

*This draft Scottish Statutory Instrument supersedes the draft published on 10th February 2009 and laid in the Scottish Parliament on 4th February 2009. It is being issued free of charge to all known recipients of that draft Scottish Statutory Instrument. Draft Regulations laid before the Scottish Parliament under section 78(2) of the Regulation of Care (Scotland) Act 2001, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2009 No.**

**SOCIAL CARE**

**The Regulation of Care (Fitness to Register,  
Provide and Manage Care Services)  
(Scotland) Amendment Regulations 2009**

*Made* - - - - 2009  
*Coming into force* - - 2009

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 28(1) (a) of the Regulation of Care (Scotland) Act 2001(1) and of all other powers enabling them to do so. They have consulted such persons and groups of persons as they consider appropriate in accordance with section 28(3) of that Act.

In accordance with section 78(2) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Regulation of Care (Fitness to Register, Provide and Manage Care Services) (Scotland) Amendment Regulations 2009 and come into force on 1st April 2009.

**Amendment of the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002**

2. The Regulation of Care (Registration and Registers) (Scotland) Regulations 2002(2) are amended in accordance with regulation 3.

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(1) 2001 asp 8; see section 77(1) for definition of “regulations”.  
(2) S.S.I. 2002/115 as amended by S.S.I. 2003/148.

3. In regulation 4 (disqualified applicants), in paragraph (1)(a), after “fine” insert “and who, in the reasonable opinion of the Commission, having regard to the circumstances of the conviction, is unsuitable to be a provider of a care service”.

**Amendment of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002**

4. The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002(3) are amended in accordance with regulation 5.

5. In regulation 6 (fitness of providers), in paragraph (2)(b), after “fine” insert “and who, in the reasonable opinion of the Commission, having regard to the circumstances of the conviction, is unsuitable to be a provider of a care service”.

**Amendment of the Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003**

6. The Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003(4) are amended in accordance with regulation 7.

7. In regulation 4 (fitness of providers), in paragraph (2)(b), after “fine” insert “and who, in the reasonable opinion of the Commission, having regard to the circumstances of the conviction is unsuitable to be a provider of such a service”.

St Andrew’s House,  
Edinburgh  
2009

Authorised to sign by the Scottish Ministers

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(3) S.S.I. 2002/114 as amended by S.I.2003/1590, S.S.I. 2003/149 and 572, 2004/94 and 2006/274 and 457.

(4) S.S.I. 2003/150.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002 (S.S.I.

[2002/115](#)), the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 (S.S.I.

[2002/114](#)) and the Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003 (S.S.I.

[2003/150](#)). The Regulations give the Care Commission an element of discretion in considering persons fit to apply for registration of a care service, or to provide or manage a care service, where those persons have been convicted of an offence.