STATUTORY RULES OF NORTHERN IRELAND

2007 No. 235

HEALTH AND PERSONAL SOCIAL SERVICES

The Domiciliary Care Agencies Regulations (Northern Ireland) 2007

Made - - - -	*4th April 2007*
Coming into operation	*30th April 2007*

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by Articles 2(2), 2(8)(b), 23(1), (2)(a) to (d) and (f) to (j), (5)(a) and (7)(a) to (h) and (j), 25, 30, 31(1), 32 and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**1**).

In accordance with Article 23(8) of that Order the Department has consulted with such persons as it considers appropriate.

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Domiciliary Care Agencies Regulations (Northern Ireland) 2007 and shall come into operation on 30th April 2007.

Interpretation

2.—(1) In these Regulations—

"the Order" means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"agency" means a domiciliary care agency;

"agency premises" means the premises from which the activities of an agency are carried on;

"direct service provider" means a provider who supplies a domiciliary care worker who is employed by, and who acts for and under the control of, the provider;

"domiciliary care worker" means a person who—

(**1**) S.I.2003/431 (N.I. 9)

(a) is employed by an agency to act for, and under the control of, another person;

(b) is introduced by an agency to a service user for employment by him; or

(c) is employed by a direct service provider,

in a position which is concerned with the provision of prescribed services in their own homes for persons who by reason of illness, infirmity, disability or family circumstances are unable to provide any such service for themselves without assistance;

"organisation" means a body corporate or any unincorporated association other than a partnership;

"personal care" has the same meaning as in Article10(3) of the Order;

"prescribed services" shall be construed in accordance with regulation 3;

"registered manager", in relation to an agency, means a person who is registered under Part III of the Order as the manager of the agency;

"registered person", in relation to an agency, means any person who is the registered provider or the registered manager of the agency;

"registered provider", in relation to an agency, means a person who is registered under Part III of the Order as the person carrying on the agency;

"relative" in relation to a service user, means—

(a) the service user's spouse or civil partner;

(b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the service user, or his spouse or civil partner;

(c) the spouse or civil partner of any relative within sub-paragraph (b) of this definition,

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

"representative" means in relation to a service user, a person other than the registered person or a person employed by the agency, who with the service user's express or implied consent, takes an interest in the service user's health and welfare;

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

"service user" means any person for whom an agency—

(a) supplies a domiciliary care worker who is employed by the agency (including domiciliary care workers supplied by a direct service provider); or

(b) provides services for the purpose of supplying him with a domiciliary care worker for employment by him;

"service user's guide" means the guide produced in accordance with regulation 6(1);

"service user plan" means the written plan prepared in accordance with regulation 15(2);

"statement of purpose" means the written statement compiled in accordance with regulation 5(1).

(2) In these Regulations, references to the supply of a domiciliary care worker mean—

(a) the supply of a domiciliary care worker who is employed by an agency to act for and under the control of another person;

(b) the introduction of a domiciliary care worker by an agency to a service user for employment by him; and

(c) the supply of a domiciliary care worker employed by a direct service provider to a service user.

(3) In these Regulations, the terms "employed" and "employment" include employment under a contract of service or a contract for services, or otherwise than under a contract and whether or not for payment.

Prescribed services

3. For the purposes of the definition of "domiciliary care agency" in Article 2(2) of the Order, the prescribed services are:

(a) personal care; and

(b) assessment of the need for such care.

Excepted undertakings

4. For the purposes of the Order, an undertaking is excepted from the definition of "domiciliary care agency" in Article 2(2) of the Order if the undertaking is carried on by an individual who—

(a) carries it on otherwise than in partnership with others;

(b) is not employed by an organisation to carry it on; and

(c) does not employ any other person for the purpose of the undertaking.

Statement of purpose

5.—(1) The registered person shall compile in relation to the agency a written statement (in these Regulations referred to as "the statement of purpose") which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered person shall supply a copy of the statement of purpose to the Regulation and Improvement Authority and shall make a copy of it available on request for inspection at the agency premises by every service user and the service user's representative.

(3) Nothing in regulation 25 shall require or authorise the registered person to contravene, or not to comply with—

(a) any other provision of these Regulations; or

(b) the conditions for the time being in force in relation to the registration of the registered person under Part III of the Order.

Service user's guide

6.—(1) The registered person shall produce a written service user's guide which shall include—

(a) a summary of the statement of purpose;

(b) the terms and conditions in respect of the services to be provided to service users, including details as to the amount and method of payment of fees, if appropriate;

(c) a summary of the complaints procedure established in accordance with regulation 22; and

(d) the address and telephone number of the Regulation and Improvement Authority.

(2) The registered person shall supply a copy of the service user's guide to the Regulation and Improvement Authority and every service user and, upon request, to the service user's representative.

(3) On request the registered person shall also provide, to the service user or the service user's representative, access to a copy of the most recent inspection report and information on how to access earlier inspection reports.

Review of statement of purpose and service user's guide

7. The registered person shall—

(a) keep under review and, where appropriate, revise the statement of purpose and the service user's guide; and

(b) notify the Regulation and Improvement Authority and service users or their representatives of any material revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

8.—(1) A person shall not carry on an agency unless he is fit to do so.

(2) A person is not fit to carry on an agency unless the person—

(a) is an individual, who carries on the agency—

(i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3);

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

(b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);

(c) is an organisation and—

(i) the organisation has given notice to the Regulation and Improvement Authority 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 officer of the organisation and is responsible for supervising the management of the agency; and

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

(3) The requirements are that—

(a) he is of integrity and good character;

(b) he is physically and mentally fit to carry on the agency; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

(4) A person shall not carry on an agency if—

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

(b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

Appointment of manager

9.—(1) The registered provider shall appoint an individual to manage the agency where—

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

(b) the registered provider—

(i) is an organisation or a partnership; or

(ii) is not a fit person to manage an agency; or

(iii) is not, or does not intend to be, managing the agency himself.

(2) Where the registered provider appoints a person to manage the agency, he shall forthwith give notice to the Regulation and Improvement Authority of—

(a) the name of the person so appointed; and

(b) the date on which the appointment is to take effect.

Fitness of registered manager

10.—(1) A person shall not manage an agency unless he is fit to do so.

(2) A person is not fit to manage an agency unless—

(a) he is of integrity and good character;

(b) having regard to the size of the agency, the statement of purpose and the number and needs of the service users—

(i) he has the qualifications, skills and experience necessary to manage the agency; and

(ii) he is physically and mentally fit to do so; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

Registered person — general requirements and training

11.—(1) The registered provider and the registered manager shall, having regard to the size of the agency, the statement of purpose and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

(2) If the registered provider is—

(a) an individual, he shall undertake;

(b) an organisation, it shall ensure that the responsible individual undertakes; or

(c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.

Notification of offences

12. Where the registered person or the responsible individual is convicted of any criminal offence, whether in Northern Ireland or elsewhere, he shall forthwith give notice in writing to the Regulation and Improvement Authority of—

(a) the date and place of the conviction;

(b) the offence of which he was convicted; and

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