

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2009 No. 349**

**SOCIAL CARE**

**The Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Amendment Regulations 2009**

*Made* - - - - 8th October 2009  
*Laid before the Scottish Parliament* - - - - 9th October 2009  
*Coming into force* - - 16th November 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 29(1), (2), (5) and (13) of the Regulation of Care (Scotland) Act 2001<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 29(12) of that Act they have consulted with such persons and groups of persons as they consider appropriate.

**Citation and commencement**

1. These Regulations may be cited as the Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Amendment Regulations 2009 and come into force on 16th November 2009.

**Amendment to the Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Regulations 2009**

2.—(1) The Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Regulations 2009<sup>(2)</sup> are amended as follows.

(2) In regulation 1(4)—

(a) after the definition of “manager of a day care of children service” insert—

““manager of a residential school care accommodation service” means a person who is employed in managing the provision of a residential school care accommodation service and is the manager of that residential school care accommodation service;”;

(b) after the definition of “residential child care service” insert—

---

(1) 2001 asp 8, relevantly amended by section 82 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) and sections 29 to 32 of the Smoking Health and Social Care (Scotland) Act 2005 (asp 13).  
(2) S.S.I. 2009/118.

“residential school care accommodation service” means a service which is provided to a child as part of a school care accommodation service<sup>(3)</sup> which consists of the provision of residential accommodation where it is—

- (i) provided by or under arrangements made by the managers of an independent school and does not provide personal care or support;
- (ii) provided by an education authority with respect to a special school within the meaning of the Education (Scotland) Act 1980<sup>(4)</sup>; or
- (iii) a hostel provided by the local authority for the use of children to enable them to attend a school;”;

(c) after the definition of “supervisor in a care home service for adults” insert—

“supervisor of a residential school care accommodation service” means a person who is employed in supervising the provision of a residential school care accommodation service and who has responsibility for supervising staff and overseeing and monitoring the implementation of care plans;” and

(d) after the definition of “the relevant part of the register maintained by the Scottish Social Services Council” insert—

“worker in a residential school care accommodation service” means house staff or a worker in a residential school care accommodation service who has responsibility for assessing children’s emotional and physical needs and providing them with care and support.”.

(3) In regulation 3(4) for “15” substitute “15C” where it twice occurs.

(4) After regulation 6 insert—

**“New Employment as a manager of a residential school care accommodation service, supervisor of a residential school care accommodation service, or worker in a residential school care accommodation service.**

**6A.**—(1) Where a person, prior to commencing new employment as a manager of a residential school care accommodation service, supervisor of a residential school care accommodation service or a worker in a residential school care accommodation service has not held continuous employment as that prescribed description of social service worker regulation 3, as read with regulation 6, should apply to that person.

(2) In this regulation “new employment” and “continuous employment” each have the same meaning as in regulation 6.”.

(5) After regulation 15 insert—

**15A.** Regulation 3 shall not apply to managers of a residential school care accommodation service until 30th November 2012.

**15B.** Regulation 3 shall not apply to supervisors of a residential school care accommodation service until 30th April 2013.

**15C.** Regulation 3 shall not apply to workers in a residential school care accommodation service until 30 November 2013.”.

---

(3) Section 2(4) of the Regulation of Care (Scotland) Act 2001 defines “school care accommodation service”.

(4) 1980 c.44. The definition of “special school” in section 135(1) refers to section 29(1) of the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004 \(asp 4\)](#).

St Andrew's House,  
Edinburgh  
8th October 2009

*ADAM INGRAM*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

## EXPLANATORY NOTE

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

These Regulations amend the Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No. 2) Regulations 2009 (“the 2009 Regulations”).

Regulation 2(2) inserts into the 2009 Regulations three new definitions of social service worker, i.e. manager of a residential school care accommodation service, supervisor of a residential school care accommodation service and worker in a residential school care accommodation service. These workers are prescribed as social service workers by the Regulation of Care (Social Service Workers) (Scotland) Amendment Order 2009 ([S.S.I. 2009/350](#)).

Regulation 2(3) amends the 2009 Regulations to include that these specified persons are not fit to be employed in the provision of a care services in the position of social worker or social service worker unless registered.

Regulation 2(4) inserts new regulation 6A into the 2009 Regulations which gives new workers of those types a limited period to achieve registration after commencing employment.

Regulation 2(5) inserts new regulations 15A, 15B and 15C into the 2009 regulations which provide that existing managers of a residential school care accommodation service, supervisors of a residential school care accommodation service and workers in a residential school care accommodation service must have achieved registration by certain dates as specified in those regulations.