - (b) providing day care.
- (4) Any expression used both in sub-paragraph (3) and in Part XI of the Children Order has the meaning given by that Order.
- (5) It is a regulated activity relating to children to foster a child (as mentioned in Article 55).
- (6) The exercise of a function of a guardian ad litem appointed under Article 60 of the Children Order is a regulated activity relating to children.
- (7) The exercise of a function of a person mentioned in paragraph 4(1) is a regulated activity relating to children.
- (8) 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) an inspector appointed under Article 102 of the Education and Libraries (Northern Ireland) Order 1986;
  - (b) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (c) the Regulation and Improvement Authority.

**Status:** Point in time view as at 14/04/2008.

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(9) The exercise of a function of the Regulation and Improvement Authority so far as it relates to the inspection of an establishment, agency or body falling within sub-paragraph (10) is a regulated activity relating to children.

(10) 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 Article 12 of the 2003 Order,
- (b) an agency in relation to which such a requirement arises, or
- (c) an HSS body,

and it provides any form of treatment or therapy for children.

(11) In sub-paragraph (10)(c) the reference to an HSS 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).

(12) 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), (6), (8) or (9) is a regulated activity relating to children.

#### Commencement Information

- II** Sch. 2 para. 1 wholly in operation; Sch. 2 para. 1 not in operation at date of making see art. 1(3); Sch. 2 para. 1 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

#### 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

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- (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.

#### Commencement Information

**I2** Sch. 2 para. 2 wholly in operation; Sch. 2 para. 2 not in operation at date of making see art. 1(3); Sch. 2 para. 2 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 para. 2(1)(f) in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 4(w); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

### Establishments

#### N.I.

- 3.—**(1) The establishments referred to in paragraph 1(2) and (8) are—
- (a) an educational institution which is exclusively or mainly for the provision of full-time education to children;
  - (b) a nursery school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (NI 3);
  - (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 Article 9 of the 2003 Order);
  - (f) relevant childcare premises.
- (2) Relevant childcare premises are any part of premises on which a person acts as child minder or provides day care in respect of which he must be registered under Article 118 of the Children Order.

#### Commencement Information

**I3** Sch. 2 para. 3 wholly in operation; Sch. 2 para. 3 not in operation at date of making see art. 1(3); Sch. 2 para. 3 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

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## Positions

**N.I.**

4.—(1) The persons referred to in paragraph 1(7) are—

- (a) member of the governing body of an educational establishment mentioned in Article 12(5);
- (b) member of an HSS body;
- (c) director of social services of a Health and Social Services Board ;
- (d) director of a Health and Social Services trust responsible for the delivery of personal social services;
- (e) member of an education and library board;
- (f) chief education officer of an education and library board;
- (g) charity trustee of a children's charity;
- (h) Commissioner for Children and Young People for Northern Ireland;
- (i) a controller appointed in respect of a child under Article 101 of the Mental Health (Northern Ireland) Order 1986 (NI 4);
- (j) member, chief executive or member of staff of IBB.

(2) 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.

(3) 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.

### Commencement Information

**I4** Sch. 2 para. 4 wholly in operation; Sch. 2 para. 4 not in operation at date of making see art. 1(3); Sch. 2 para. 4 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

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.

### Commencement Information

**I5** Sch. 2 para. 5 wholly in operation; Sch. 2 para. 5 not in operation at date of making see art. 1(3); Sch. 2 para. 5 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

## 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.

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### Commencement Information

- 16** Sch. 2 para. 6 wholly in operation; Sch. 2 para. 6 not in operation at date of making see art. 1(3); Sch. 2 para. 6 in operation for certain purposes at 14.4.2008 by S.R. 2008/127, art. 4(c); Sch. 2 para. 6 in operation for certain purposes at 29.5.2008 by S.R. 2008/233, art. 5(o); Sch. 2 in operation at 13.3.2009 by S.R. 2009/41, art. 3(1)(b)

**Status:**

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**Changes to legislation:**

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