WELSH STATUTORY INSTRUMENTS

2004 No. 1756 (W.188)

SOCIAL CARE, WALES

The Adult Placement Schemes (Wales) Regulations 2004

Made - - - -	*7 July 2004*
Coming into force - -	*1 August 2004*

The National Assembly for Wales, having consulted such persons as it considers appropriate(**1**), hereby makes the following Regulations in exercise of the powers conferred upon it by the following sections of the Care Standards Act 2000(**2**) —

[a] sections 3(3), 42(1), 118(5) and (7); and

[b] by virtue of Regulation 3 of, and Schedule 1 to, these Regulations(**3**), sections 22(1), 22 (2)(a) to (d) and (f) to (j), 22(5), 22(7)(a) to (j), 25(1), and 34(1)(**4**).

PART I —
GENERAL

Name, commencement and application

1.—(1) These Regulations are called the Adult Placement Schemes (Wales) Regulations 2004 and shall come into force on 1 August 2004.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

"the Act" ("*y Ddeddf*") means the Care Standards Act 2000;

(**1**) *See* section 22(9) of the Care Standards Act 2000 for the requirement to consult.

(**2**) 2000 c. 14. The powers are conferred upon the "appropriate Minister". "Appropriate Minister" means the Assembly in relation to Wales, it means the Secretary of State in relation to England, Scotland and Northern Ireland: *see* section 121(1) of the 2000 Act. "Assembly" means the National Assembly for Wales: *see* section 5(b) of the 2000 Act. *See* section 121(1) for the definitions of "prescribed" and "regulations".

(**3**) Section 42(1) of the Act, under which regulation 3 is made, provides that regulations may apply the provisions of Part II of the Act to persons prescribed by these regulations (being persons to which sub-sections (2) and (3) apply) with such modifications as may be specified in the regulations.

(**4**) *See* paragraphs 1 and 2 and Part II of Schedule 1 to these Regulations.

"adult placement agreement" ("*cytundeb lleoli oedolion*") shall be construed in accordance with regulation 13;

"adult placement carer" ("*gofalwr lleoliad oedolion*") means a person in whose home an adult is or may be accommodated and provided with personal care under an adult placement agreement entered into or proposed to be entered into by the carer;

"adult placement scheme guide" ("*arweiniad i'r cynllun lleoli oedolion*") shall be construed in accordance with regulation 5;

"adult placement scheme" ("*cynllun lleoli oedolion*") means a scheme under which arrangements are made or proposed to be made for not more than two adults to be accommodated and provided with personal care in the home of a person who is not their relative;

"adult's plan" ("*cynllun oedolyn*") shall be construed in accordance with regulation 18 and includes that plan as amended from time to time;

"appropriate office of the National Assembly" ("*swyddfa briodol y Cynulliad Cenedlaethol*") means in relation to an adult placement scheme —

(a) if an office of the National Assembly has been specified under regulation 33 for the area in which the principal office of the scheme is situated, that office; or

(b) in any other case, any office of the National Assembly;

"care services" ("*gwasanaethau gofal*") has the same meaning as in Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**5**);

"complaints procedure" ("*trefn gwyno*") shall be construed in accordance with regulation 21;

"home", ("*cartref*") where a person has more than one home, means the home where the person ordinarily resides;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"organisation" ("*corff*") means a body corporate;

"placement" ("*lleoliad*") means an arrangement whereby an adult is accommodated in the home of an adult placement carer;

"placed" ("*lleoli*") must be construed in accordance with the definition of "placement";

"principal office of the scheme" ("*prif swyddfa'r cynllun*") means the office from which the scheme is mainly administered;

"registered manager" ("*rheolwr cofrestredig*") means a person who is registered under Part II of the Act as the manager of the adult placement scheme;

"registered person" ("*person cofrestredig*") means any person who is the registered provider or the registered manager of the adult placement scheme;

"registered provider" ("*darparwr cofrestredig*") means the person who is registered under Part II of the Act as the provider of the adult placement scheme;

"relative" ("*perthynas*") in relation to a relevant adult means —

(a) the adult's spouse;

(b) any parent, grandparent, great-grandparent, child, grandchild, great-grandchild, brother, sister, uncle, aunt, nephew or niece of the adult or of the adult's spouse;

(c) the spouse of any relative within sub-paragraph (b) of this definition;

(d) a person with whom the adult was accommodated for more than 28 days between the ages of sixteen and eighteen under fostering arrangements, or the person's spouse;

(**5**) S.I.1975/1023; the definition of "care services" was inserted in the 1975 Order by S.I. 2002/441.

and for the purpose of determining any such relationship a person's step child shall be treated as his or her child, and references to "spouse" include a former spouse and a person who is living with the person as if they were husband and wife;

"relevant adult" ("*oedolyn perthnasol*") in relation to a scheme, means an adult who may be or is placed under the scheme;

"representative" ("*cynrychiolydd*") in relation to a relevant adult, means a person (other than the registered provider or manager, member of staff or adult placement carer) who with the adult's express or implied consent takes an interest in the adult's health and welfare;

"responsible individual" ("*unigolyn cyfrifol*") shall be construed in accordance with regulation 8(2);

"scheme premises" ("*mangre cynllun*") means premises from which the management of the adult placement scheme takes place;

"staff" ("*staff*") in relation to a scheme, means persons, other than adult placement carers, who work for the purposes of the scheme;

"statement of purpose" ("*datganiad o ddiben*") shall be construed in accordance with regulation 4;

"vulnerable adult" ("*oedolyn hawdd ei niweidio*") has the same meaning as in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**6**); and

"work" ("*gwaith*") includes work of any kind, whether paid or unpaid, and whether under a contract of apprenticeship, under a contract for services, or otherwise than under a contract.

(2) In these Regulations a reference —

(a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;

(b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;

(c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In regulations 2(1) and 7 and in Schedule 1, a reference to Part II of the Act is to Part II of the Act as applied by regulation 3 and Schedule 1.

Prescribed persons

3.—(1) Save where paragraph (2) applies, a person who provides or manages an adult placement scheme is hereby prescribed for the purposes of section 42(1) of the Act.

(2) This paragraph applies where the person is an individual and merely makes arrangements for the accommodation and provision of personal care for his or her relative.

(3) Part II of the Act shall apply to persons prescribed in paragraph (1) in accordance with Part 1 of Schedule 1 and with the modifications specified in Part 2 of Schedule 1.

Statement of purpose

4.—(1) The registered person must compile in relation to the adult placement scheme a written statement (in these Regulations referred to as the "statement of purpose") which must consist of —

(a) a statement of the aims and objectives of the scheme;

(**6**) S.I. 1975/1023; the definition of "vulnerable adult" was inserted in the 1975 Order by S.I. 2002/441.

(b) a statement of the facilities and services which are to be provided under the adult placement scheme for relevant adults; and

(c) a statement as to the matters listed in Schedule 2.

(2) The registered person must —

(a) provide a copy of the statement of purpose to the appropriate office of the National Assembly; and

(b) make the statement available upon request for inspection at any reasonable time by any relevant adult and any representative of such an adult.

Adult placement scheme guide

5.—(1) The registered person must produce a written guide to the adult placement scheme (in these Regulations referred to as the "adult placement scheme guide") which must include —

(a) a summary of the statement of purpose;

(b) either a summary of the most recent inspection report or a copy of that report;

(c) a summary of the complaints procedure prepared under regulation 21; and

(d) the address and telephone number of the appropriate office of the National Assembly.

(2) The registered person must —

(a) provide a copy of the first adult placement scheme guide to the appropriate office of the National Assembly;

(b) provide a copy of the current guide to each adult when first placed under the adult placement scheme;

(c) provide on request a copy of the current guide to any adult who may be placed under the scheme or to the adult's representative.

(3) The adult placement scheme guide must be produced in a format which is appropriate to the needs of relevant adults.

Review of statement of purpose and adult placement scheme guide

6.—(1) The registered person must —

(a) keep under review and, subject to compliance with paragraph (2), where appropriate, revise the statement of purpose and the adult placement scheme guide; and

(b) if the adult placement scheme guide is revised, supply a revised copy to each adult who is at the time of the revision placed under the adult placement scheme.

(2) The registered person must, whenever practicable, notify the appropriate office of the National Assembly of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

Scheme documents

7. The registered person must ensure that the fact of registration in respect of the adult placement scheme under Part II of the Act is recorded in all correspondence and other documents prepared in connection with the scheme.

PART II

REGISTERED PERSONS

Fitness of registered provider

8.—(1) A person must not provide an adult placement scheme unless fit to do so.

(2) A person is not fit to provide an adult placement scheme unless the person —

(a) is an individual who provides an adult placement scheme —

(i) otherwise than in partnership with others and he or she satisfies the requirements of paragraph (3); or

(ii) in partnership with others and he or she and each of the partners satisfies the requirements set out in paragraph (3); or

(b) is an organisation and —

(i) it has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as "the responsible individual") who is a director, manager, secretary or other senior officer of the organisation and is responsible for the management of the scheme; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that —

(a) the person is of integrity and good character;

(b) the person is physically and mentally fit to provide or (as the case may be) be responsible for the management of the scheme; and

(c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 3 is available in relation to the person.

(4) A person is not fit to provide an adult placement scheme if —

(a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or

(b) he or she has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

Appointment of manager

9.—(1) The registered provider must appoint an individual to manage the scheme if —

(a) there is no registered manager in respect of the scheme; and

(b) the registered provider —

(i) is an organisation;

(ii) carries on the scheme in partnership;

(iii) is not a fit person to manage a scheme; or

(iv) is not, or does not intend to be, in full time day to day charge of the scheme.

(2) Where —

(a) the registered provider, or

(b) if an appointment has been made under paragraph (1), the registered manager,