

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 5: Safeguarding vulnerable groups, criminal records etc.

Chapter 1: Safeguarding of vulnerable groups

Section 66: Restriction of scope of regulated activities: vulnerable adults

279. **Section 66** replaces the definition of ‘regulated activity’ relating to vulnerable adults (existing paragraphs 7(1) to (3) of Schedule 4 to the SVGA). **Subsection (2)** replaces the paragraphs 7(1) to (3) with new sub-paragraphs (1) to (3E). These new sub-paragraphs redefine regulated activity in relation to vulnerable adults to include:

- the provision of health care treatment in any setting by a health care professional, or by a person acting under the direction or supervision of a health care professional such as a health care assistant in a hospital or care home. This includes first aid provided by organisations such as St John’s Ambulance, as is the case for children;
- the provision of relevant personal care in any setting to a person who needs the care because of age, illness or disability. Relevant personal care is defined at new sub-paragraph (3B) as physical care such as assistance with eating, drinking, toileting, washing and dressing; prompting, together with supervision, for those activities, where such prompting and supervision are necessary for their execution; and any training, instruction, advice or guidance in relation to the performance of those activities to a person in need of it by reason of age, illness or disability (for example, a person given training on how to, for example, clean their teeth following a stroke);
- the provision of relevant social work by a social worker to clients or potential clients. Relevant social work is defined at new sub-paragraph (3C) as having the meaning in section 55(4) of the Care Standards Act 2000;
- the provision of assistance, in relation to general household matters, to a person who requires it because of age, illness or disability. This is defined as day to day assistance with managing the person’s cash, paying bills, or shopping;
- the provision of assistance to a person where there is a formal arrangement in place which allows a person to make welfare and/or financial decisions on behalf of another person of a kind specified in new sub-paragraph (3E);
- the transportation provided because of a person’s age, illness or disability. Regulations will set out the specific circumstances when transportation will be a regulated activity relating to vulnerable adults, and intended to cover various forms of transportation by hospital porters, emergency care staff, and transport for the purpose of a person’s health or social care needs arranged by or on behalf of the care provider or voluntary organisation.

*These notes refer to the Protection of Freedoms Act
2012 (c.9) which received Royal Assent on 1 May 2012*

280. *Subsection (3)* removes from the definition of regulated activity an activity in a care home provided for vulnerable adults falling within paragraph 7(4) of Schedule 4 to the SVGA. Workers who provide health or personal care or any other regulated activity to care home residents will fall within the revised definition in new paragraph 7(1) of Schedule 4 to the SVGA. Save for a consequential amendment, paragraph 7(5) of Schedule 4 is retained, so line managers with regular day to day management or supervision of a person carrying out a regulated activity as mentioned in new paragraph 7(1) (for example, care home managers) are still within scope.
281. *Subsection (5)* removes the inspection of providers of English local authority social services (other than local authorities) from the definition of regulated activity relating to vulnerable adults. The inspection of providers of Welsh local authority social services continues to fall within that definition.
282. *Subsection (6)* removes from the definition of regulated activity certain inspection functions of the Care Quality Commission.
283. *Subsections (7) and (8)* remove persons in specified roles and offices from the definition of regulated activity, including a member of a relevant local government body, local authority chief executives, charity trustees and the proprietors or managers of regulated establishments or agencies.
284. *Subsection (9)* removes the period condition in respect of regulated activity for vulnerable adults. This means that a person providing a regulated activity within the meaning of paragraph 7(1) of Schedule 4 to the SVGA will need only do so once to come within the scope of the revised Scheme.