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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 28**

**SOCIAL CARE**

**The Social Care and Social Work Improvement  
Scotland (Registration) Regulations 2011**

<i>Made</i>	- - - -	<i>20th January 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>24th January 2011</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 77 of the Public Services Reform (Scotland) Act 2010<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Social Care and Social Work Improvement Scotland (Registration) Regulations 2011 and come into force on 1st April 2011.

**Interpretation**

2. In these Regulations—

“the Act” means the Public Services Reform (Scotland) Act 2010;

“address” means a postal address and, where available, an electronic mail address but an electronic mail address may not be substituted for a postal address;

“manager” means the person who is to manage the care service;

“provider” in relation to a care service means the person registered to provide that service;

“SCSWIS” means Social Care and Social Work Improvement Scotland.

**Persons disqualified from applying**

3.—(1) A person cannot competently make an application for registration of a care service<sup>(2)</sup> under Chapter 3 or 4 of Part 5 of the Act unless the person is fit to do so.

(2) The following persons are unfit to make such an application—

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(1) 2010 asp 8 (“the Act”).

(2) Section 47 of the Act defines a care service.

- (a) a person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine and who in the reasonable opinion of SCSWIS is unsuitable to be a provider of a care service;
  - (b) a person whose estate has been sequestrated, or who has been adjudged bankrupt unless (in either case) the person has been discharged or the bankruptcy order annulled;
  - (c) a person who has been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986<sup>(3)</sup> or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985<sup>(4)</sup> unless that order has ceased to have effect or has been annulled;
  - (d) a person who has made a composition or arrangement with, or granted a trust deed for, the person's creditors unless the person has been discharged in respect of it;
  - (e) a person who at the time of making the application has an administrator, administrative receiver or a receiver appointed;
  - (f) a person who has been—
    - (i) removed under section 34 of the Charities and Trustee Investment (Scotland) Act 2005<sup>(5)</sup> (powers of the Court of Session) from being concerned in the management or control of a charity or body; or
    - (ii) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission for England and Wales or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which the person was responsible or to which the person was privy, or which the person by that person's conduct contributed to or facilitated;
  - (g) a person who is subject to a disqualification order under the Company Directors Disqualification Act 1986<sup>(6)</sup>, the Companies (Northern Ireland) Order 1986<sup>(7)</sup>, or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order);
  - (h) a person who is subject to proceedings outside the United Kingdom which are equivalent to those listed at sub-paragraphs (b) to (g) above.
- (3) For the purposes of paragraph (2)—
- (a) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom must be disregarded; and
  - (b) if the application relates to registration of a child minding service<sup>(8)</sup> paragraph 2(b) to (h) must be disregarded.

### **Records, notifications and returns**

**4.—(1)** On granting registration of a care service under Chapter 3 or 4 of Part 5 of the Act, SCSWIS must, in addition to issuing a certificate of registration, notify the provider of the care service of—

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(3) 1986 c.45. Schedule 4A was inserted by section 257 of and Schedule 20 to the Enterprise Act 2002 (c.40).  
 (4) 1985 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).  
 (5) 2005 asp 10.  
 (6) 1986 c.46 as amended by the Insolvency Act 2000 (c.39).  
 (7) S.I. 1986/1032 (N.I.6).  
 (8) Paragraph 12 of Schedule 12 to the Act defines a child minding service.

- (a) the records the provider must keep and where they must be kept;
  - (b) any matters the provider must notify from time to time to SCSWIS whilst the care service is registered; and
  - (c) matters the provider must notify to SCSWIS in an annual return.
- (2) SCSWIS may, from time to time, make reasonable variations to the information required under paragraph (1).

### **Registers**

**5.—**(1) SCSWIS must maintain a register of all care services registered under Chapter 3 or 4 of Part 5 of the Act.

- (2) The register must contain the information specified in the Schedule.

### **Access to register**

**6.—**(1) SCSWIS must make available for inspection a copy of the register maintained under regulation 5—

- (a) at each of its offices during its normal hours of business; and
- (b) on a website,

and must provide to any person who makes a request in writing or in person at any SCSWIS office, a copy of any register or any part thereof which is specified in the request.

(2) SCSWIS must remove the address of a care service from any copy of the register made available for inspection or provided under paragraph (1) if SCSWIS considers disclosure of the address may expose any person to danger.

(3) SCSWIS may charge a reasonable fee in respect of any copies of the register or part of it provided under paragraph (1).

### **Contents of certificate**

**7.** A certificate of registration must contain the following information:—

- (a) the full name and address of the place of work and the principal office of the provider and, where it exists, its registered office;
- (b) the name and address of SCSWIS, including its website;
- (c) the full name of the manager;
- (d) all addresses from which the care service will be provided;
- (e) the type of care service (in terms of section 47 of and schedule 12 to the Act) which is registered;
- (f) details of any condition to which the registration is subject; and
- (g) the date of registration of the care service.

St Andrew's House,  
Edinburgh  
20th January 2011

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 5

1. The full name, address, phone and facsimile number (if any) of the place of work of the provider.
  2. The full name of the manager.
  3. All addresses the care service may have.
  4. The type of care service which is registered in terms of section 47(1) of the Act.
  5. Details of any condition to which the registration is subject.
  6. The date of registration of the care service.
  7. Any other information which SCSWIS considers would assist users or prospective users of a care service.
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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision as to: who may not apply for registration of a care service under Part 5 of the Public Services Reform (Scotland) Act 2010, the records to be kept by a provider of a care service, and the register of information and certificates of registration relating to care services.

Regulation 3 sets out who may not apply to provide a care service and regulation 4 provides that SCSWIS shall inform a service on registration of what other information it requires and what records must be kept.

Regulation 5 provides that SCSWIS shall keep a register of all care services containing the information specified in the Schedule and regulation 6 makes provision as to access to that register.

Regulation 7 sets out the information a certificate of registration must contain.