STATUTORY RULES OF NORTHERN IRELAND

2007 No. 234

HEALTH AND PERSONAL SOCIAL SERVICES

The Day Care Setting 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), 23(1), (2)(a) to (d) and (f) to (j), (5)(a) and (b), (7)(a) to (h) and (j), 25(1), 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 it has consulted with such persons as appropriate.

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Day Care Setting 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;

"general medical practitioner" means a medical practitioner providing primary medical services;

"health care professional" means a person who is registered as a member of any profession which is regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**2**) or who is a clinical psychologist;

"inspection report" means a report prepared in relation to the day care setting under Article 42(7) of the Order;

(**1**) S.I.2003/431 (N.I. 9)
(**2**) 2002 c. 17

"the Northern Ireland Social Care Council" means the body established under section 1 of the Health and Personal Social Services Act (Northern Ireland) 2001(**3**);

"Nursing and Midwifery Council" means the body established under Article 3 of the Nursing and Midwifery Order 2001;

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

"personal care" has the same meaning as in Article 10(3) of the Order;

"registered manager" in relation to a day care setting means a person who is registered under Part III of the Order as the manager of the day care setting;

"registered person" in relation to a day care setting means any person who is the registered provider or registered manager in respect of the day care setting;

"registered provider" in relation to a day care setting means a person who is registered under Part III of the Order as a person carrying on the day care setting;

"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 in the day care setting, who with the service user's express or implied consent takes an interest in the service user's care and welfare;

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

"service user" means a person for whom day care is provided in the day care setting;

"service user's guide" means the guide produced in accordance with regulation 5(1);

"service user's plan" means the written plan prepared in accordance with regulation 16(1);

"social care worker" has the same meaning as in section 2(2) of the Health and Personal Social Services Act (Northern Ireland) 2001(**4**);

"statement of purpose" means the written statement compiled in accordance with regulation 4(1).

(2) In these Regulations, references to employing a person include employing a person whether or not for payment and whether under a contract of service or a contract for services and allowing a person to work as a volunteer.

Prescribed Services

3. For the purposes of the definition of "day care setting" in Article 2(2) of the Order the prescribed services are the provision of personal care.

(**3**) 2001 c. 3 (N.I.)
(**4**) 2001 c. 3 (N.I.)

Statement of purpose

4.—(1) The registered person shall compile in relation to the day care setting a written statement which shall consist of—

(a) a statement of the aims and objectives of the day care setting;

(b) a statement as to the facilities and services which are to be provided by the registered person for service users; and

(c) 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 for inspection by every service user and any representative of a service user.

(3) Nothing in regulation 18(1) or 26(1) 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

5.—(1) The registered person shall produce a written guide to the day care setting which shall include—

(a) a summary of the statement of purpose;

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

(c) a standard form of contract for the provision of care and facilities by the registered provider to service users;

(d) a summary of the complaints procedure established under regulation 24;

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

(2) The registered person shall also provide, on request, access to a copy of the most recent inspection report and information on how to access earlier inspection reports.

(3) The registered person shall supply a copy of the service user's guide to the Regulation and Improvement Authority and each service user or his representative.

(4) Where a HSS trust has made arrangements for the provision of day care to the service user in a day care setting, the registered person shall supply to the service user a copy of the agreement specifying the arrangements made.

Information about fees

6.—(1) The registered person shall provide to each service user a statement specifying any fees or charges payable by or in respect of the service user and the method of payment of the fees and the person by whom the fees are payable.

(2) The registered person shall notify the service user at least 28 days in advance of any increase or variation in the fees or matters referred to in paragraph (1) and payable by or in respect of the service user.

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 such revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

8.—(1) A person shall not carry on a day care setting unless he is fit to do so.

(2) A person is not fit to carry on a day care setting unless the person—

(a) is an individual who carries on the day care setting—

(i) otherwise than in partnership with others, and 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 who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the day care setting; 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 day care setting; 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 a day care setting 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 day care setting where—

(a) there is no registered manager in respect of the day care setting; and

(b) the registered provider—

(i) is an organisation or partnership;

(ii) is not a fit person to manage a day care setting; or

(iii) is not, or does not intend to be managing the day care setting himself.

(2) Where the registered provider appoints a person to manage the day care setting 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 a day care setting unless he is fit to do so.

(2) A person is not fit to manage a day care setting unless—

(a) he is of integrity and good character;

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

(i) he has the qualifications, skills and experience necessary for managing the day care setting; and

(ii) he is physically and mentally fit to manage the day care setting; 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

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

(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 day care setting.

(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 day care setting.

Notification of offences

12. Where the registered person or the responsible individual is convicted of any criminal offence, 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.