

**2009 No. 145**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Establishments and Agencies (Fitness of Workers)  
(Amendment No. 2) Regulations (Northern Ireland) 2009**

*Made* - - - -

*30th March 2009*

*Coming into operation* -

*6th April 2009*

The Department of Health, Social Services and Public Safety makes the following Regulations, in exercise of the powers conferred on it by Articles 23(1), (2)(b), (f) and (h), (7)(c) and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(a).

In accordance with Article 23(8) of that Order it has consulted with such persons as it considers appropriate.

**Citation and Commencement**

1. These Regulations may be cited as the Establishments and Agencies (Fitness of Workers) (Amendment No. 2) Regulations (Northern Ireland) 2009 and shall come into operation on 6th April 2009.

**Revocations**

2. The provisions set out in the Schedule are revoked.

**Amendment of the Nursing Homes Regulations (Northern Ireland) 2005**

3. In regulation 21 (fitness of workers) of the Nursing Homes Regulations (Northern Ireland) 2005(b), for paragraph (1)(b) substitute—

“(b) subject to paragraph (5), he has obtained in respect of that person the information and documents specified in paragraphs 1 to 7 of Schedule 2;”.

**Amendment of the Residential Care Homes Regulations (Northern Ireland) 2005**

4. In regulation 21 (fitness of workers) of the Residential Care Homes Regulations (Northern Ireland) 2005(c), for paragraph (1)(b) substitute—

“(b) subject to paragraph (5), he has obtained in respect of that person the information and documents specified in paragraphs 1 to 7 of Schedule 2;”.

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(a) S.I. 2003 No. 431 (N.I. 9)

(b) S.R. 2005 No. 160 as amended by S.R. 2008 No. 346 and S.R. 2009 No. 28.

(c) S.R. 2005 No. 161 as amended by S.R. 2008 No. 346 and S.R. 2009 No. 28.

### **Amendment of the Nursing Agencies Regulations (Northern Ireland) 2005**

5. In regulation 16 (provision of information to service users) of the Nursing Agencies Regulations (Northern Ireland) 2005(a), for paragraph (2) substitute—

“(2) Where the service user is also the patient, the registered person shall ensure that the information specified in paragraph (1) is, where appropriate, provided to the person acting on behalf of the patient.”.

### **Amendment of the Day Care Setting Regulations (Northern Ireland) 2007**

6. In regulation 21 (fitness of workers) of the Day Care Setting Regulations (Northern Ireland) 2007(b), for paragraph (1)(b) substitute—

“(b) subject to paragraph (3), he has obtained in respect of that person the information and documents specified in Schedule 2;”.

### **Amendment of the Domiciliary Care Agencies Regulations (Northern Ireland) 2007**

7.—(1) For regulation 13 (fitness of domiciliary care workers supplied by an agency) of the Domiciliary Care Agencies Regulations (Northern Ireland) 2007(c) substitute—

#### **“Fitness of domiciliary care workers supplied by an agency**

**13.** The registered person shall ensure that no domiciliary care worker is supplied by the agency unless—

- (a) he is of integrity and good character;
- (b) he has the experience and skills necessary for the work that he is to perform;
- (c) he is physically and mentally fit for the purposes of the work which he is to perform; and
- (d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 3.”

(2) In regulation 18 of the Domiciliary Care Agencies Regulations (Northern Ireland) 2007 (provision of information to service users), for paragraph (2) substitute—

“(2) The registered person shall ensure that the information specified in paragraph (1) is, where appropriate, provided to the service user’s relatives or carers.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 30th March 2009.

*Sean Holland*

A senior officer of the  
Department of Health, Social Services and Public Safety

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(a) S.R. 2005 No. 175 as amended by S.R. 2008 No. 346 and S.R. 2009 No. 28.  
(b) S.R. 2007 No. 234 as amended by S.R. 2008 No. 346 and S.R. 2009 No. 28.  
(c) S.R. 2007 No. 235 as amended by S.R. 2008 No. 346 and S.R. 2009 No. 28.

## SCHEDULE

Regulation 2

### Revocations

<i>Regulations</i>	<i>Extent of revocation</i>
The Nursing Homes Regulations (Northern Ireland) 2005 (S.R. 2005 No. 160).	In regulation 21(4), the words “Subject to paragraph (4A),”; Regulation 21(4A); In regulation 21(5)(d), the words “subject to paragraphs (4A) and (7),”; Regulation 21(7), (8) and (9).
The Residential Care Homes Regulations (Northern Ireland) 2005 (S.R. 2005 No. 161).	In regulation 21(4), the words “Subject to paragraph (4A),”; Regulation 21(4A); In regulation 21(5)(d), the words “subject to paragraphs (4A) and (7),”; Regulation 21(7), (8) and (9).
The Nursing Agencies Regulations (Northern Ireland) 2005 (S.R. 2005 No. 175).	In regulation 12(1), the words “Subject to paragraph (4),”; Regulation 12(4), (5) and (6); Regulation 16(1A).
The Children’s Homes Regulations (Northern Ireland) 2005 (S.R. 2005 No. 176).	In regulation 25(3)(f), the words “subject to paragraphs (4A) and (5A),”; Regulation 25(4A); In regulation 25(5)(b), the words “subject to paragraphs (4A) and (5A),”; Regulation 25(5A), (5B) and (5C).
The Day Care Setting Regulations (Northern Ireland) 2007 (S.R. 2007 No. 234).	In regulation 21(3)(d), the words “subject to paragraph (5),”; Regulation 21(5), (6) and (7).
The Domiciliary Care Agencies Regulations (Northern Ireland) 2007 (S.R. 2007 No. 235).	Regulation 18(1A).

### EXPLANATORY NOTE

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

These Regulations, which apply to establishments and agencies in Northern Ireland, make further amendments to certain Regulations made under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 in respect of nursing homes, residential care homes, nursing agencies, children’s homes, day care settings and domiciliary care agencies.

Regulation 2 of these Regulations revokes certain provisions of the Regulations listed in the Schedule to these Regulations.

Regulation 3 amends regulation 21 (fitness of workers) of the Nursing Homes Regulations (Northern Ireland) 2005 to ensure that a registered nursing home provider shall not employ a person to work at a nursing home until all of the information and documents specified in paragraphs 1 to 7 of those Regulations has been obtained.

Regulation 4 makes similar amendments to regulation 21 (fitness of workers) of the Residential Care Homes Regulations (Northern Ireland) 2005.

Regulation 5 amends regulation 16 (provision of information to service users) of the Nursing Agencies Regulations (Northern Ireland) 2005 to ensure that certain specified information is provided by the registered provider of a nursing agency, in cases where the service user is also the patient.

Regulation 6 amends regulation 21 (fitness of workers) of the Day Care Setting Regulations (Northern Ireland) 2007 to ensure that a registered day care setting provider shall not employ a person to work at a day care setting until all of the information and documents specified in Schedule 2 of those Regulations has been obtained.

Regulation 7 amends regulation 13 (fitness of domiciliary care workers supplied by an agency) and regulation 18 (provision of information to service users) of the Domiciliary Care Workers Regulations (Northern Ireland) 2007 to ensure that a registered agency provider shall not supply a domiciliary care worker to a service user unless the conditions specified in paragraphs (a) to (d) of regulation 13 have been met, and to ensure that certain information specified in regulation 18(1) is, where appropriate, provided to the service user's relatives or carers.

The Schedule sets out the extent of the revocations to be made in respect of the listed Regulations.

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