
STATUTORY INSTRUMENTS

2002 No. 3212

Nurses Agencies Regulations 2002

PART I GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Nurses Agencies Regulations 2002 and shall come into force on 1st April 2003.

(2) These Regulations apply to nurses agencies in England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“agency” means a nurses agency;

“nurse” means a registered nurse, registered midwife or registered health visitor⁽¹⁾;

“NHS trust” has the same meaning as in the National Health Service and Community Care Act 1990⁽²⁾;

“organisation” means a body corporate or any unincorporated association other than a partnership;

“patient” means a person to whom nursing is provided by a nurse supplied by an agency;

“registered manager”, in relation to an agency, means a person who is registered under Part II of the Act as the manager of that agency;

“registered person”, in relation to an agency, means any person who is the registered provider or the registered manager of that agency;

“registered provider”, in relation to an agency, means a person who is registered under Part II of the Act as the person carrying on that agency;

“responsible individual” shall be construed in accordance with regulation 7;

“service user” means a person to whom an agency—

- (a) supplies a nurse who is employed by the agency; or
- (b) provides services for the purpose of supplying the service user with a nurse for employment by that service user;

(1) See the Interpretation Act 1978 (c. 30), Schedule 1. A definition of “registered” in relation to nurses, midwives and health visitors was inserted by the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 23(4) and Schedule 7, paragraph 30, as substituted by article 54(3) of, and Schedule 5, paragraph 7 to, the Nursing and Midwifery Order 2001 (S.I.2002/253) on a date to be appointed.

(2) 1990 c. 19. See section 5 of that Act as amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 (c. 17) and sections 13(1) and 14 of the Health Act 1999 (c. 8).

“service user’s guide” means the written guide produced in accordance with regulation 5;

“statement of purpose” means the written statement compiled in accordance with regulation 4.

(2) In these Regulations, references to the supply of a nurse mean—

- (a) the supply of a nurse who is employed for the purposes of an agency to act for and under the control of another person; and
- (b) the introduction of a nurse by an agency to a service user for employment by that service user.

(3) In the definition of “service user” in paragraphs (1) and (2), the terms “employed” and “employment” include employment under a contract for services.

Excepted agencies

3. For the purposes of the Act, an NHS trust which supplies nurses to work solely for other NHS trusts shall be excepted from being a nurses agency.

Statement of purpose

4.—(1) The registered person shall compile in relation to the agency a written statement (in these Regulations referred to as “the statement of purpose”) which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered person shall supply a copy of the statement of purpose to the Commission and shall make a copy of it available on request for inspection by every service user and any person acting on behalf of a service user.

(3) Nothing in regulation 20 shall require or authorise the registered person to contravene, or not to comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Service user’s guide

5.—(1) The registered person shall prepare a service user’s guide which shall include—

- (a) a summary of the statement of purpose;
- (b) the terms and conditions in respect of the services to be provided to service users, including as to the amount and method of payment of fees;
- (c) a summary of the complaints procedure established in accordance with regulation 18; and
- (d) the address and telephone number of the Commission.

(2) The registered person shall make a copy of the service user’s guide available on request for inspection at the agency premises by every service user and any person acting on behalf of a service user.

Review of statement of purpose and service user’s guide

6. The registered person shall—

- (a) keep under review and, where appropriate, revise the statement of purpose and the service user’s guide; and
- (b) notify the Commission of any material revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

- 7.—(1) A person shall not carry on an agency unless she is 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 the agency—
 - (i) otherwise than in partnership with others, and she satisfies the requirements set out in paragraph (3);
 - (ii) in partnership with others, and she and each of her 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 agency; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) she is of integrity and good character;
 - (b) she is physically and mentally fit to carry on the agency; and
 - (c) full and satisfactory information is available in relation to her in respect of each of the matters specified in Schedule 2.
- (4) A person shall not carry on an agency if—
- (a) she has been adjudged bankrupt or sequestration of her estate has been awarded and (in either case) she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
 - (b) she has made a composition or arrangement with her creditors and has not been discharged in respect of it.

Appointment of manager

- 8.—(1) The registered provider shall appoint an individual to manage the agency where—
- (a) there is no registered manager in respect of the agency; and
 - (b) the registered provider—
 - (i) is an organisation or a partnership; or
 - (ii) is not a fit person to manage an agency; or
 - (iii) is not, or does not intend to be, in full-time day to day charge of the agency.
- (2) Where the registered provider appoints a person to manage the agency, she 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 manager

- 9.**—(1) A person shall not manage an agency unless she is fit to do so.
- (2) A person is not fit to manage an agency unless—
- (a) she is of integrity and good character;
 - (b) having regard to the size of the agency, its statement of purpose and the number and needs of the service users—
 - (i) she has the qualifications, skills and experience necessary to manage the agency; and
 - (ii) she is physically and mentally fit to do so; and
 - (c) full and satisfactory information is available in relation to her in respect of each of the matters specified in Schedule 2.

Registered person—general requirements and training

10.—(1) The registered provider and the registered manager shall, having regard to the size of the agency, its statement of purpose 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, she shall undertake;
 - (b) an organisation, it shall ensure that the responsible individual undertakes; or
 - (c) a partnership, it shall ensure that one of the partners undertakes,

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

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

Notification of offences

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

- (i) the date and place of the conviction;
- (ii) the offence of which she was convicted; and
- (iii) the penalty imposed on her in respect of the offence.

PART III

CONDUCT OF NURSES AGENCIES

CHAPTER 1

QUALITY OF SERVICE PROVISION

Fitness of nurses supplied by an agency

- 12.**—(1) The registered person shall ensure that no nurse is supplied by the agency unless—
- (a) she is of integrity and good character;

- (b) she has the qualifications, skills and experience which are necessary for the work which she is to perform;
- (c) she is physically and mentally fit for that work; and
- (d) full and satisfactory information is available in relation to her in respect of each of the matters specified in Schedule 3.

(2) The registered person shall ensure that the selection of a nurse for supply is made by or under the supervision of a nurse and that full and satisfactory information in respect of each of the matters listed in Schedule 2 is available in relation to the nurse carrying out the selection.

(3) The registered person shall ensure that every nurse supplied by the agency acting as an employment business is instructed that when working for a service user she must at all times wear identification showing her name, the name of the agency and a recent photograph.

Policies and procedures

13.—(1) Paragraphs (2) and (3) apply where an agency acting as an employment business⁽³⁾ supplies a nurse to provide nursing care in the private residence of a service user or patient.

- (2) The registered person shall prepare and implement written policies in relation to—
- (a) ensuring that the services provided to each patient are in accordance with the statement of purpose and meet that patient’s individual needs;
 - (b) the circumstances in which nurses may administer or assist in the administration of a patient’s medication;
 - (c) the other tasks which nurses may or may not perform in connection with a patient’s care, and the tasks which may only be performed if the nurse has received specialist training;
 - (d) arrangements to assist patients with mobility in their homes, where required;
 - (e) measures to protect the safety and property of the patient;
 - (f) arrangements to ensure that the privacy, dignity and wishes of the patient are respected;
 - (g) measures to safeguard the patient against abuse or neglect;
 - (h) measures to safeguard nurses against abuse or other harm;
 - (i) the procedure to be followed after an allegation of abuse, neglect or other harm has been made.
- (3) The procedure referred to in paragraph (2)(i) shall in particular provide for—
- (a) written records to be kept of any allegation of abuse, neglect or other harm and of the action taken in response; and
 - (b) the Commission to be notified of any incident reported to the police, not later than 24 hours after the registered person—
 - (i) has reported the matter to the police; or
 - (ii) is informed that the matter has been reported to the police.

(4) The registered person shall ensure that any personal information about a patient for whom a nurse is supplied by the agency is not disclosed to any member of the agency’s staff unless it is necessary to do so in order to provide an effective service to the patient.

Staffing

14.—(1) Where an agency is acting as an employment business, the registered person shall, having regard to the size of the agency, its statement of purpose and the number and needs of the

(3) See section 121(1) of the Act for the definition of “employment business”.

service users, take all reasonable measures to ensure that there is at all times an appropriate number of suitably qualified, skilled and experienced persons employed for the purposes of the agency.

(2) The registered person shall ensure that each employee of the agency—

- (a) receives appropriate supervision; and
- (b) is provided with a job description outlining her responsibilities.

(3) The registered person shall establish a procedure for collecting information from service users about the performance of nurses employed for the purposes of the agency, and shall take such steps as may be necessary to address any aspect of a nurse's clinical practice.

(4) The registered person shall provide to each nurse who is employed for the purposes of the agency a written statement of the terms and conditions on which she will be supplied to work for, and under the control of, a service user.

(5) The statement of terms and conditions provided under paragraph (4) shall, in particular, specify the employment status of the nurse.

Staff handbook

15.—(1) Where the agency is acting as an employment business, the registered person shall prepare a staff handbook and provide a copy to every member of staff.

(2) The handbook prepared in accordance with paragraph (1) shall include a statement as to—

- (a) the conduct expected of staff, and disciplinary action which may be taken against them;
- (b) the role and responsibilities of nurses and other staff;
- (c) record keeping requirements;
- (d) recruitment procedures; and
- (e) training and development requirements and opportunities.

Provision of information to service users

16.—(1) The registered person shall ensure that before a nurse is supplied, the service user is informed of—

- (a) the name of the nurse who is to be supplied and the means of contacting her;
- (b) the name of the member of staff of the agency who is responsible for the supply of that nurse; and
- (c) where the agency is acting as an employment business, details of how the service user may contact the registered person, or a person nominated to act on behalf of the registered person.

(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.

Records

17. The registered person shall ensure that the records specified in Schedule 4 are maintained and that they are—

- (a) kept up to date, in good order and in a secure manner; and
- (b) retained for a period of not less than three years beginning on the date of the last entry.

Complaints

18.—(1) The registered person shall establish a procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or a person acting on behalf of the service user.

(2) The registered person shall supply a written copy of the complaints procedure to every service user and, upon request, to any person acting on behalf of a service user.

(3) The written copy of the complaints procedure shall include—

- (a) the address and telephone number of the Commission; and
- (b) the procedure (if any) which has been notified by the Commission to the registered person for making complaints to the Commission relating to the agency.

(4) The registered person shall ensure that every complaint made under the complaints procedure is fully investigated.

(5) The registered person shall, within the period of 28 days beginning on the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action (if any) that is to be taken in response.

(6) The registered person shall maintain a record of each complaint, including details of the investigation made, the outcome and any action taken in consequence and the requirements of regulation 17 shall apply to that record.

(7) The registered person shall supply to the Commission annually a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response.

(8) The registered person shall ensure that any evidence of misconduct by a nurse is reported promptly and in writing to the Nursing and Midwifery Council⁽⁴⁾.

Review of quality of service provision

19.—(1) The registered person shall introduce and maintain a system for reviewing at appropriate intervals the quality of services provided by the agency.

(2) The registered person shall supply to the Commission a report in respect of any review conducted by her for the purposes of paragraph (1) and shall make a copy of the report available upon request for inspection by service users and persons acting on behalf of service users.

(3) The system referred to in paragraph (1) shall provide for consultation with service users and persons acting on behalf of service users.

CHAPTER 2

PREMISES

Fitness of premises

20. The registered person shall not use premises for the purposes of an agency unless the premises are suitable for the purpose of achieving the aims and objectives of the agency set out in the statement of purpose.

(4) The Nursing and Midwifery Council was established by article 3 of the Nursing and Midwifery Order 2001 (S.I. [2002/253](#)).

CHAPTER 3

FINANCIAL MATTERS

Financial position

21.—(1) The registered provider shall carry on the agency in such manner as is likely to ensure that the agency will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person shall, if the Commission so requests, provide the Commission with such information and documents as it may require in order to consider the financial viability of the agency, including—

- (a) the annual accounts of the agency certified by an accountant; and
- (b) a certificate of insurance for the registered provider in respect of liability which may be incurred by her in relation to the agency in respect of death, injury, public liability, damage or other loss.

CHAPTER 4

NOTICES TO BE GIVEN TO THE COMMISSION

Notice of absence

22.—(1) Where—

- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
- (b) the registered manager,

proposes to be absent from the agency for a continuous period of 28 days or more, the registered person shall give notice in writing to the Commission of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the Commission and the notice shall specify—

- (a) the length or expected length of the absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for running the agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the agency during that absence; and
- (e) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the agency during that absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence specifying the matters set out in paragraph (2)(a) to (e).

(4) Where—

- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
- (b) the registered manager,

has been absent from the agency for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall, without delay, give notice in writing to the Commission of the absence, specifying the matters set out in paragraph (2)(a) to (e).

(5) The registered person shall notify the Commission of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of her return.

Notice of changes

23. The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the agency;
- (b) a person ceases to carry on or manage the agency;
- (c) where the registered person is an individual, she changes her name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
 - (i) the name or address of the organisation is changed;
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
 - (iii) there is any change in the identity of the responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (g) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (h) where the registered provider acquires additional premises for the purposes of the agency.

Appointment of liquidators etc.

24.—(1) Any person to whom paragraph (2) applies must—

- (a) forthwith notify the Commission of his appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the agency in any case where there is no registered manager; and
- (c) not more than 28 days after his appointment, notify the Commission of his intentions regarding the future operation of the agency.

(2) This paragraph applies to any person appointed as—

- (a) the receiver or manager of the property of a company or partnership which is a registered provider in respect of an agency;
- (b) the liquidator or provisional liquidator of a company which is the registered provider in respect of an agency;
- (c) the trustee in bankruptcy of a registered provider in respect of an agency.

Death of registered person

25.—(1) If more than one person is registered in respect of an agency, and a registered person dies, the surviving registered person shall without delay notify the Commission of the death in writing.

(2) If only one person is registered in respect of an agency, and she dies her personal representatives must notify the Commission in writing—

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the agency.

(3) The personal representatives of the deceased registered provider may carry on the agency without being registered in respect of it—

- (a) for a period not exceeding 28 days; and
- (b) for any further period as may be determined in accordance with paragraph (4).

(4) The Commission may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Commission shall determine, and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to take full-time day to day charge of the agency during any period in which, in accordance with paragraph (3), they carry on the agency without being registered in respect of it.

PART IV

MISCELLANEOUS

Compliance with regulations

26. Where there is more than one registered person in respect of an agency, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

Offences

27.—(1) A contravention or failure to comply with any of the provisions of regulations 4 to 6 and 11 to 23 shall be an offence.

(2) The Commission shall not bring proceedings against a person in respect of any contravention or failure to comply with those regulations unless—

- (a) subject to paragraph (4), she is a registered person;
- (b) notice has been given to her in accordance with paragraph (3);
- (c) the period specified in the notice, within which the registered person may make representations to the Commission, has expired; and
- (d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.

(3) Where the Commission considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened any of the regulations, or has failed, or is failing, to comply with the requirements of any of those regulations;
- (b) where it is practicable for the registered person to take action for the purpose of complying with any of those regulations, the action which, in the opinion of the Commission, the registered person should take for that purpose;
- (c) the period, not exceeding three months, within which the registered person should take any action specified in accordance with sub-paragraph (b);
- (d) the period, not exceeding one month, within which the registered person may make representations to the Commission about the notice.

(4) The Commission may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 17 and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.