



Regulation of Care (Scotland) Act 2001

2001 asp 8

PART 1

THE COMMISSION AND CARE SERVICES

Regulations

28 Regulations relating to the Commission, to registration and to registers

- (1) Regulations may—
- (a) confer additional functions on the Commission;
 - (b) make provision about the keeping of registers by the Commission;
 - (c) make provision about registration under this Part or Part 2 of this Act and in particular about—
 - (i) the making of applications for such registration;
 - (ii) the content of certificates of registration; or
 - (iii) categories of applicant who cannot competently make certain applications;
 - (d) require the Commission to secure that, on such conditions, in such circumstances and, subject to subsection (2) below, on the payment of such fees as may be specified in the regulations, any person shall be afforded access to, and provided with a copy of an entry in or with an extract from, a register kept by the Commission; or
 - (e) except such part of a register as may be specified in the regulations from any requirement made by virtue of paragraph (d) above.
- (2) Regulations under paragraph (d) of subsection (1) above may specify circumstances in which the fees mentioned in that paragraph shall not be payable; and the fees shall in any event not be payable in any case where the Commission considers it appropriate to provide the copy or extract in question free of charge.
- (3) Before the Scottish Ministers make regulations under subsection (1) above, they shall consult such persons, or groups of persons, as they consider appropriate.

Status: This is the original version (as it was originally enacted).

29 Regulations relating to care services

- (1) Regulations may impose, in relation to care services, any requirements which the Scottish Ministers think fit for the purposes of this Act and may in particular make any provision such as is mentioned in subsection (2), (7) or (9) below.
- (2) Without prejudice to the generality of subsection (1) above, regulations may—
 - (a) make provision as to the persons who are fit to provide, or act as manager in relation to, a care service;
 - (b) make provision as to the persons who are fit to be employed in the provision of a care service;
 - (c) make provision as to the fitness of premises to be used for the provision of a care service;
 - (d) in relation to child minding, require that no person lives, or is likely to live, at the domestic premises to be used for the provision of the service who is not fit to be in the proximity of children;
 - (e) make provision for securing the welfare of persons provided with a care service;
 - (f) make provision as to the management and control of operations carried out in the course of providing a care service;
 - (g) make provision as to the numbers of persons, or persons of any particular category, working at premises where a care service is provided or for the purposes of an agency providing such a service;
 - (h) make provision as to the management and training of such persons as are mentioned in paragraph (g) above;
 - (i) impose requirements as to the financial position of a provider of care services;
 - (j) require that a person acting as a medical practitioner, or in such other professional capacity as may be specified in the regulations, for persons provided with a care service shall not have a financial interest in that service;
 - (k) require the provider of a care service to appoint a manager in such circumstances as may be specified in the regulations; or
 - (l) require any person to whom subsection (3) below applies—
 - (i) to notify the Commission accordingly; and
 - (ii) to appoint a person to manage the care service in question.
- (3) This subsection applies to any person appointed as—
 - (a) a receiver of the property of a company which is a person providing a service registered under this Part;
 - (b) the liquidator or provisional liquidator of such a company;
 - (c) the supervisor of a voluntary arrangement of such a company under Part I of the Insolvency Act 1986 (c. 45) or the administrator of such a company appointed under Part II of that Act; or
 - (d) the permanent trustee or interim trustee (within the meaning of the Bankruptcy (Scotland) Act 1985 (c. 66)) appointed in respect of a person providing a service registered under this Part.
- (4) Regulations under paragraph (a) of subsection (2) above may, in particular, make provision for prohibiting a person from acting as manager unless registered in, or in a particular part of, a register maintained by the Scottish Social Services Council.

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- (5) Regulations under paragraph (b) of that subsection may, in particular, make provision for prohibiting a person from working, in the provision of a care service, in any such position as may be specified in the regulations unless registered as is mentioned in subsection (4) above.
- (6) Regulations under paragraph (e) of that subsection may, in particular, make provision—
- (a) as to—
 - (i) the promotion; and
 - (ii) the protection,
of the health of the persons in question;
 - (b) for making available in premises where a care service is provided any service provided under or by virtue of the National Health Service (Scotland) Act 1978 (c. 29); and
 - (c) as to the control and restraint of such persons.
- (7) Regulations may make provision as to how the provision of care services is to be conducted, and such regulations may in particular—
- (a) make provision as to facilities and particular services to be provided;
 - (b) make provision as to the keeping of accounts;
 - (c) make provision as to the keeping of documents and records;
 - (d) require a person providing a care service to make returns to the Commission at such intervals as may be specified in the regulations;
 - (e) make provision as to the contents of a return made by virtue of paragraph (d) above and the period in respect of which and date by which the return is to be made;
 - (f) make provision as to the notification of any event—
 - (i) arising out of or in the course of; or
 - (ii) occurring in relation to,
the provision of a care service;
 - (g) require the giving of notice by the person providing a care service of any period during which the manager of the service proposes to be absent;
 - (h) specify the information to be supplied in giving such notice as is mentioned in paragraph (g) above;
 - (i) provide for the making of adequate arrangements for the running of a care service during any period when the manager is absent;
 - (j) require the person providing a care service to give notice of any change in the identity of the manager;
 - (k) without prejudice to paragraph (m) below, require—
 - (i) the person providing a care service to give notice of any intended change which will result in the service being provided, instead, by a different person; or
 - (ii) where an unforeseen change has had the result mentioned in subparagraph (i) above, the person who in consequence of that change is providing a care service to give notice accordingly;
 - (l) where an individual who has been providing a care service dies and no other person is providing the service, require the personal representatives of the individual to give notice of the death;
 - (m) require the person providing a care service, if that person is—

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- (i) a body corporate, to give notice of any change in the ownership of the body or of the identity of its officers; or
 - (ii) a firm, to give notice of any change in the identity of the persons who are its partners;
 - (n) require—
 - (i) arrangements to be made, by the person providing, or managing the provision of, a care service, for dealing with complaints made by or on behalf of those provided with, or seeking to be provided with, that service; and
 - (ii) that person to take steps to publicise such arrangements; or
 - (o) require a person who provides, or manages, an independent health care service, to make arrangements for securing that—
 - (i) any medical or psychiatric treatments; or
 - (ii) services such as are mentioned in subsection (8) below,
 provided in or for the purposes of the hospital or clinic or (as the case may be) for the purposes of the agency, are of appropriate quality and meet appropriate standards.
- (8) For the purposes of subsection (7)(o)(ii) above, the services are—
- (a) medical treatment under—
 - (i) anaesthesia; or
 - (ii) sedation;
 - (b) dental treatment under—
 - (i) general anaesthesia; or
 - (ii) sedation;
 - (c) palliative care;
 - (d) obstetric services and, in connection with childbirth, medical services;
 - (e) termination of pregnancies;
 - (f) cosmetic surgery; and
 - (g) treatment using such—
 - (i) techniques; or
 - (ii) technology,
 as may be specified in the regulations.
- (9) Regulations may make provision—
- (a) requiring the approval of the Scottish Ministers for the provision and use of accommodation for the purpose of restricting the liberty of children in residential premises where care services are provided; and
 - (b) imposing other requirements as to the placing of a child in accommodation provided for the purpose mentioned in paragraph (a) above, including a requirement to obtain the permission of any local authority who are looking after the child (“looking after” being construed in accordance with section 17(6) of the Children (Scotland) Act 1995 (c. 36)).
- (10) Regulations under any of subsections (1), (2), (7) and (9) above may make it an offence to contravene or fail to comply with—
- (a) any specified provision of the regulations; or
 - (b) a condition of registration for the time being in force.

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- (11) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) Before the Scottish Ministers make regulations under any of subsections (1), (2), (7) and (9) above, they shall consult such persons, or groups of persons, as they consider appropriate.
- (13) Regulations under any of subsections (1), (2), (7) and (9) above may make different provision for different purposes.