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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 28**

**PROTECTION OF VULNERABLE ADULTS**

The Protection of Vulnerable Groups (Scotland)  
Act 2007 (Prescribed Services) (Protected  
Adults) Amendment Regulations 2018

<i>Made</i>	- - - -	<i>30th January 2018</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>1st February 2018</i>
<i>Coming into force</i>	- -	<i>12th March 2018</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 94(1)(d) and 100(2)(b) of the Protection of Vulnerable Groups (Scotland) Act 2007(1) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Amendment Regulations 2018 and come into force on 12th March 2018.

**Amendment of the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010**

2. The Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010(2) are amended as follows.

3. In regulation 5 (prescribed welfare services), for “For” substitute “Subject to regulation 5A, for”.

4. After regulation 5, insert—

“5A.—(1) For the purposes of section 94(1)(d) of the Act a prescribed welfare service does not include a welfare service(3) that is provided in the course of work within a prison by a prisoner to another prisoner.

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(1) 2007 asp 14 (“the 2007 Act”). There are amendments to section 94 which are not relevant to these Regulations. Section 97(1) contains a definition of “prescribed” relevant to the statutory powers under which these Regulations are made.  
(2) S.S.I. 2010/161, to which there are amendments not relevant to these Regulations.  
(3) Section 94(5) of the 2007 Act contains a definition of “welfare service”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(2) For the purposes of this regulation—

- (a) “prison” means a prison, young offenders institution or remand centre which is under the general superintendence of the Scottish Ministers under the Prisons (Scotland) Act 1989<sup>(4)</sup>, and includes any contracted out prison within the meaning of section 106(4) of the Criminal Justice and Public Order Act 1994<sup>(5)</sup>;
- (b) “prisoner” means a person committed for trial, safe custody, punishment or otherwise, in a prison.”.

St Andrew’s House, Edinburgh  
30th January 2018

*MAREE TODD*  
Authorised to sign by the Scottish Ministers

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<sup>(4)</sup> 1989 c.45.  
<sup>(5)</sup> 1994 c.33. Section 106(4) was relevantly amended by S.I. 1999/1820.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 94 of the Protection of Vulnerable Groups (Scotland) Act 2007 (“the Act”) defines who is a protected adult for the purposes of the Act. Under that section, the receipt of, among other things, a prescribed welfare service confers protected adult status on an individual. Section 97(1) of the Act provides that “prescribed” means prescribed in Regulations made by the Scottish Ministers. Regulation 5 of the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 (“the 2010 Regulations”) prescribes welfare services for the purposes of section 94(1)(d) of the Act. Consequently, persons who receive such services are protected adults. These Regulations amend the 2010 Regulations.

Regulation 4 inserts a new regulation 5A into the 2010 Regulations to qualify the meaning of a prescribed welfare service for the purposes of section 94(1)(d) of the Act. The new regulation 5A(1) excludes from that meaning a welfare service that is provided in the course of work within a prison by a prisoner to another prisoner. Receipt of such a service will therefore not confer protected adult status on a prisoner. The new regulation 5A(2) defines what is meant by “prison” and “prisoner” for these purposes.