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STATUTORY INSTRUMENTS

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**2001 No. 3968**

**The Private and Voluntary Health  
Care (England) Regulations 2001**

**PART II**

**REGISTERED PERSONS**

**Fitness of registered provider**

- 10.**—(1) A person shall not carry on an establishment or agency unless he is fit to do so.
- (2) A person is not fit to carry on an establishment or agency unless the person—
- (a) is an individual, who carries on the establishment or agency—
    - (i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3);
    - (ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);
  - (b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);
  - (c) is an organisation and—
    - (i) the organisation has given notice to the Commission 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 officer of the organisation and is responsible for supervising the management of the establishment or agency; and
    - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) he is of integrity and good character;
  - (b) he is physically and mentally fit to carry on the establishment or agency; and
  - (c) full and satisfactory information is available in relation to him—
    - (i) except where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 to 7 of Schedule 2;
    - (ii) where paragraph (4) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 8 of Schedule 2.
- (4) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997(1) has not been brought into force.
- (5) A person shall not carry on an establishment or agency if—

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(1) 1997 c. 50. Sections 113 and 115, as amended, have not yet been brought into force. See the footnotes to paragraph 2 of Schedule 2.

- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
- (b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

### **Appointment of manager**

**11.**—(1) The registered provider shall appoint an individual to manage an establishment or agency if—

- (a) there is no registered manager in respect of the establishment or agency; and
- (b) the registered provider—
  - (i) is an organisation or a partnership;
  - (ii) is not a fit person to manage an establishment or agency; or
  - (iii) is not, or does not intend to be, in full-time day to day charge of the establishment or agency.

(2) Where the registered provider appoints a person to manage the establishment or agency, he shall forthwith give notice to the Commission of—

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

### **Fitness of registered manager**

**12.**—(1) A person shall not manage an establishment or agency unless he is fit to do so.

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

- (a) he is of integrity and good character;
- (b) having regard to the size of the establishment or agency and the number and needs of the patients—
  - (i) he has the qualifications, skills and experience necessary to manage the establishment or agency; and
  - (ii) he is physically and mentally fit to do so; and
- (c) full and satisfactory information is available in relation to him—
  - (i) except where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 to 7 of Schedule 2;
  - (ii) where paragraph (3) applies, in respect of each of the matters specified in paragraphs 1 and 3 to 8 of Schedule 2.

(3) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997(2) has not been brought into force.

### **Registered person—general requirements**

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

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(2) See footnote to regulation 10(4).

(2) If the registered provider is—

- (a) an individual, he shall undertake;
- (b) an organisation, it shall ensure that the responsible individual undertakes;
- (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the skills necessary for carrying on the establishment or agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the skills necessary for managing the establishment or agency.

#### **Notification of offences**

**14.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in England and Wales or elsewhere, he shall forthwith give notice in writing to the Commission of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him in respect of the offence.