STATUTORY RULES OF NORTHERN IRELAND

2005 No. 161

HEALTH AND PERSONAL SOCIAL SERVICES

The Residential Care Homes Regulations (Northern Ireland) 2005

Made - - - - *23rd March 2005*

Coming into operation *1st April 2005*

The Department of Health, Social Services and Public Safety in exercise of the powers conferred on it by Articles 23(1), (2)(a) to (d) and (f) to (j), (3), (5), (7)(a) to (h), (j) and (1), 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**) and of all other powers enabling it in that behalf, having consulted such persons as appropriate as required by Article 23(8) of that Order, hereby makes the following Regulations:

PART 1

GENERAL

Citation, commencement and extent

1. These Regulations may be cited as the Residential Care Homes Regulations (Northern Ireland) 2005 and shall come into operation on 1st April 2005.

Interpretation

2.—(1) In these Regulations –

"clinical trial" has the same meaning as in the Medicines for Human Use (Clinical Trials) Regulations 2004(**2**);

"ethics committee" has the same meaning as in the Medicines for Human Use (Clinical Trials) Regulations 2004;

"Fire Authority" means the Fire Authority for Northern Ireland within the meaning of the Fire Services (Northern Ireland) Order 1984(**3**);

(**1**) S.I.2003/431 (N.I. 9)
(**2**) S.I. 2004/1031
(**3**) S.I. 1984/1821 (N.I. 11)

"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(**4**) or who is a clinical psychologist or child psychotherapist;

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

"the Northern Ireland Social Care Council" means the body established under section 1 of the Health and Personal Social Services Act (Northern Ireland) 2001(**5**);

"nurse" means a person registered in the register maintained under Article 5 of the Nursing and Midwifery Order 2001(**6**) by virtue of qualification in nursing or midwifery as the case may be;

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

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

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

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

"registered person" in relation to a residential care home, means any person who is the registered provider or registered manager in respect of the residential care home;

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

"relative" in relation to any person, means –

(a) the person's spouse;

(b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of his;

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

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

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

"resident" means a person for whom accommodation with board and personal care is provided in, or for the purposes of the residential care home;

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

"resident's guide" means the guide compiled in accordance with regulation 4(1);

"responsible individual" shall be construed in accordance with regulation 7(2)(c)(i);

"social care worker" including "social worker" has the meaning as defined in section 2 of the Health and Personal Social Services Act (Northern Ireland) 2001(**7**);

(**4**) 2002 c. 17
(**5**) 2001 c. 3 (N.I.)
(**6**) S.I. 2002/253
(**7**) 2001 c. 3 (N.I.)

"staff" means persons employed by the registered person to work at the home but does not include a volunteer or a person employed under a contract for services;

"statement of purpose" means the written statement compiled in accordance with regulation 3(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.

Statement of purpose

3.—(1) The registered person shall compile in relation to the residential care home a written statement which shall consist of –

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

(b) a statement as to the facilities and services which are to be provided by the registered person for residents; 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 resident and any representative of a resident.

(3) Nothing in regulation 18(1) or 27(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.

Resident's guide

4.—(1) The registered person shall produce a written guide to the residential care home which shall include –

(a) a summary of the statement of purpose including the philosophy of care;

(b) the terms and conditions in respect of accommodation to be provided for resident's, including as to the amount and method of payment of fees;

(c) a standard form of contract for the provision of services and facilities by the registered provider to residents;

(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 resident's guide to the Regulation and Improvement Authority and each resident or their representative.

(4) Where a HSS Trust has made arrangements for the provision of accommodation with board and personal care to the resident at the home, the registered person shall supply to the resident a copy of the agreement specifying the arrangements made.

Information about fees

5.—(1) The registered person shall provide to each resident, by not later than the day on which he becomes a resident, a statement specifying –

(a) the fees payable by or in respect of the resident for the provision to the resident of any of the following services –

(i) residential accommodation with board; and

(ii) personal care;

and, except where a single fee is payable for those services, the services to which each fee relates;

(b) the method of payment of the fees and the person by whom the fees are payable.

(2) The registered person shall notify the resident at least 28 days in advance of –

(a) any increase in the fees referred to in paragraph (1)(a) and payable by or in respect of the resident;

(b) any variation in the matters referred to in paragraph (1)(b).

(3) Where a HSS Trust has made arrangements for the provision of residential accommodation with board and personal care at the residential care home and the charge made exceeds the fee paid, the registered person shall in the individual written agreement –

(a) record the reason for the additional charge;

(b) by whom it will be paid; and

(c) list the services, if any, provided for it.

(4) Where a nursing contribution is paid in respect of nursing care provided to the resident, the registered person shall provide to the resident a statement specifying –

(a) the date payment commenced and the amount of the nursing care contribution; and

(b) the date on which the registered person is to deduct the amount of the nursing contribution from the fees referred to in paragraph (1)(a) or pay that amount to the resident.

(5) In this regulation "nursing care contribution" means a payment by a HSS Trust to the registered person in respect of nursing care to be provided to a resident, but does not include a payment where –

(a) the HSS Trust has made arrangements for the provision of accommodation to the resident; and

(b) the payment relates to any period for which under those arrangements accommodation is provided to the resident.

Review of statement of purpose and resident's guide

6. The registered person shall –

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

(b) notify the Regulation and Improvement Authority and residents of any such revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

7.—(1) A person shall not carry on a residential care home unless he is fit to do so.

(2) A person is not fit to carry on a home unless the person –

(a) is an individual who carries on the home –

(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 who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the home; 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; and

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

(c) full and satisfactory information is available in relation to him in respect of the matters specified in paragraphs 1 to 7 of Schedule 2.

(4) A person shall not carry on a home 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

8.—(1) The registered provider shall appoint an individual to manage the residential care home where –

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

(b) the registered provider –

(i) is an organisation or partnership;

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

(iii) is not, or does not intend to be, in full-time day-to-day charge of the home.

(2) Where the registered provider appoints a person to manage the residential care home 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

9.—(1) A person shall not manage a residential care home unless he is fit to do so.

(2) A person is not fit to manage a home unless –

(a) he is of integrity and good character;