SCOTTISH STATUTORY INSTRUMENTS

2003 No. 150

SOCIAL CARE

The Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003

Made - - - -	*6th March 2003*
Laid before the Scottish Parliament - - - -	*10th March 2003*
Coming into force - -	*1st April 2003*

The Scottish Ministers, in exercise of the powers conferred by section 29 of the Regulation of Care (Scotland) Act 2001(**1**) and of all other powers enabling them in that behalf, and having consulted such persons and groups of persons as they consider appropriate in accordance with section 29(12) of that Act, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003 and shall come into force on 1st April 2003.

(2) In these Regulations–

"provider" in relation to a limited registration service means the person for the time being providing that service;

"service user" in relation to a limited registration service means any person to whom that service is provided; and

"statement of aims and objectives" means the written statement compiled in accordance with regulation 3.

(3) In these Regulations, references to employing a person include employing a person whether or not for payment and whether under a contract of service, a contract for services or otherwise than under a contract, and allowing a person to work as a volunteer, and references to an employee or to a person being employed shall be construed accordingly.

(**1**) 2001 asp 8; see section 77(1) for a definition of "regulations".

Principles

2. A provider of a limited registration service shall provide the service in a manner which promotes and respects the independence of service users and, so far as it is practicable to do so, affords them choice in the way in which the service is provided to them.

Statement of aims and objectives

3. A provider shall prepare a written statement of the aims and objectives of the limited registration service.

Fitness of providers

4.—(1) A person shall not provide a limited registration service unless the person is fit to do so.

(2) The following persons are not fit to provide such a service:–

(a) a person who is not of integrity and good character;

(b) a person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine; and

(c) a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland or in relation to whose estate a judicial factor has been appointed or who has granted a trust deed for the benefit of the person's creditors:

Provided that–

(i) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when–

(aa) the sequestration is recalled or reduced; or

(bb) the sequestration is discharged;

(ii) the disqualification attaching to a person by reason of having been adjudged bankrupt shall cease if and when–

(aa) the bankruptcy is annulled; or

(bb) the person is discharged;

(iii) the disqualification attaching to a person in relation to whose estate a judicial factor has been appointed shall cease if and when–

(aa) that appointment is recalled; or

(bb) the judicial factor is discharged; or

(iv) the disqualification attaching to a person who has granted a trust deed shall cease if and when the person pays the creditors in full or on the expiry of 5 years from the date of grant of the deed.

(3) For the purposes of paragraph (2)(b)–

(a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted; and

(b) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have

constituted an offence under the law in force in that part of the United Kingdom shall be disregarded.

(4) A provider shall inform the Commission immediately in writing where the provider becomes a person who is not fit to provide a care service in terms of this regulation.

Fitness of managers

5.—(1) A person shall not act as a manager in relation to a limited registration service unless the person is fit to do so.

(2) The following persons are not fit to act as a manager in relation to such a service:–

(a) any person to whom regulation 4(2)(a) applies;

(b) any person to whom regulation 4(2)(b) applies;

(c) a person who is not physically and mentally fit to manage the service;

(d) a person who does not have the skills, knowledge and experience necessary for managing the service;

(e) a person who, in order to perform the duties for which the person is employed in the service, is required by any enactment to be registered with any person or body and is not so registered.

Notification of unfitness

6.—(1) Where a provider of a limited registration service is, or becomes, aware that a person acting as a manager in relation to the service has been convicted of any criminal offence, whether in the United Kingdom or elsewhere, the provider shall immediately give notice to the Commission of–

(a) the date and place of conviction;

(b) the offence of which the provider or manager was convicted; and

(c) the penalty imposed in respect of the offence.

(2) Where a provider of a limited registration service becomes aware that a person acting as manager in relation to that service is not fit to do so in terms of this regulation, the provider shall immediately notify the Commission in writing of that fact.

Fitness of employees

7.—(1) A provider shall not employ any person in the provision of a limited registration service unless that person is fit to be so employed.

(2) The following persons are not fit to be employed in the provision of such a service:–

(a) a person who is not physically and mentally fit for the purposes of the work for which the person is employed in the service;

(b) a person who does not have the qualifications, skills and experience necessary for the work that the person is to perform; and

(c) any person to whom regulation 5(2)(e) applies.

Staffing

8. A provider of a limited registration service shall, having regard to the size and nature of the service, the statement of aims and objectives and the number and needs of service users–

(a) ensure that at all times suitably qualified and competent persons are working in the service in such numbers as are appropriate for the management of the finances of service users; and