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STATUTORY INSTRUMENTS

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**2012 No. 1513**

**The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012**

**Amendments to Schedule 1**

**8.**—(1) Schedule 1 (regulated activities) is amended as follows.

(2) In paragraph 1 (personal care)—

(a) for sub-paragraph (3)(c) substitute—

“(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”;

(b) in sub-paragraph (4), after the definition of “carer” insert—

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“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) and (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.”.

(3) In paragraph 6 (assessment or medical treatment for persons detained under the 1983 Act)—

(a) at the beginning of sub-paragraph (1), insert “Subject to sub-paragraph (1A),”;

(b) after sub-paragraph (1), insert—

“(1A) 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) of that Act<sup>(2)</sup>.”

(4) In paragraph 7 (surgical procedures), after sub-paragraph (1)(a), insert—

“(aa) the purpose of sterilisation or reversal of sterilisation;”.

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(1) 1989 c.41.

(2) 1983 c.20, as amended by Mental Health Act 2007 c.12.

- (5) In paragraph 8 (diagnostic and screening procedures)—
- (a) in sub-paragraphs (1) and (2), for “sub-paragraph (3)” substitute “sub-paragraphs (3), (4A) and (4C)”;
  - (b) in sub-paragraph (4)—
    - (i) in paragraph (a)(i), after “pin prick” insert “or from a vein”;
    - (ii) for paragraph (g) substitute—
      - “(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;
      - (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; and
      - (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>(3)</sup> for which a licence has been granted to that person under section 16 (grant of licence) of that Act.”;
  - (c) after sub-paragraph (4), insert—
    - “(4A) 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 (4B), and the analysis and reporting of the results of those procedures, are excepted from sub-paragraphs (1) and (2) of this paragraph.
    - (4B) The procedures referred to in sub-paragraph (4A) 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.

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(3) 1990 c.37, as amended by section 11 of the Human Fertilisation and Embryology Act 2008 (c.22), S.I. 2007/1522 and S.I. 2009/2232.

- (4C) 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.”; and
- (d) in sub-paragraph (5)—
- (i) before paragraph (a), insert—
- “(za) “16 to 19 Academy” has the same meaning as in section 1B of the Academies Act 2010(4);”; and
- (ii) after paragraph (a), insert—
- “(aa) “hearing aid dispenser” means a person registered as such with the Health Professions Council pursuant to article 5 of the 2001 Order(5);”.
- (6) In paragraph 9 (management of supply of blood and blood derived products etc.)—
- (a) insert “(1)” at the beginning of the existing paragraph;
- (b) insert at the beginning of sub-paragraph (1), “Subject to sub-paragraph (2),”; and
- (c) after sub-paragraph (1), insert—
- “(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—
- “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.”.
- (7) In paragraph 10 (transport services, triage and medical advice provided remotely)—
- (a) in sub-paragraph (1), at the beginning, insert “Subject to sub-paragraphs (2A) and (2B),”; and
- (b) after sub-paragraph (2), insert—
- “(2A) Transport services which are provided within the confines of the site or venue being used for an activity or event mentioned in paragraph 5(3)(f) or (g) are excepted from sub-paragraph (1).
- (2B) 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(6); and
- (b) the person providing the air ambulance does not provide treatment to a patient.”.

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(4) 2010 c.32.

(5) S.I. 2002/254, as amended by S.I. 2010/233.

(6) S.I. 2009/3015.