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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**The Health and Social Care Act 2008  
(Regulated Activities) Regulations 2014**

**PART 3**

**Requirements in relation to Regulated Activities**

*SECTION 1*

*Requirements relating to persons carrying on or managing a regulated activity*

**Requirements where the service provider is an individual or partnership**

- 4.—(1) This regulation applies where a service provider (P) is an individual or a partnership.
- (2) P must not carry on a regulated activity unless P is fit to do so.
- (3) P is not fit to carry on a regulated activity unless P is—
- (a) an individual who carries on the regulated activity, otherwise than in partnership with others, and satisfies the requirements set out in—
    - (i) paragraph (4), and
    - (ii) paragraph (5), or
  - (b) a partnership and—
    - (i) each of the partners satisfies the requirements set out in paragraph (4), and
    - (ii) P satisfies the requirement set out in paragraph (6).
- (4) The requirements referred to in paragraph (3)(a)(i) and (b)(i) are that, if P is an individual, that individual or, if P is a partnership, each of the partners—
- (a) is of good character,
  - (b) is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are—
    - (i) where P is an individual, intrinsic to the carrying on of the regulated activity, or
    - (ii) where P is a partnership, intrinsic to their role in the carrying on of the regulated activity, and
  - (c) is able to supply to the Commission, or arrange for the availability of, information relating to themselves specified in Schedule 3.
- (5) The requirement referred to in paragraph (3)(a)(ii) is that P has the necessary qualifications, skills and experience to carry on the regulated activity.
- (6) The requirement referred to in paragraph (3)(b)(ii) is that, through the combination of the qualifications, skills and experience of the partners, P has the necessary qualifications, skills and experience to carry on the regulated activity.

### **Fit and proper persons: directors**

- 5.—(1) This regulation applies where a service provider is a health service body.
- (2) Unless the individual satisfies all the requirements set out in paragraph (3), the service provider must not appoint or have in place an individual—
- (a) as a director of the service provider, or
  - (b) performing the functions of, or functions equivalent or similar to the functions of, such a director.
- (3) The requirements referred to in paragraph (2) are that—
- (a) the individual is of good character,
  - (b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,
  - (c) the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed,
  - (d) the individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity, and
  - (e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.
- (4) In assessing an individual's character for the purposes of paragraph (3)(a), the matters considered must include those listed in Part 2 of Schedule 4.
- (5) The following information must be available to be supplied to the Commission in relation to each individual who holds an office or position referred to in paragraph (2)(a) or (b)—
- (a) the information specified in Schedule 3, and
  - (b) such other information as is required to be kept by the service provider under any enactment which is relevant to that individual.
- (6) Where an individual who holds an office or position referred to in paragraph (2)(a) or (b) no longer meets the requirements in paragraph (3), the service provider must—
- (a) take such action as is necessary and proportionate to ensure that the office or position in question is held by an individual who meets such requirements, and
  - (b) if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question.

### **Requirement where the service provider is a body other than a partnership**

- 6.—(1) This regulation applies where the service provider is a body other than a partnership.
- (2) The body must give notice to the Commission of the name, address and position in the body of an individual (in these Regulations referred to as “the nominated individual”) who is—
- (a) employed as a director, manager or secretary of the body, and
  - (b) responsible for supervising the management of the carrying on of the regulated activity by the body.
- (3) The registered person must take all reasonable steps to ensure that the nominated individual—
- (a) is of good character,
  - (b) has the necessary qualifications, skills and experience to properly supervise the management of the carrying on of the regulated activity,

- (c) is able by reason of their health, after reasonable adjustments are made, of properly doing so, and
- (d) is able to supply to the registered person, or arrange for the availability of, the information specified in Schedule 3.

#### **Requirements relating to registered managers**

7.—(1) A person (M) shall not manage the carrying on of a regulated activity as a registered manager unless M is fit to do so.

- (2) M is not fit to be a registered manager in respect of a regulated activity unless M is—
  - (a) of good character,
  - (b) has the necessary qualifications, skills and experience to manage the carrying on of the regulated activity,
  - (c) able by reason of M's health, after reasonable adjustments are made, of doing so, and
  - (d) able to supply to the Commission, or arrange for the availability of, the information specified in Schedule 3.