

2003 No. 1845

SOCIAL CARE, ENGLAND

**The Care Homes (Adult Placements) (Amendment)
Regulations 2003**

Made - - - - - *16th July 2003*

Laid before Parliament *17th July 2003*

Coming into force *1st August 2003*

The Secretary of State, in exercise of the powers conferred upon him by sections 3(3), 12(2), 22(1), (2)(d) and (7)(a), (c) and (d) and 118(5) and (6) of the Care Standards Act 2000^(a), and of all other powers enabling him in that behalf, having consulted such persons as he considers appropriate^(b), hereby makes the following Regulations:—

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Care Homes (Adult Placements) (Amendment) Regulations 2003 and shall come into force on 1st August 2003.

(2) In these Regulations—

- (a) “the principal Regulations” means the Care Homes Regulations 2001^(c); and
- (b) “the Registration Regulations” means the National Care Standards Commission (Registration) Regulations 2001^(d).

(3) These Regulations apply to England only.

Amendment of regulation 3 of the principal Regulations

2.—(1) Regulation 3 of the principal Regulations (excepted establishments) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) at the end of sub-paragraph (d), the word “or” is omitted;
- (b) in sub-paragraph (e), for the word “school.” substitute “school; or”; and
- (c) after sub-paragraph (e) insert—

“(f) it does not provide accommodation except—

- (i) for a period or periods which do not exceed 28 days in aggregate during any period of 12 months; and
- (ii) for not more than 3 persons at any one time who fall within section 3(2) of the Act;

^(a) 2000 c.14. The powers are exercisable by the appropriate Minister who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State. *See* section 121(1) for the definitions of “prescribed” and “regulations”.

^(b) *See* section 22(9) of the Care Standards Act 2000 for the requirement to consult.

^(c) S.I. 2001/3965 as amended by S.I. 2002/865 and S.I. 2003/534.

^(d) S.I. 2001/3969 as amended by S.I. 2002/865 and S.I. 2003/369.

- (g) it provides accommodation solely for a person (or persons) who—
 - (i) was placed with a local authority foster parent (“the carer”) under the Children Act 1989(a);
 - (ii) remained in that placement for a period of not less than 5 years immediately prior to his 18th birthday; and
 - (iii) continues to live with the carer after his 18th birthday.”.

Amendment of regulation 45 of the principal Regulations

3.—(1) Regulation 45 of the principal Regulations (adult placements) is amended in accordance with the following provisions of this regulation.

- (2) In paragraph (1), for the words “regulation 46” substitute “regulations 46 and 47”.
- (3) In paragraph (2), after the words “In this regulation” insert “and in regulation 47”.

Amendment of regulation 46 of the principal Regulations

4. Regulation 46 of the principal Regulations (modification of regulations in respect of adult placement carers) is amended as follows—

- (a) paragraph (8) is omitted; and
- (b) for paragraph (9) substitute—

“(9) Schedule 4 (other records to be kept in a care home) shall have effect as if paragraphs 1 to 7, 13 and 14 were omitted.”.

Modification of the principal Regulations

5. After regulation 46 of the principal Regulations (modification of regulations in respect of adult placement carers), insert—

“Modification of regulations in respect of adult placement carer providing short term break for service user

47.—(1) The following provisions of this regulation shall apply where an adult placement carer in respect of a care home is providing a short term break for a service user.

- (2) Regulation 13 (further requirements as to health and welfare) shall have effect as if—
 - (a) in paragraph (1), at the beginning, the words “Subject to paragraph (1A),” were inserted; and
 - (b) after paragraph (1), the following paragraph was inserted—

“(1A) Where the registered provider is an adult placement carer in respect of a care home providing a short term break for a service user the registered provider shall ensure that satisfactory arrangements are made to meet the service user’s medical needs.”.

(3) Regulation 16(2)(d) (facilities and services) shall not apply in relation to a service user who is being provided with a short term break by an adult placement carer in respect of a care home.

(4) Where the adult placement carer in respect of a care home provides only short term breaks for each of the service users, regulation 38 (notice of absence) shall not apply at any time when the care home is not providing accommodation for any service user.

(5) For the purposes of this regulation an adult placement carer in respect of a care home provides a short term break for a service user where—

- (a) the service user does not ordinarily reside with the adult placement carer; and
- (b) the placement agreement in respect of that service user is for a period no longer than 6 months in any 12 month period.”.

(a) 1989 c. 41.

Amendment of the Registration Regulations

6.—(1) The Registration Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3 (information and documents to be provided by an applicant)—

(a) in paragraph (2), at the beginning, insert “Subject to paragraph (2A),”;

(b) after paragraph (2), insert—

“(2A) Where a person is seeking to be registered as the registered provider in respect of a care home and, if registered, would be an adult placement carer in respect of that care home, he shall not be required to provide to the Commission the information and documents listed in paragraph 4 of Schedule 1.”.

(3) In paragraph 4 of Schedule 1, for the words “In every case” substitute “In all cases (unless otherwise provided in these Regulations)”.

16th July 2003

Stephen Ladyman
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations, which apply to England only, further amend the Care Homes Regulations 2001 (“the principal Regulations”) made under the Care Standards Act 2000 (“the Act”).

Regulation 2 amends regulation 3 of the principal Regulations (excepted establishments) in order to except from regulation—

- (a) establishments which only provide accommodation for no more than 3 persons at any one time who fall within section 3(2) of the Act, where the aggregate of the provision of such accommodation does not exceed 28 days in any 12 month period; and
- (b) establishments which provide accommodation, together with nursing or personal care, solely for a person (or persons) who was placed with a local authority foster carer (“the carer”) under the Children Act 1989, remained in that placement for a period of not less than 5 years immediately prior to his 18th birthday, and continues to live with the carer after his 18th birthday.

Regulation 3 amends regulation 45 of the principal Regulations (adult placements) in order to include a reference to regulation 47 in paragraphs (1) and (2).

Regulation 4 amends regulation 46 of the principal Regulations (modification of regulations in respect of adult placement carers) in order to make alterations in relation to the modification of certain of the principal Regulations relating to the keeping of records by adult placement carers.

Regulation 5 inserts a new regulation 47 into the principal Regulations in order to modify certain of the principal Regulations in relation to an adult placement carer providing a short term break for a service user. In this situation, a registered provider does not have to ensure that the service user is registered with a general practitioner of his choice, but instead has to ensure that satisfactory arrangements are made to meet the service user’s medical needs. In addition, regulation 16(2)(d) (facilities and services) of the principal Regulations does not apply to a service user being accommodated by an adult placement carer on a short term break, and regulation 38 (notice of absence) of the principal Regulations does not apply to a registered provider who provides only short term breaks for service users at any time where no service user is accommodated in the care home. A “short term break” is defined as occurring where the service user does not normally reside with the adult placement carer and the placement agreement in respect of a service user is for no longer than 6 months in any 12 month period.

Regulation 6 makes amendments to the National Care Standards Commission (Registration) Regulations 2001 in order to exempt a person seeking to be registered as the registered provider of a care home providing an adult placement from the requirement to provide to the Commission the financial information listed in paragraph 4 of Schedule 1 to those Regulations.

£1.75

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E1038 7/03 ON (MFK)