

## SCHEDULE 1

Regulation 3(1)

### Regulated Activities

#### **Personal care**

1.—(1) Subject to sub-paragraphs (2) and (3), the provision of personal care for persons who, by reason of old age, illness or disability are unable to provide it for themselves, and which is provided in a place where those persons are living at the time the care is provided.

(2) Sub-paragraph (1) does not apply where paragraph 2 (accommodation for persons who require nursing or personal care) applies.

(3) Sub-paragraph (1) does not apply to—

- (a) the supply of carers to a service provider by an undertaking acting as an employment agency or employment business for the purposes of that provider carrying on a regulated activity,
- (b) the introduction of carers to an individual (other than a service provider) by a person (including an employment agency or an employment business) having no ongoing role in the direction or control of the service provided to that individual,
- (c) the services of a carer employed by an individual or related third party, without the involvement of an undertaking acting as an employment agency or employment business, and working wholly under the direction and control of that individual or related third party in order to meet the individual's own care requirements, and
- (d) the provision of personal care by a person managing a prison or other similar custodial establishment (other than a hospital within the meaning of Part 2 of the 1983 Act).

(4) In sub-paragraph (3)—

“carer” means an individual who provides personal care to a person referred to in sub-paragraph (1);

“related third party” means—

- (a) an individual with parental responsibility (within the meaning of section 3 of the Children Act 1989<sup>(1)</sup>) for a child to whom personal care services are to be provided;
- (b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the person to whom personal care services are to be provided;
- (c) a group of individuals mentioned in either of paragraphs (a) or (b) making arrangements on behalf of one or more persons to whom personal care services are to be provided;
- (d) a trust established for the purpose of providing services to meet the health or social care needs of a named individual.

#### **Accommodation for persons who require nursing or personal care**

2.—(1) The provision of residential accommodation together with nursing or personal care.

(2) Sub-paragraph (1) does not apply to the provision of accommodation—

- (a) to an individual by a shared lives carer under the terms of a shared lives agreement,
- (b) in a school,
- (c) in an institution within the further education sector or in a 16 to 19 Academy, or

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(1) 1989 c. 41.

- (d) in an institution within the further education sector where the number of persons to whom nursing or personal care and accommodation are provided is not more than one-tenth of the number of students to whom both education and accommodation are provided

### **Accommodation for persons who require treatment for substance misuse**

3. The provision of residential accommodation for a person together with treatment for drug or alcohol misuse, where acceptance by the person of such treatment is a condition of the provision of the accommodation.

### **Treatment of disease, disorder or injury**

4.—(1) Subject to sub-paragraph (2), the provision of treatment for a disease, disorder or injury by or under the supervision of—

- (a) a health care professional, or a team which includes a health care professional, or
  - (b) a social worker, or a team which includes a social worker, where the treatment is for a mental disorder.
- (2) The activities set out in sub-paragraph (3) are excepted from sub-paragraph (1).
- (3) The activities referred to in sub-paragraph (2) are—
- (a) assessment or medical treatment for persons detained under the 1983 Act,
  - (b) the provision of treatment by means of surgical procedures,
  - (c) diagnostic and screening procedures,
  - (d) services in slimming clinics,
  - (e) the practice of alternative and complementary medicine, with the exception of the practice of osteopathy or chiropractic,
  - (f) the provision of treatment in a sports ground or gymnasium (including associated premises) where it is provided for the sole benefit of persons taking part in, or attending, sporting activities and events,
  - (g) the provision of treatment (not being first aid for the purposes of paragraph 9 of Schedule 2) under temporary arrangements to deliver health care to those taking part in, or attending, sporting or cultural events,
  - (h) the provision of hyperbaric therapy, being the administration of oxygen (whether or not combined with one or more other gases) to a person who is in a sealed chamber which is gradually pressurised with compressed air, where the primary use of that chamber is—
    - (i) pursuant to regulation 6(3)(b) of the Diving at Work Regulations 1997<sup>(2)</sup> or regulation 8 or 12 of the Work in Compressed Air Regulations 1996<sup>(3)</sup>, or
    - (ii) otherwise for the treatment of workers in connection with the work which they perform, and
  - (i) the carrying on of any of the activities authorised by a licence granted by the Human Fertilisation and Embryology Authority under paragraph 1 of Schedule 2 to the Human Fertilisation and Embryology Act 1990<sup>(4)</sup>.
- (4) In this paragraph—
- (a) “health care professional” means a person who is—

<sup>(2)</sup> S.I. 1997/2776.

<sup>(3)</sup> S.I. 1996/1656.

<sup>(4)</sup> 1990 c. 37. Relevant amendments were made by: the Human Fertilisation and Embryology Act 2008 (c. 22), sections 11 and 66, Paragraphs 1 and 2 of Schedule 2, and Schedule 8, Part 1; and S.I. 2007/1522.

- (i) a medical practitioner,
  - (ii) a dental practitioner,
  - (iii) a dental hygienist,
  - (iv) a dental therapist,
  - (v) a dental nurse,
  - (vi) a dental technician,
  - (vii) an orthodontic therapist,
  - (viii) a nurse,
  - (ix) a midwife,
  - (x) a biomedical scientist,
  - (xi) a clinical scientist,
  - (xii) an operating department practitioner,
  - (xiii) a paramedic, or
  - (xiv) a radiographer;
- (b) “biomedical scientist”, “clinical scientist”, “operating department practitioner”, “paramedic” and “radiographer” means persons registered as such with the Health and Care Professions Council pursuant to article 5 of the 2001 Order;
- (c) “dental practitioner” means a dentist registered as such with the General Dental Council pursuant to section 14 of the Dentists Act 1984<sup>(5)</sup>;
- (d) “dental hygienist”, “dental therapist”, “dental nurse”, “dental technician” and “orthodontic therapist” means persons registered as such with the General Dental Council in the dental care professionals register;
- (e) “mental disorder” means any disorder or disability of the mind, including dependence on alcohol or drugs;
- (f) “midwife” means a registered midwife.

#### **Assessment or medical treatment for persons detained under the 1983 Act**

**5.—(1)** Subject to sub-paragraph (2), the assessment of, or medical treatment (other than surgical procedures) for, a mental disorder affecting a person in a hospital where that person is—

- (a) detained in that hospital pursuant to the provisions of the 1983 Act (with the exception of section 135 or 136),
- (b) recalled to that hospital under section 17E of that Act<sup>(6)</sup>, or
- (c) detained in that hospital pursuant to an order or direction made under another enactment, where that detention takes effect as if the order or direction were made pursuant to the provisions of the 1983 Act.

(2) Sub-paragraph (1) does not apply to the assessment or treatment by a registered medical practitioner appointed for the purposes of Part 4 of the 1983 Act in giving a certificate under sections 57 (treatment requiring consent and a second opinion), 58 (treatment requiring consent or a second opinion) or 58A (electro-convulsive therapy, etc) of that Act.

(3) In this paragraph—

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<sup>(5)</sup> 1984 c. 24. Section 14 was substituted by S.I. 2005/2011 and amended by S.I. 2007/3101.

<sup>(6)</sup> Section 17E was inserted into the Mental Health Act 1983 (c. 20) by section 32(1) and (2) of the Mental Health Act 2007 (c. 12).

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- “hospital” means a hospital within the meaning of Part 2 of the 1983 Act;
- “medical treatment” has the same meaning as in section 145 (interpretation) of that Act;
- “mental disorder” has the same meaning as in section 1 of that Act.

### **Surgical procedures**

- 6.—(1) Subject to sub-paragraphs (2) to (4), surgical procedures (including all pre-operative and post-operative care associated with such procedures) carried on by a health care professional for—
- (a) the purpose of treating disease, disorder or injury,
  - (b) the purpose of sterilisation or reversal of sterilisation,
  - (c) cosmetic purposes, where the procedure involves the use of instruments or equipment which are inserted into the body, or
  - (d) the purpose of religious observance.
- (2) Subject to sub-paragraph (3), the following procedures are excepted from sub-paragraph (1)—
- (a) nail surgery and nail bed procedures carried out by a health care professional on any area of the foot, and
  - (b) surgical procedures involving the curettage, cautery or cryocautery of warts, verrucae or other skin lesions carried out by—
    - (i) a medical practitioner, or
    - (ii) another health care professional on any area of the foot.
- (3) Sub-paragraph (2) only applies where the procedures are carried out—
- (a) without anaesthesia, or
  - (b) using local anaesthesia.
- (4) The following cosmetic procedures are excepted from sub-paragraph (1)(c)—
- (a) the piercing of any part of the human body,
  - (b) tattooing,
  - (c) the subcutaneous injection of a substance or substances for the purpose of enhancing a person’s appearance, and
  - (d) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.

### **Diagnostic and screening procedures**

- 7.—(1) Subject to sub-paragraphs (3), (5) and (7), diagnostic and screening procedures involving—
- (a) the use of X-rays and other methods in order to examine the body by the use of radiation, ultrasound or magnetic resonance imaging,
  - (b) the use of instruments or equipment which are inserted into the body to—
    - (i) view its internal parts, or
    - (ii) gather physiological data,
  - (c) the removal of tissues, cells or fluids from the body for the purposes of discovering the presence, cause or extent of disease, disorder or injury,
  - (d) the use of equipment in order to examine cells, tissues and other bodily fluids for the purposes of obtaining information on the causes and extent of a disease, disorder or injury, and

- (e) for the purposes of obtaining information on the causes and extent of a disease, disorder or injury, or the response to a therapeutic intervention, where such information is needed for the purposes of the planning and delivery of care or treatment, the use of equipment to measure or monitor physiological data in relation to the—
  - (i) audio-vestibular system,
  - (ii) vision system,
  - (iii) neurological system,
  - (iv) cardiovascular system,
  - (v) respiratory system,
  - (vi) gastro-intestinal system, or
  - (vii) urinary system.

(2) Subject to sub-paragraphs (3), (5) and (7), the analysis and reporting of the results of the procedures referred to in sub-paragraph (1).

(3) The procedures specified in sub-paragraph (4), and the analysis and reporting of the results of those procedures, are excepted from sub-paragraphs (1) and (2).

(4) The procedures referred to in sub-paragraph (3) are—

- (a) the taking of blood samples where—
  - (i) the procedure is carried out by means of a pin prick or from a vein, and
  - (ii) it is not necessary to send such samples for analysis to a place which is established for the purposes of carrying out tests or research in relation to samples of bodily cells, tissues or fluids;
- (b) where part of neither the planning and delivery of care or treatment nor a national screening programme, other than for cancer, the taking and analysis of samples of bodily tissues, cells or fluids in order to ascertain—
  - (i) the existence of a genetically inherited disease or disorder, or
  - (ii) the influence of an individual's genetic variation on drug response;
- (c) the carrying out of procedures as part of a national cancer screening programme by a body established solely for the purpose of such a programme;
- (d) fitness screening procedures carried out in a gymnasium in order to ascertain that a person is sufficiently healthy to use fitness equipment or take part in fitness routines safely;
- (e) the taking of X-rays by chiropractors;
- (f) the use of ultrasound equipment by physiotherapists;
- (g) the carrying out of a hearing needs assessment or the supply and fitting of a hearing aid carried out by a hearing aid dispenser or a person acting under the direction or supervision of a hearing aid dispenser where—
  - (i) the patient is aged 19 or over, or
  - (ii) the patient is under 19 years old and the procedure is carried out in, or arranged by, a school or 16 to 19 Academy;
- (h) the taking of urine samples where it is not necessary to send such samples for analysis to a place which is established for the purposes of carrying out tests or research in relation to samples of bodily cells, tissues or fluids;
- (i) the taking and analysing of wound swabs, hair samples or nail clippings;
- (j) the non-ambulatory recording of blood pressure;
- (k) the use of 12-lead electrocardiography;

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- (l) the use of a peak flow meter to measure peak expiratory flow;
- (m) pulse oximetry when used for the purpose of spot recording;
- (n) spirometry when carried out for screening, non-diagnostic or monitoring purposes;
- (o) diagnostic and screening procedures carried out by a person in connection with any of the activities listed in Schedule 2 (activities for which licences may be granted) to the Human Fertilisation and Embryology Act 1990<sup>(7)</sup> for which a licence has been granted to that person under section 16 (grant of licence) of that Act.

(5) Where a service provider is registered in respect of an activity listed in any other paragraph of this Schedule, the procedures specified in sub-paragraph (6), and the analysis and reporting of the results of those procedures, are excepted from sub-paragraphs (1) and (2) of this paragraph.

(6) The procedures referred to in sub-paragraph (5) are—

- (a) the taking of blood or urine samples,
- (b) the analysis of urine or stool samples by means of dip stick or other reagent, and
- (c) the taking of tissue samples by means of—
  - (i) a swab specimen from any external part of the body or from the mouth, ear, nose or throat, or
  - (ii) skin scrapings.

(7) The carrying out of diagnostic and screening procedures mentioned in sub-paragraph (1) or analysis and reporting of such procedures for research is excepted from sub-paragraphs (1) and (2) where those procedures, or that analysis and reporting, do not form any part of an individual's care or treatment.

(8) For the purposes of this paragraph—

“chiropractor” means a person registered with the General Chiropractic Council under section 3, 4, 5 or 5A of the Chiropractors Act 1994<sup>(8)</sup>;

“hearing aid dispenser” means a person registered as such with the Health and Care Professions Council pursuant to article 5 of the 2001 Order;

“physiotherapist” means a person registered as such with the Health and Care Professions Council pursuant to article 5 of the 2001 Order.

### **Management of supply of blood and blood derived products etc**

8.—(1) Subject to sub-paragraph (2), the management of—

- (a) the supply of blood, blood components and blood derived products intended for transfusion,
- (b) the supply of tissues and tissue derived products intended for transplant, grafting or use in a surgical procedure, and
- (c) the matching and allocation of donor organs intended for transplant, and of stem cells and bone marrow intended for transfusion.

(2) Sub-paragraph (1) does not apply to the management of the supply of blood, blood components, tissues and products mentioned in sub-paragraph (1)(a) and (b) where that management does not involve direct physical contact with patients or donors.

(3) For the purposes of this paragraph—

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(7) Relevant amendments were made by: the Human Fertilisation and Embryology Act 2008 (c. 22), sections 11 and 66, Schedule 2, and Schedule 8, Part 1; and S.I. 2007/1522 and 2009/2232.

(8) 1994 c.17. Relevant amendments were made by S.I. 2007/3101 and 2008/1774.

“donor” means a person from whom anything mentioned in sub-paragraph (1)(a) or (b) is derived;

“patient” means a person to whom anything mentioned in sub-paragraph (1)(a) or (b) is administered.

### **Transport services, triage and medical advice provided remotely**

**9.**—(1) Subject to sub-paragraphs (3) and (4), transport services provided by means of a vehicle which is designed for the primary purpose of carrying a person who requires treatment.

(2) Medical advice in cases where immediate action or attention is needed, or triage provided, over the telephone or by electronic mail by a body established for that purpose.

(3) Transport services which are provided within the confines of the site or venue being used for an activity or event mentioned in paragraph 4(3)(f) or (g) are excepted from sub-paragraph (1).

(4) The provision of an air ambulance is excepted from sub-paragraph (1) where—

(a) the aircraft is registered with the Civil Aviation Authority pursuant to article 6 (aircraft to be registered) of the Air Navigation Order 2009<sup>(9)</sup>, and

(b) the person providing the air ambulance does not provide treatment to a patient.

(5) For the purposes of this paragraph—

“triage” means the assignment of degrees of urgency to diseases, disorders or injuries in order to decide the order and place of treatment of service users;

“vehicle” includes an air or water ambulance.

### **Maternity and midwifery services**

**10.**—(1) Subject to sub-paragraph (2), maternity and midwifery services carried on by, or under the supervision of, a health care professional.

(2) The following services are excepted from sub-paragraph (1)—

(a) midwifery services, where the provision of those services is carried on by an individual—

(i) acting on their own behalf,

(ii) otherwise than in pursuance of the 2006 Act, and

(iii) who provides such services only to service users in their own homes;

(b) the provision of advice, information and support in relation to pregnancy, childbirth or the acquisition of parenting skills, where provided by a body whose primary purpose or function is not the provision of health care (other than that advice, information and support);

(c) services provided under arrangements relating to the care of pregnant women and women who are breast feeding made pursuant to section 254 of, and Schedule 20 to, the 2006 Act (local social services authorities).

### **Termination of pregnancies**

**11.** The termination of pregnancies.

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(9) [S.I. 2009/3015](#). There are no relevant amendments to article 6 of the Air Navigation Order 2009.

*Status: This is the original version (as it was originally made).*

### **Services in slimming clinics**

**12.** Services provided in a slimming clinic consisting of the provision of advice or treatment by, or under the supervision of, a medical practitioner, including the prescribing of medicines for the purposes of weight reduction.

### **Nursing care**

**13.—(1)** Subject to sub-paragraph (2), the provision of nursing care, including nursing care provided in a person's own home which is not—

- (a) provided as part of any other regulated activity, and
- (b) exempted from being a regulated activity under any other paragraph in this Schedule.

**(2)** The following types of provision are excepted from sub-paragraph (1)—

- (a) the supply of nurses to a service provider by an undertaking acting as an employment agency or employment business for the purposes of that provider carrying on a regulated activity,
- (b) the introduction of nurses to an individual (other than a service provider) by a person (including an employment agency or an employment business) having no ongoing role in the direction or control of the service provided to that individual, and
- (c) the services of a nurse employed by an individual, without the involvement of an undertaking acting as an employment agency or an employment business, and working wholly under the direction and control of that individual in order to meet that individual's own nursing requirements.

### **Family planning services**

**14.** The insertion or removal of an intrauterine contraceptive device carried out by, or under the supervision of, a health care professional.