
WELSH STATUTORY INSTRUMENTS

2002 No. 324

The Care Homes (Wales) Regulations 2002

PART VII

MISCELLANEOUS

Notification of death, illness and other events

38.—(1) The registered person shall give notice to the appropriate office of the National Assembly without delay of the occurrence of—

- (a) the death of any service user and of the circumstances of his or her 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) a serious illness of a service user at a care home at which nursing is not provided;
- (e) any event in the care home which affects the well-being or safety of any service user;
- (f) any theft, burglary or serious 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

39.—(1) Where—

- (a) a registered provider who manages the care home; or
- (b) a registered manager,

is 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 appropriate office of the National Assembly of the proposed absence.

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

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for the running of the care home;
- (d) the name, address and qualifications of the person who will be responsible for the care home during the absence; and

- (e) arrangements that have been or are proposed to be made for appointing another person to manage the children's home during the absence, including the proposed date by which the appointment is to be made.

(3) Where an absence referred to in paragraph (1) is to arise as a result of an emergency, the registered provider shall give notice of the absence within one week of the emergency's occurrence specifying the matters in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) a registered provider who manages the care home; or
- (b) a registered manager;

has been absent from the children's home for a continuous period of 28 days or more, and the appropriate office of the National Assembly has not been given notice of the absence, the registered person shall forthwith give notice in writing to that effect specifying the matters mentioned in paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the appropriate office of the National Assembly of the return to work of a person mentioned in sub-paragraph (a) or (b) of paragraph (4) not later than 7 days after the date of return.

Notice of changes

40. The registered person shall give notice in writing to the appropriate office of the National Assembly as soon as it is practicable to do so if—

- (a) a person other than the registered person carries on or manages, or proposes to carry on or manage, the care home;
- (b) a person ceases, or proposes to cease, to carry on or manage the care home;
- (c) where a registered person is an individual, he or she changes, or proposes to change, his or her name;
- (d) where the registered provider is an organisation—
 - (i) the name or address of the organisation changes, or is proposed to be changed;
 - (ii) there is, or is proposed to be, any change of director, manager, secretary or other similar officer of the organisation;
- (e) there is, or is proposed to be, any change in the identity of the responsible individual;
- (f) where a registered provider is an individual, a trustee in bankruptcy is, or is likely to be, appointed for him or her, or a composition or arrangement is, or is to be, made with his or her creditors;
- (g) where a registered provider is a company, a receiver, manager, liquidator or provisional liquidator is, or is likely to be, appointed;
- (h) where a registered provider is in a partnership whose business includes carrying on a children's home, a receiver or manager is, or is likely to be, appointed for the partnership; or
- (i) the premises of the home are, or are proposed to be, significantly altered or extended, or additional premises are, or are proposed to be, acquired.

Notice of termination of accommodation

41.—(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) —
- (a) he shall do so as soon as it is practicable to do so; and
 - (b) he shall provide to the National Assembly a statement as to the circumstances which made it impracticable for him to comply with the requirement.

Appointment of liquidators etc

- 42.**—(1) Any person to whom paragraph (2) applies must—
- (a) forthwith notify the appropriate office of the National Assembly for each care home to which the appointment relates of his or her 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 or her appointment notify the appropriate office of the National Assembly of his or her intentions regarding the future operation of each care home to which the appointment relates.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of a company 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 receiver or manager of the property of a partnership whose business includes carrying on a care home; or
 - (d) the trustee in bankruptcy of a registered provider of a care home.

Death of registered person

- 43.**—(1) If more than one person is registered in respect of a care home, and a registered person dies, a surviving registered person shall without delay notify the appropriate office of the National Assembly of the death in writing.
- (2) If only one person is registered in respect of a care home, and he or she dies, his or her personal representatives shall notify the appropriate office of the National Assembly in writing—
- (a) without delay of the death in writing; and
 - (b) within 28 days of their intentions regarding the future running of the home.
- (3) The personal representatives of a 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 National Assembly may determine a period, not exceeding one year, for the purposes of paragraph (3)(b) and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to manage the care home during any period in which, in accordance with paragraph (3), they carry on the children's home without being registered in respect of it.

Offences

44.—(1) A contravention or failure to comply with any of the provisions of regulations 4 to 27 and 38 to 41 shall be an offence.

(2) Without prejudice to the powers of the National Assembly under section 29 of the Act to bring proceedings against persons who once were, but are no longer, registered in respect of a care home, the National Assembly may bring proceedings in respect of a failure to comply with regulation 17 which arose, in whole or in part, after he or she ceased to be a registered person.

Compliance with regulations

45. 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

46.—(1) For the purposes of this regulation and regulation 47, a registered provider is an adult placement carer in respect of a care home if—

- (a) he or she 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 or she ordinarily resides;
 - (d) (i) no more than two service users are accommodated in the care home; or
 - (ii) no more than three service users are accommodated in the home if every such service user was accommodated under an agreement described in sub-paragraph (e) at any time before 1st April 2002;
 - (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; and
 - (iii) the local authority or other body which manages a scheme ("adult placement scheme" ("cynllun lleoliadau oedolion")) 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) the 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

47.—(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, 22, 25, 27 to 37 and 42 (statement of purpose; appointment of manager; staffing; fitness of workers; staff views as to conduct of care home; staff disciplinary procedure; review of quality of care home; visits by registered provider; children; appointment of liquidators) and Schedules 1, 5 and 6 (information to be included in the statement of purpose; additional information to be included in the statement of purpose where children are accommodated; 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—

- (a) in sub-paragraph (a) of paragraph (1) of that regulation the words “subject to compliance with paragraph (2),” and “the statement of purpose and” were omitted;
- (b) paragraph (2) 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 “and consult with the environmental health authority about those arrangements” were omitted.

(6) Regulation 24 (fitness of premises) shall have effect as if for sub-paragraph (a) of paragraph (1) there were substituted the words “the premises are suitable for their purpose” and 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 26 (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 (i) of paragraph 3 of that Schedule were omitted.

(9) Schedule 4 shall have effect as if paragraphs 1, 3, 5, 6, 7 and 12 to 16 of that Schedule were omitted.

Specification of appropriate offices

48. The Assembly may specify an office controlled by it as the appropriate office in relation to care homes situated in a particular area of Wales.

Revocation

49. The following regulations are revoked in so far as they apply to Wales—

- (a) the Residential Care Homes Regulations 1984(1);
- (b) the Nursing Homes and Mental Nursing Homes Regulations 1984(2).

(1) S.I.1984/1345.
(2) S.I. 1984/1578.