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STATUTORY INSTRUMENTS

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**2001 No. 3965**

**The Care Homes Regulations 2001**

**PART VII**

**MISCELLANEOUS**

**Notification of death, illness and other events**

**37.—**(1) The registered person shall give notice to the Commission without delay of the occurrence of—

- (a) the death of any service user, including the circumstances of his death;
- (b) the outbreak in the care home of any infectious disease which in the opinion of any registered medical practitioner attending persons in the care home is sufficiently serious to be so notified;
- (c) any serious injury to a service user;
- (d) serious illness of a service user at a care home at which nursing is not provided;
- (e) any event in the care home which adversely affects the well-being or safety of any service user;
- (f) any theft, burglary or accident in the care home;
- (g) any allegation of misconduct by the registered person or any person who works at the care home.

(2) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.

**Notice of absence**

**38.—**(1) Where—

- (a) the registered provider, if he is an individual; or
- (b) the registered manager,

proposes to be absent from the care home for a continuous period of 28 days or more, the registered person shall give notice in writing to the Commission of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) above shall be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the Commission and the notice shall specify—

- (a) the length or expected length of the absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for the running of the care home during that absence;

- (d) the name, address and qualifications of the person who will be responsible for the care home during that absence; and
- (e) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the care home during that absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) the registered provider, if he is an individual; or
- (b) the registered manager,

has been absent from the care home for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall without delay give notice in writing to the Commission of the absence, specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the Commission of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of his return.

#### **Notice of changes**

**39.** The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the care home;
- (b) a person ceases to carry on or manage the care home;
- (c) where the registered person is an individual, he changes his name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
  - (i) the name or address of the organisation is changed;
  - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
  - (iii) there is to be any change of responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (g) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (h) the premises of the care home are significantly altered or extended, or additional premises are acquired.

#### **Notice of termination of accommodation**

**40.—**(1) Subject to paragraph (2), the registered person shall not terminate the arrangements for the accommodation of a service user unless he has given reasonable notice of his intention to do so to—

- (a) the service user;
- (b) the person who appears to be the service user's next of kin; and

- (c) where a local authority has made arrangements for the provision of accommodation, nursing or personal care to the service user at the care home, that authority.
- (2) If it is impracticable for the registered person to comply with the requirement in paragraph (1)  
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  - (a) he shall do so as soon as it is practicable to do so; and
  - (b) he shall provide to the Commission a statement as to the circumstances which made it impracticable for him to comply with the requirement.

#### **Appointment of liquidators etc.**

- 41.—(1) Any person to whom paragraph (2) applies must—
  - (a) forthwith notify the Commission of his appointment, indicating the reasons for it;
  - (b) appoint a manager to take full-time day to day charge of the care home in any case where there is no registered manager; and
  - (c) within 28 days of his appointment notify the Commission of his intentions regarding the future operation of the care home.
- (2) This paragraph applies to any person appointed as—
  - (a) the receiver or manager of the property of a company or partnership which is a registered provider in respect of a care home;
  - (b) a liquidator or provisional liquidator of a company which is a registered provider of a care home; or
  - (c) the trustee in bankruptcy of a registered provider of a care home.

#### **Death of registered person**

- 42.—(1) If more than one person is registered in respect of a care home, and a registered person dies, the surviving registered person shall without delay notify the Commission of the death in writing.
- (2) If only one person is registered in respect of a care home, and he dies, his personal representatives shall notify the Commission in writing—
  - (a) without delay of the death; and
  - (b) within 28 days of their intentions regarding the future running of the home.
- (3) The personal representatives of the deceased registered provider may carry on the care home without being registered in respect of it—
  - (a) for a period not exceeding 28 days; and
  - (b) for any further period as may be determined in accordance with paragraph (4).
- (4) The Commission may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Commission shall determine, and shall notify any such determination to the personal representatives in writing.
- (5) The personal representatives shall appoint a person to take full-time day to day charge of the home during any period in which, in accordance with paragraph (3), they carry on the care home without being registered in respect of it.

## Offences

**43.**—(1) A contravention or failure to comply with any of the provisions of regulations 4, 5, 11, 12(1) to (4), 13(1) to (4) and (6) to (8), 14, 15, 16(1), (2)(a) to (j) and (1) to (n) and (3), 17 to 26 and 37 to 40, shall be an offence.

(2) The Commission shall not bring proceedings against a person in respect of any contravention or failure to comply with those regulations unless—

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice has expired; and
- (d) the person contravenes or fails to comply with any of the provisions of the regulations mentioned in the notice.

(3) Where the Commission considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened or is contravening any of the regulations, or has failed or is failing to comply with the requirements of any of the regulations;
- (b) what action, in the opinion of the Commission, the registered person should take so as to comply with any of those regulations, and

the period, not exceeding three months, within which the registered person should take action.

(4) The Commission may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 17 and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

## Compliance with regulations

**44.** Where there is more than one registered person in respect of a care home, anything which is required under these regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

## Adult placements

**45.**—(1) For the purposes of this regulation and regulation 46, a registered provider is an adult placement carer in respect of a care home if—

- (a) he is the registered provider in respect of, and manages, the care home;
- (b) no person other than the registered provider manages the care home;
- (c) the care home is, or forms part of—
  - (i) the registered provider’s home; or
  - (ii) if the registered provider has more than one home, the home where he ordinarily resides;
- (d) no more than three service users are accommodated in the care home;
- (e) a placement agreement has been made in respect of each of the service users;
- (f) each service user is over the age of 18.

(2) In this regulation, “placement agreement” means an agreement that—

- (a) has been made between—
  - (i) the registered provider;

- (ii) the service user;
- (iii) the local authority or other body which manages a scheme (“adult placement scheme”) under which it has arranged or proposes to arrange for the service user to be accommodated in a care home;
- (b) makes provision for the following matters—
  - (i) the aims of the arrangements under which the service user is accommodated in the care home;
  - (ii) the room to be occupied by the service user;
  - (iii) the services to be provided to the service user;
  - (iv) the fees to be charged;
  - (v) the qualifications and experience of the registered provider;
  - (vi) the terms and conditions in respect of the accommodation and services to be provided;
  - (vii) services and assistance to be provided under the adult placement scheme under which the accommodation is or has been arranged.

#### **Modification of regulations in respect of adult placement carers**

**46.**—(1) The following provisions of this regulation shall apply where the registered provider is an adult placement carer in respect of a care home.

(2) Regulations 4, 8, 18, 19, 21, 24, 26 to 36 and 41 (statement of purpose; appointment of manager; staffing; fitness of workers; staff views as to conduct of care home; review of quality of care home; visits by registered provider; children; appointment of liquidators etc.) and Schedules 1 and 5 to 7 (information to be included in the statement of purpose; additional information to be included in the statement of purpose where children are accommodated; additional information and documents to be obtained in respect of persons working at a care home where children are accommodated; and matters to be monitored at a care home where children are accommodated) shall not apply.

(3) Regulation 5 (service user’s guide) shall have effect as if sub-paragraph (a) of paragraph (1) of that regulation were omitted.

(4) Regulation 6 (review of statement of purpose and service user’s guide) shall have effect as if in paragraph (a) of that regulation the words “the statement of purpose and” were omitted.

(5) Regulation 16 (facilities and services) shall have effect as if in sub-paragraph (j) of paragraph (2) of that regulation the words “after consultation with the environmental health authority” were omitted.

(6) Regulation 23 (fitness of premises) shall have effect as if sub-paragraphs (a), (f), (g), (h), (j), (k) and (n) of paragraph (2) and paragraphs (3) to (5) of that regulation were omitted.

(7) Regulation 25 (financial position) shall have effect as if—

- (a) paragraph (1) of that regulation were omitted;
- (b) in paragraph (2) of that regulation, sub-paragraphs (a) to (d) were omitted;
- (c) paragraphs (3) and (4) of that regulation were omitted.

(8) Schedule 3 (records to be kept in a care home in respect of each service user) shall have effect as if sub-paragraph (j) of paragraph 3 of that Schedule were omitted.

(9) Schedule 4 (other records to be kept in a care home) shall have effect as if paragraphs 1, 3, 5, 6, 7 and 12 to 16 of that Schedule were omitted.