

## 2003 No. 572

### SOCIAL CARE

#### The Regulation of Care (Requirements as to Care Services) (Scotland) Amendment (No. 2) Regulations 2003

*Made* 26th November 2003

*Laid before the Scottish Parliament* 27th November 2003

*Coming into force* 22nd December 2003

The Scottish Ministers, in exercise of the powers conferred by section 29(1), (2)(b) and (e) and (7)(c) of the Regulation of Care (Scotland) Act 2001(a) and of all other powers enabling them in that behalf, and having consulted such persons and groups of persons as they consider appropriate in accordance with section 29(12) of that Act, hereby make the following Regulations:

#### Citation and commencement

1. These Regulations may be cited as the Regulation of Care (Requirements as to Care Services) (Scotland) Amendment (No. 2) Regulations 2003 and shall come into force on 22nd December 2003.

#### Amendment of the principal Regulations

2.—(1) The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002(b) shall be amended as follows.

(2) After paragraph (4) of regulation 1 (interpretation)(c), insert—

“(5) In the case of a care service which is a nurse agency any reference in—

(a) regulation 9; and

(b) regulation 19(2) in relation to paragraphs (a), (b), (c) and (d),

to a person employed shall include a reference to a person who is introduced to a service user by the provider and associated expressions referring to employment shall be construed accordingly; and in regulation 19(2)(c) the reference to “positions held” shall include introductions effected.”.

(3) In paragraph (2) in each of regulation 6 (fitness of providers), 7 (fitness of managers), 8 (notification of unfitness), 9 (fitness of employees) and 10 (fitness of premises), delete “not fit” and insert “unfit”.

(4) In regulation 6 (fitness of providers)—

(a) delete “disqualification” and insert “unfitness” where it appears in sub-paragraph (2)(c)(i), (ii), (iii) and (iv); and

(b) in paragraph (4), delete “not fit” and insert “unfit”.

(5) In paragraph (2) of regulation 8 (notification of unfitness), delete “this” and after the word “regulation” insert “7.”.

(6) In regulation 11 (fitness in relation to child minding), delete “not fit” and insert “unfit”.

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(a) 2001 asp 8; see section 77(1) for the definition of “regulations”.

(b) S.S.I. 2002/114, amended by S.S.I. 2003/149.

(c) Regulation 1(4) was inserted by S.S.I. 2003/149, regulation 2(2).

(7) After paragraph (4) of regulation 19 (records), insert–

“(5) The requirements at paragraphs 3(c), (h) and (j) shall not apply to providers of a support service which provides personal care or personal support to a person (“the recipient”) within the recipient’s home.”.

St Andrew’s House,  
Edinburgh  
26th November 2003

*TOM McCABE*  
Authorised to sign by the Scottish Ministers

## **EXPLANATORY NOTE**

*(This is not part of the Regulations)*

These Regulations amend the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 (S.S.I. 2002/114) (“the principal Regulations”).

Regulation 2(2) extends the definition in regulation 1 of the principal Regulations of a person employed and associated expressions in the case of a care service which is a nurse agency. This will ensure that persons introduced to a service user by nurse agencies are covered by references to “employed” and “positions held” in the principal Regulations.

Regulation 2(3) and (6) changes the reference to “not fit” to “unfit” for consistency.

Regulation 2(4) deletes the reference to “disqualification” and replaces it with “unfitness” for consistency.

Regulation 2(5) removes the ambiguity in regulation 8 by making reference to regulation 7.

Regulation 2(7) disapplies to certain services certain requirements of regulation 19 (records) of the principal Regulations.

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(Scotland) Amendment (No. 2) Regulations 2003**

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