
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Health and Social Care Act 2008
(Regulated Activities) Regulations 2014**

PART 3

Requirements in relation to Regulated Activities

SECTION 1

Requirements relating to persons carrying on or managing a regulated activity

Fit and proper persons: directors

5.—(1) This regulation applies where a service provider is a health service body.

(2) Unless the individual satisfies all the requirements set out in paragraph (3), the service provider must not appoint or have in place an individual—

- (a) as a director of the service provider, or
- (b) performing the functions of, or functions equivalent or similar to the functions of, such a director.

(3) The requirements referred to in paragraph (2) are that—

- (a) the individual is of good character,
- (b) the individual has the qualifications, competence, skills and experience which are necessary for the relevant office or position or the work for which they are employed,
- (c) the individual is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the office or position for which they are appointed or to the work for which they are employed,
- (d) the individual has not been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity or providing a service elsewhere which, if provided in England, would be a regulated activity, and
- (e) none of the grounds of unfitness specified in Part 1 of Schedule 4 apply to the individual.

(4) In assessing an individual's character for the purposes of paragraph (3)(a), the matters considered must include those listed in Part 2 of Schedule 4.

(5) The following information must be available to be supplied to the Commission in relation to each individual who holds an office or position referred to in paragraph (2)(a) or (b)—

- (a) the information specified in Schedule 3, and
- (b) such other information as is required to be kept by the service provider under any enactment which is relevant to that individual.

- (6) Where an individual who holds an office or position referred to in paragraph (2)(a) or (b) no longer meets the requirements in paragraph (3), the service provider must—
- (a) take such action as is necessary and proportionate to ensure that the office or position in question is held by an individual who meets such requirements, and
 - (b) if the individual is a health care professional, social worker or other professional registered with a health care or social care regulator, inform the regulator in question.