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WELSH STATUTORY INSTRUMENTS

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**2004 No. 219**

**The Domiciliary Care Agencies (Wales) Regulations 2004**

**PART II**

**REGISTERED PERSONS**

**Fitness of registered provider**

- 8.**—(1) A person shall not carry on an agency unless fit to do so.
- (2) A person is not fit to carry on an agency unless the person —
- (a) is an individual who carries on an agency —
    - (i) otherwise than in partnership with others and he or she satisfies the requirements of paragraph (3); or
    - (ii) in partnership with others and he or she and each of the partners satisfies the requirements set out in paragraph (3); or
  - (b) is an organisation and —
    - (i) it 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 senior officer of the organisation and is responsible for the management of the agency; and
    - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that —
- (a) the person is of integrity and good character;
  - (b) the person is physically and mentally fit to carry on or (as the case may be) be responsible for the management of the agency; and
  - (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 2 is available in relation to the person.
- (4) A person is not fit to carry on an agency if —
- (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
  - (b) he or she has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

**Appointment of manager**

- 9.**—(1) The registered provider shall appoint an individual to manage the agency if —
- (a) there is no registered manager in respect of the agency; and

- (b) the registered provider —
  - (i) is an organisation;
  - (ii) carries on the agency in partnership;
  - (iii) is not a fit person to manage an agency; or
  - (iv) is not, or does not intend to be, in full time day to day charge of the agency.

(2) Where —

- (a) the registered provider, or
- (b) if an appointment has been made under paragraph (1), the registered manager,

proposes to be, is likely to be, or has been, absent from the agency for a continuous period of 28 days or more, the registered provider shall appoint an individual to manage the agency during the provider's or (as the case may be) the registered manager's absence.

(3) Where the registered provider appoints a person to manage the agency, he or she shall forthwith give notice to the appropriate office of the National Assembly of —

- (a) the name of the person so appointed; and
- (b) subject to registration, the date on which the appointment is to take effect.

(4) The registered person shall nominate a person to be in charge at all times when the agency is open for business and the registered person is absent from the premises.

(5) A person may not be nominated for the purpose of paragraph (4) unless full and satisfactory information in respect of each of the matters listed in Schedule 2 is available in relation to him or her and has been provided to the National Assembly, except that the information required in paragraphs 10 and 11 of Schedule 3 must be available in substitution for the information required in paragraph 8 of Schedule 2.

### **Fitness of manager**

**10.**—(1) A person shall not manage an agency unless fit to do so.

(2) A person is not fit to manage an agency unless —

- (a) the person is of integrity and good character;
- (b) having regard to the nature and size of the agency and the number and needs of the service users —
  - (i) the person has the qualifications, skills and experience necessary to manage the agency; and
  - (ii) the person is physically and mentally fit to manage the agency; and
- (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 2 is available in relation to the person.

### **Registered person — general requirements and training**

**11.**—(1) The registered provider and the registered manager shall, having regard to the nature and size of the agency and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

(2) If the registered provider is —

- (a) an individual, that individual shall undertake, or
- (b) an organisation, it shall ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that the individual has the expertise, experience and skills necessary for carrying on the agency.

(3) If the agency is carried on by individuals in partnership, the partners shall ensure that one of them undertakes training as required by paragraph (2).

(4) The registered manager shall undertake from time to time such training as is appropriate to ensure that he or she has the expertise, experience and skills necessary for managing the agency.

#### **Notification of offences**

**12.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, he or she 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; and
- (c) the penalty imposed in respect of the offence.