
WELSH STATUTORY INSTRUMENTS

2002 No. 325

Private and Voluntary Health Care (Wales) Regulations 2002

PART II

REGISTERED PERSONS

Fitness of registered provider

- 9.—(1) A person shall not carry on an establishment unless the person is fit to do so.
- (2) A person is not fit to carry on an establishment unless the person—
- (a) is an individual who satisfies the requirements set out in paragraph (3); or
 - (b) is an organisation and—
 - (i) the organisation has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the establishment; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) the individual is of suitable integrity and good character to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment;
 - (b) the individual is physically and mentally fit to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment ; and
 - (c) full and satisfactory information or documentation, as the case may be, is available in relation to the individual—
 - (i) except where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 to 7 of Schedule 2;
 - (ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 8 of Schedule 2.
- (4) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997⁽¹⁾ has not been brought into force.
- (5) A person is not fit to carry on an establishment if—
- (a) the person has been adjudged bankrupt or sequestration of the person’s estate has been awarded and (in either case) the person has not been discharged and the bankruptcy order has not been annulled or rescinded; or

(1) 1997 c. 50. Sections 113 and 115, as amended, have not yet been brought into force. See further the footnotes to paragraph 2 of Schedule 2 to these Regulations.

- (b) the person has made a composition or arrangement with the person's creditors and has not been discharged in respect of it.

Appointment of manager

- 10.**—(1) The registered provider shall appoint an individual to manage the establishment if—
- (a) there is no registered manager in respect of the establishment; and
 - (b) the registered provider—
 - (i) is an organisation;
 - (ii) is not a fit person to manage an establishment; or
 - (iii) is not, or does not intend to be in full-time day to day charge of the establishment.
- (2) If the registered provider appoints a person to manage the establishment, the registered provider shall forthwith give notice to the appropriate office of the National Assembly of—
- (a) the name of the person so appointed; and
 - (b) the date on which the appointment is to take effect.
- (3) If the registered provider is to manage the home he or she shall forthwith give notice to the appropriate office of the National Assembly of the date on which such management is to begin.

Fitness of manager

- 11.**—(1) A person shall not manage an establishment unless the person is fit to do so.
- (2) A person is not fit to manage an establishment unless:
- (a) the person is of suitable integrity and good character to manage the establishment;
 - (b) having regard to the size of the establishment, the statement of purpose and the number and needs of the patients—
 - (i) the person has the qualifications, skills and experience necessary to manage the establishment; and
 - (ii) the person is physically and mentally fit to do so; and
 - (c) full and satisfactory information or documentation, as the case may be, is available in relation to the person—
 - (i) except where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 to 7 of Schedule 2;
 - (ii) where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 8 of Schedule 2.
- (3) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997(2) has not been brought into force.

Registered person — general requirements

- 12.**—(1) The registered provider and the registered manager shall, having regard to the size of the establishment, the statement of purpose and the number and needs of the patients, carry on or manage the establishment, as the case may be, with sufficient care, competence and skill.
- (2) If the registered provider is—
- (a) an individual, he or she shall undertake; or

(2) See footnote to regulation 9(4).

(b) an organisation, it shall ensure that the responsible individual undertakes, from time to time such training as is appropriate to ensure that he or she has the skills necessary for carrying on the establishment.

(3) Any individual managing the establishment shall undertake from time to time such training as is appropriate to ensure that he or she has the skills necessary for managing the establishment.

Notification of offences

13.—(1) Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, the person convicted shall forthwith give notice in writing to the appropriate office of the National Assembly of—

- (a) the date and place of the conviction;
- (b) the offence of which the person was convicted; and
- (c) the penalty imposed on the person in respect of the offence.

(2) Where the registered person is charged with any offence in respect of which an order may be made under Part II of the Criminal Justice and Court Services Act 2000 (Protection of Children)(**3**) the registered person shall forthwith give notice in writing to the appropriate office of the National Assembly of the offence charged and the date and place of the charge.