

PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

OVERVIEW

Part 1: Preliminary

185. [Paragraph 1](#) applies the “normal duties test” to the activities set out in Part 2 and the positions set out in Part 3. The concept of “normal duties” is extremely important in limiting the scope of Parts 2 and 3. Normal duties can be considered as something the individual might be expected to do as part of their post on an ongoing basis, for example appearing in a job description. Normal duties excludes one-off occurrences and unforeseeable events. No particular frequency for undertaking the work or duration of work are specified in the Act as these will depend on the context. For example, the specific plumber identified in a building firm as the individual who always does work on school premises because he has specialist knowledge of the central heating systems would be regarded as having that function as part of his “normal duties”, even if actual callouts occur quite infrequently. But a random plumber called in to a school for one emergency in respect of whom no prior arrangements had been made would not be regarded as working in a school as part of his “normal duties”.
186. [Part 4](#) explicitly identifies a number of positions which fall within the definition of regulated work with children; these are not qualified by any normal duties test.
187. [Paragraph 2](#) applies exceptions relating to children's employment and work to activities identified in paragraphs 3 to 7. Paragraph 2(a) excludes from regulated work all activities in paragraphs 3 to 7 carried out in relation to children aged 16 or 17 in the course of the children's *work*. This means, for example, that a shop manager recruiting or supervising children aged 16 or 17 as assistants (whether as employees or volunteers) is not within the scope of regulated work with children.
188. [Paragraph 2\(b\)](#) extends the exclusion from regulated work to work with children under the age of 16 in the course of the children's *employment* for being in sole charge of children (paragraph 5) and unsupervised contact with children (paragraph 6). “Employment” is defined in section 97. Employment means paid employment whether under a contract of service or apprenticeship or under a contract for services. Work is much wider than employment in the Act (see paragraph 164). This paragraph means that a shopkeeper employing a 14 year-old to do a paper round is outside the scope of regulated work but a scout leader supervising a group of 14-year-old scouts calling door-to-door to do odd jobs for money is within the scope of regulated work.