SCOTTISH STATUTORY INSTRUMENTS

2002 No. 113

SOCIAL CARE

The Regulation of Care (Applications and Provision of Advice) (Scotland) Order 2002

Made - - - -	*8th March 2002*
Laid before the Scottish Parliament - - - -	*8th March 2002*
Coming into force - -	*1st April 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 4(3), 7(2)(a), 14(3) and 33(2) of the Regulation of Care (Scotland) Act 2001(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Regulation of Care (Applications and Provision of Advice) (Scotland) Order 2002 and shall come into force on 1st April 2002.

(2) In this Order–

"the Act" means the Regulation of Care (Scotland) Act 2001;

"the applicant" means the person making an application for registration of a care service under the Act;

"public body" means a body established by or under any enactment; and

"relative" in relation to an applicant means a spouse, parent, grandparent, brother, sister, child, grandchild, uncle, aunt, nephew or niece of the applicant, a person who is living with the applicant as if that person were the applicant's husband or wife, or a person of the same sex as the applicant who is living with the applicant in a relationship which has the characteristics (other than that the persons are of the opposite sex) of husband and wife.

(3) In this Order, 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 employment, to an employee or to a person being employed shall be construed accordingly.

(**1**) 2001 asp 8. See section 77 for the definition of "prescribed".

Applications for registration under Part 1 of the Act

2. An application for registration under section 7(1) of the Act shall provide the information specified in relation to the particular application in the Schedule.

Local authority applications under Part 2 of the Act

3. An application by a local authority for registration under section 33(1)(c) of the Act shall provide–

(a) the information set out in the Schedule;

(b) a statement that the local authority have determined that they must provide the service in order to fulfil a statutory duty; and

(c) a statement of the reasons for that determination (including identification of the statutory provisions which in the opinion of the local authority give rise to that duty).

Variation or removal of conditions

4.—(1) An application under section 14(1)(a) of the Act for variation or removal of a condition relating to registration of a care service shall specify–

(a) the date on which it is proposed that the variation or removal is to take effect;

(b) the reason or reasons for making the application; and

(c) any changes which the person providing the service proposes to make in relation to the care service as a consequence of the proposed variation or removal.

(2) Except where the Commission has agreed in writing that an earlier date may be specified, the date referred to in paragraph (1)(a) shall be not less than three months after the date on which the application is made.

Cancellation of registration

5.—(1) An application under section 14(1)(b) of the Act for cancellation of the registration of a care service shall specify–

(a) the date on which it is proposed that the cancellation is to take effect;

(b) the reason or reasons for making the application;

(c) any arrangements made by the provider with the aim of ensuring that persons using the service will continue to receive a similar service (including, where appropriate, accommodation) from the provider or another person;

(d) whether notice of the application has been given to any of the persons to whom paragraph (2) applies and the form and terms of any such notice; and

(e) where notice has not been given to any of the persons to whom paragraph (2) applies, whether there were any circumstances which made it impracticable for the person providing the service to give such notice.

(2) The persons to whom this paragraph applies are–

(a) any person using the service when the application is made;

(b) any person appearing to be a representative or relative of the person using the service; and

(c) any local authority or health body.

(3) Except where the Commission has agreed in writing that an earlier date may be specified, the date referred to in paragraph (1)(a) shall be not less than three months after the date on which the application is made.

Provision of advice

6. The Mental Welfare Commission for Scotland which is continued in being by section 2 of the Mental Health (Scotland) Act 1984(**2**) is prescribed for the purposes of section 4(3)(b)(vi) of the Act (persons prescribed by the Scottish Ministers to be provided by the Commission with advice).

St Andrew's House,Edinburgh
8th March 2002

MALCOLM CHISHOLM
A member of the Scottish Executive

(**2**) 1984 c. 36.