

2002 No. 115

SOCIAL CARE

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

Made 8th March 2002

Laid before the Scottish Parliament 8th March 2002

Coming into force 1st April 2002

The Scottish Ministers, in exercise of the powers conferred by section 28(1)(b), (c), (d) and (2) of the Regulation of Care (Scotland) Act 2001^(a) and of all other powers enabling them in that behalf, and having consulted such persons and groups of persons as they consider appropriate in accordance with section 28(3) of that Act, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002 and shall come into force on 1st April 2002.

(2) In these Regulations—

“the Act” means the Regulation of Care (Scotland) Act 2001; and

“provider” in relation to a care service means the person for the time being providing that service.

The Registers

2.—(1) The Commission shall maintain a separate register for each of the care services specified in section 2(1) of the Act.

(2) Each register shall contain the information specified in the Schedule.

Contents of Certificate

3. A certificate of registration shall contain the following information:—

- (a) the full name, and the address of the place of work, of the provider;
- (b) the name and address of the Commission, including its electronic mail address and the location of any website which it maintains on the internet;
- (c) the full name of the manager and the address of the care service;
- (d) the type (in terms of section 2(1) of the Act) of care service which is registered;
- (e) details of any condition to which the registration is subject, including in particular any requirement as to—
 - (i) the facilities to be provided by the service;
 - (ii) the times at or periods during which the service can operate;
 - (iii) the numbers or age of persons to whom it may be provided;
 - (iv) staffing; and
 - (v) any period of time within which any condition of registration is to be fulfilled; and

(a) 2001 asp 8.

(f) the date of registration of the care service,
and shall be signed by an officer of the Commission authorised to sign on its behalf.

Disqualified applicants

4.—(1) The following persons are disqualified from making an application for registration under Part 1 of the Act:—

- (a) a person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine;
- (b) a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland or in relation to whose estate a judicial factor has been appointed or who has granted a trust deed for the benefit of the person's creditors:

Provided that—

- (i) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when—
 - (aa) the sequestration is recalled or reduced; or
 - (bb) the sequestration is discharged;
 - (ii) the disqualification attaching to a person by reason of having been adjudged bankrupt shall cease if and when—
 - (aa) the bankruptcy is annulled; or
 - (bb) the person is discharged;
 - (iii) the disqualification attaching to a person in relation to whose estate a judicial factor has been appointed shall cease if and when—
 - (aa) that appointment is recalled; or
 - (bb) the judicial factor is discharged; or
 - (iv) the disqualification attaching to a person who has granted a trust deed shall cease if and when the person pays the creditors in full or on the expiry of 5 years from the date of grant of the deed.
- (2) For the purposes of paragraph (1)(a)–
- (a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of it not being prosecuted; and
 - (b) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom shall be disregarded.

Access to the registers

5.—(1) Subject to paragraph (2) the Commission shall—

- (a) make available for inspection the registers maintained under regulation 2—
 - (i) at each of its offices during its normal hours of business; and
 - (ii) at a website maintained by it on the internet; and
- (b) provide to any person who makes a request in writing or at any of the Commission offices in person a copy of any register or part thereof which is specified in the request.

(2) Subject to section 28(2) of the Act, the fee payable in respect of a request under paragraph (1)(b) which is–

- (a) substantially the same as a previous request from the same person;
- (b) vexatious; or
- (c) for the purpose of a business;

shall be £30.

St Andrew's House,
Edinburgh
8th March 2002

MALCOLM CHISHOLM
A member of the Scottish Executive

SCHEDULE

PARTICULARS TO BE RECORDED IN THE REGISTERS KEPT BY THE COMMISSION

1. The full name, and the address and telephone number and any facsimile number and electronic address of the place of work, of the provider.
2. Where the provider is not an individual, the address of its registered or principal office and the full name, address, and telephone number, and any facsimile number and electronic address, of any person to whom the provider wishes enquiries concerning the care service to be addressed.
3. Where the provider is not the manager of the care service, the manager's full name, and the address and telephone number and any facsimile number and electronic address, of the care service.
4. The date of registration of the care service and the date of issue of the certificate of registration.
5. Details of any conditions attached to the registration including the date on which any addition, variation or removal took effect.
6. Any change in the name of the provider or the manager of the care service, and the date of such change.
7. Any change of the provider or the manager of the care service, and the date of such change.
8. Details of any application or proposal which has been made for the imposition, variation or removal of conditions, or for cancellation of registration, and the date such application or proposal was made.
9. Details of any improvement notices given under section 10 of the Act including (where applicable) a statement that the improvement specified in the notice has been made.
10. Where a copy of an improvement notice has been sent to the Scottish Ministers under section 41 of the Act—
 - (a) the date on which that was done;
 - (b) details of any report which has been made to the Scottish Ministers under that section, and the date on which such report was made; and
 - (c) where such information has been provided by the Scottish Ministers, details of any action which has been taken by them in response to such an improvement notice or report.
11. Details of reasons for, and the date of, cancellation of registration.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about registration of care services by the Scottish Commission for the Regulation of Care (“the Commission”). In particular they require the Commission to maintain a separate register for each of the types of care service which are covered by the Regulation of Care (Scotland) Act 2001 (regulation 2). The information which is to be recorded in the registers in respect of each individual care service is set out in the Schedule. Regulation 3 sets out the information which is to be specified in a certificate of registration of a care service. Regulation 4 specifies categories of persons who may not make an application for registration of a care service under Part 1 of the Act.

Regulation 5 requires the Commission to make its registers available for inspection at its offices and on the internet, and to provide copies. It also provides that a fee of £30 will be payable for copies provided in the circumstances which are specified in regulation 5(2).

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