

2004 No. 2071

SOCIAL CARE, ENGLAND

The Adult Placement Schemes (England) Regulations 2004

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The Secretary of State for Health, in exercise of the powers conferred upon him by sections 11(4), 12(2), 14(1)(d), 15(3), 16(1) and (3), 22(1), (2)(a) to (d), (f) to (j), (5)(a) and (b), (7)(a) to (h) and (j), 25(1), 31(7), 33, 34(1), 35, 42(1) and (5) and 118(5), (6) and (7) of the Care Standards Act 2000^(a), and having consulted such persons as he considers appropriate^(b), hereby makes the following Regulations:—

^(a) 2000 c.14 (“the Act”). The powers are conferred upon the “appropriate Minister” who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State: *See* section 121(1) for the definitions of “prescribed” and “regulations” and The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972).
^(b) *See* section 22(9) of the Act for the requirement to consult.

PART 1

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Adult Placement Schemes (England) Regulations 2004 and shall come into force on 31st August 2004.

(2) These Regulations apply in relation to adult placement schemes carried on in England only.

Interpretation

2. In these Regulations—

“the Act” means the Care Standards Act 2000;

“adult placement carer” means a person who, under the terms of a carer agreement entered into with a person who carries on an adult placement scheme, provides, or intends to provide, care or support (which may include accommodation in the carer’s home) for service users;

“adult placement scheme” means a scheme carried on (whether or not for profit) by a local authority or other person for the purposes of—

- (a) recruiting and training adult placement carers;
- (b) making arrangements for the placing of service users with adult placement carers; and
- (c) supporting and monitoring placements,

but does not include arrangements made by a person solely for the provision of care and support for his or her relative;

“approval panel” means the panel appointed by the provider of an adult placement scheme for the purpose of approving applications to schemes from prospective carers;

“carer agreement” shall be construed in accordance with regulation 17;

“complaints procedure” shall be construed in accordance with regulation 23;

“home”, where a person has more than one home, means the home where the person ordinarily resides;

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

“placement” means an arrangement whereby an adult is provided with care or support by an adult placement carer and “placed” shall be construed accordingly;

“placement agreement” shall be construed in accordance with regulation 13;

“placing authority” means a local authority or National Health Service body^(a) with responsibility for commissioning social care services for service users;

“registered manager”, in relation to an adult placement scheme, means a person who is registered under Part 2 of the Act as the manager of the scheme;

“registered person”, in relation to an adult placement scheme, means any person who is the registered provider or the registered manager in respect of the scheme;

“registered provider”, in relation to an adult placement scheme, means a person who is registered under Part 2 of the Act as the person carrying on the scheme, and references to carrying on a scheme shall be construed accordingly;

“relative”, in relation to a service user means—

- (a) the service user’s spouse;
- (b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the service user, or of his spouse;

(a) See section 121 of the Act for the definition of National Health Service body.

- (c) the spouse of any relative within sub-paragraph (b) of this definition;
and for the purpose of determining any such relationship a person’s step child shall be treated as his or her child, and references to “spouse” include a former spouse and a person who is living with the person as if they were husband and wife;
- “responsible individual” has the meaning given to it in regulation 8(2)(c)(i) of these Regulations;
- “scheme” means an adult placement scheme carried on by a registered provider;
- “scheme premises” means premises where the management of the scheme is carried on;
- “service user” in relation to a scheme, means an adult who may be or is placed by the scheme;
- “service user’s plan” means the plan prepared in accordance with regulation 20;
- “staff” in relation to a scheme, means persons, other than adult placement carers, who work for the purposes of the scheme;
- “statement of purpose” means the written statement compiled in accordance with regulation 4;
- “vulnerable adult” has the same meaning as in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(a);
- “work” includes work of any kind, whether paid or unpaid, and whether under a contract or apprenticeship, under a contract for services, or otherwise than under a contract.

Specification of registration authority

3. For the purposes of these Regulations, the CSCI is specified as the registration authority(b).

Statement of purpose

4.—(1) The registered provider shall compile in relation to the adult placement scheme a written statement (in these Regulations referred to as the “statement of purpose”) which shall consist of—

- (a) a statement of the aims and objectives of the scheme; and
- (b) a statement as to the matters listed in Schedule 1.

(2) The registered provider shall provide a copy of the statement of purpose to the CSCI and shall make it available upon request for inspection at any reasonable time by any service user and any person acting on behalf of a service user.

(3) Nothing in this regulation, or in regulation 27, shall require or authorise the registered provider 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 provider under Part 2 of the Act.

Service user’s guide

5.—(1) The registered provider shall produce a written guide to the scheme (in these Regulations referred to as the “service user’s guide”) which must include—

- (a) a summary of the statement of purpose;
- (b) a statement explaining the process whereby arrangements are made for the placing of service users, including how adult placement carers are chosen to provide care or support to service users and how the placement is made;
- (c) a statement of the range of care and support provided by adult placement carers under the scheme;

(a) S.I. 1975/1023. The definition of “vulnerable adult” was inserted in the 1975 Order by S.I. 2002/441.

(b) See section 42(5) of the Act as inserted by section 147 of, and paragraph 25 of Schedule 9 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (“the 2003 Act”). The CSCI was established by section 42 of that Act. See also section 5B of the Act, as inserted by section 104 of the 2003 Act.

- (d) a statement of the fee, or range of fee, payable by or in respect of service users for the provision of each type of care and support provided under the scheme including a statement of any services for which there may be an extra charge not included within the stated fee or range of fee;
 - (e) the standard terms and conditions for the provision of the care and support for service users, including the terms governing the termination of the placement and the notice period required to terminate the placement;
 - (f) a summary of the complaints procedure; and
 - (g) the address and telephone number of the registered provider and of the CSCI.
- (2) The registered provider shall—
- (a) provide a copy of the service user’s guide to the CSCI; and
 - (b) provide a copy of the current service user’s guide to each service user placed by the scheme or to their representative.

Review of statement of purpose and service user’s guide

6. The registered provider shall—
- (a) keep under review and, where appropriate, revise the statement of purpose and the service user’s guide;
 - (b) notify the CSCI within 28 days of any such revision; and
 - (c) if the service user’s guide is revised, supply a revised copy to each service user who is, at the time of the revision, placed by the scheme.

Scheme documents

7. The registered provider shall ensure that there is a statement that he or it (as the case may be) is registered in respect of the scheme under Part 2 of the Act in all correspondence and other documents prepared in connection with the scheme’s business.

PART 2
REGISTERED PERSONS

Fitness of registered provider

- 8.—(1) A person shall not carry on a scheme unless he is fit to do so.
- (2) A person is not fit to carry on a scheme unless the person—
- (a) is an individual who carries on the scheme—
 - (i) otherwise than in partnership with others, and 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 CSCI 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 who is responsible for supervising the management of the scheme; 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 scheme or, in the case of the responsible individual, supervise its management; and
 - (c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.
- (4) A person shall not carry on a scheme if—
- (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

- 9.**—(1) The registered provider shall appoint an individual to manage the scheme where—
- (a) there is no registered manager in respect of the scheme; and
 - (b) the registered provider—
 - (i) is an organisation or a partnership; or
 - (ii) is not a fit person to manage a scheme; or
 - (iii) is not, or does not intend to be, in full-time day to day charge of the scheme.
- (2) Where the registered provider appoints a person to manage the scheme, he shall forthwith give notice to the CSCI of—
- (a) the name of the person so appointed; and
 - (b) the date on which the appointment is to take effect.

Fitness of manager

- 10.**—(1) A person shall not manage a scheme unless he is fit to do so.
- (2) A person is not fit to manage a scheme unless—
- (a) he is of integrity and good character;
 - (b) having regard to the size of the scheme and the statement of purpose—
 - (i) he has the qualifications, skills and experience necessary to manage the scheme; and
 - (ii) he is physically and mentally fit to do so; and
 - (c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

Registered person – general requirements and training

- 11.**—(1) The registered provider and any registered manager shall, having regard to size of the scheme and the statement of purpose, carry on or (as the case may be) manage the scheme with sufficient care, competence and skill.
- (2) If the registered provider is—
- (a) an individual, he shall undertake;
 - (b) a partnership, it shall ensure that one of the partners undertakes; or
 - (c) an organisation, it shall ensure that the responsible individual undertakes,
- from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the scheme.
- (3) A registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the scheme.

Notification of offences

12. 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 CSCI 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.

PART 3

ADULT PLACEMENTS AND ADULT PLACEMENT CARERS

CHAPTER 1

MAKING, MONITORING AND TERMINATION OF PLACEMENTS

Making of placements and placement agreements

13.—(1) The registered provider shall not make a placement of a service user with an adult placement carer unless the provider has entered into a written placement agreement with the carer (in these Regulations referred to as “a placement agreement”) which complies with the conditions specified in paragraph (2).

(2) The conditions are—

(a) that—

- (i) the service user or, where appropriate, the service user’s representative; and
- (ii) the placing authority (if any),

are parties to the placement agreement;

- (b) that the placement agreement specifies the number of service users, which shall not in any event exceed 3, that the adult placement carer may have placed with him at any one time under that and any other placement agreement;
- (c) that the placement agreement specifies which elements of the service user’s plan are to be met by the adult placement carer under the scheme;
- (d) that the placement agreement provides that the specification described in sub-paragraph (c) may be amended as a consequence of an amendment to the service user’s plan;
- (e) that the placement agreement provides that it may be amended as a consequence of a review undertaken under regulation 14;
- (f) that, where possible, the placement agreement names an individual who is neither a member of staff of the scheme provider nor the adult placement carer and whose role is to support the service user in expressing his views and wishes in relation to the placement;
- (g) that the placement agreement reflects the obligations of the registered person under regulation 21;
- (h) that the placement agreement specifies the records to be kept by the adult placement carer in relation to the service user’s plan and requires the adult placement carer to keep those records up to date, in good order and in a secure manner, and to return them to the registered provider if the placement is terminated; and
- (i) that the placement agreement specifies—
 - (i) details of the service user’s plan;
 - (ii) the room to be occupied by the service user in the adult placement carer’s home;
 - (iii) the fees payable in respect of the placement, details of who is responsible for the payment of those fees, and the method of payment;
 - (iv) the qualifications (if any) and experience of the adult placement carer;
 - (v) the terms and conditions in respect of the accommodation, care or other services to be provided;

- (vi) suitable arrangements to assist the service user with mobility in the adult placement carer's home, where required;
 - (vii) the procedure to be followed where an adult placement carer acts as agent for, or receives money from, the service user.
- (3) The registered person shall not make a placement of a service user unless he has—
- (a) ascertained and taken into account the service user's wishes and feelings; and
 - (b) whenever practicable, provided the service user with comprehensive information and suitable choice as to the placements that may be available to the service user.
- (4) The registered person shall encourage and take suitable steps to enable service users to make decisions with respect to placements.

Monitoring and review of placements

- 14.**—(1) The registered person shall monitor a placement for the purpose of considering whether the adult placement carer is meeting his obligations under the placement agreement.
- (2) The registered person must review the placement agreement—
- (a) at least once within the first year of the placement;
 - (b) whenever a significant alteration is made to the placement plan; and
 - (c) in any event, within a year of the last review.
- (3) In monitoring and reviewing a placement, the registered person shall seek the views of the service user or, where appropriate, the service user's representative and the placing authority (if any).

Termination of placements

- 15.**—(1) Without prejudice to regulation 16(2) (fitness of adult placement carers), the registered provider shall terminate a placement in any case in which the adult placement carer is not complying, or is not reasonably likely to comply, with his obligations under the placement agreement.
- (2) Except in cases of emergency, the registered provider shall not terminate a placement without first consulting—
- (a) the service user to whom the a placement relates, or any person acting on behalf of the service user; and
 - (b) where relevant, the placing authority.

CHAPTER 2 ADULT PLACEMENT CARERS

Fitness of adult placement carers

- 16.**—(1) The registered provider shall not enter into a carer agreement with an adult placement carer unless the carer is fit to be an adult placement carer.
- (2) The registered provider shall terminate a carer agreement in any case where the adult placement carer is not, or is no longer, fit to be an adult placement carer.
- (3) A person is not fit to be an adult placement carer unless—
- (a) he is of integrity and good character;
 - (b) he is physically and mentally fit to meet his obligations under the agreement;
 - (c) he has the skills, competence and experience necessary to meet his obligations under the agreement;
 - (d) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 3;

Carer agreements

17.—(1) The registered provider shall enter into a written agreement with an adult placement carer (in these Regulations referred to as “the carer agreement”) which complies with the conditions specified in paragraph (2).

(2) The conditions are that the carer agreement—

- (a) defines the respective roles and responsibilities of the registered provider and the adult placement carer;
- (b) sets out the requirements of the adult placement carer’s working practice;
- (c) specifies the insurance cover to be maintained by the adult placement carer which shall include household, public liability and, where appropriate, motor vehicle insurance;
- (d) specifies the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
- (e) specifies that a service user is not to be subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that, or another, service user;
- (f) specifies that any allegation of a type mentioned in paragraph (d) of this paragraph or the use of any physical restraint upon a service user is to be reported to the registered person;
- (g) specifies the circumstances in which an adult placement carer may administer or assist in the administration of a service user’s medication; and
- (h) requires the adult placement carer to notify the registered person within 24 hours of the occurrence of an incident described in paragraph (3), and any such notification which is given orally shall be confirmed in writing.

(3) The incidents are—

- (a) the death of any service user, including the circumstances of his death;
- (b) the outbreak of any infectious disease which in the opinion of a registered medical practitioner attending a service user is sufficiently serious to be so notified;
- (c) any serious injury to a service user;
- (d) any serious illness of a service user;
- (e) any event within the placement which adversely affects the well-being or safety of any service user;
- (f) any theft or burglary within the placement;
- (g) any incident which—
 - (i) occurs in connection within the placement; and
 - (ii) is reported to, or investigated by, the police;
- (h) any allegation of misconduct by a service user or their representative in relation to the adult placement carer or a member of his family;
- (i) any unexplained absence of more than 12 hours of a service user from the adult placement carer’s home.

Adult placement carers – training

18. The registered person shall make arrangements to ensure that an adult placement carer receives appropriate training so as to assist such a carer to continue to meet his obligations under the carer agreement.

Adult placement carer handbook

19.—(1) The registered person shall prepare an adult placement carer handbook and provide a copy of it to every adult placement carer providing, or intending to provide, a placement for the purposes of the scheme.

(2) The handbook must include a statement as to—

- (a) the aims and objectives of the scheme as set out in the statement of purpose;
- (b) the role and responsibilities of adult placement carers;

- (c) the role and responsibilities of any care manager and any social worker responsible for a service user;
 - (d) the complaints procedure;
 - (e) the procedure for terminating the agreement;
 - (f) the fees payable to the adult placement carer and details of when and by whom such fees will be paid, and the method of payment;
 - (g) any other information that the registered person considers necessary to enable the adult placement carer to meet his obligations under the carer agreement.
- (3) The handbook must also specify—
- (a) the procedure to be followed where an adult placement carer acts as agent for, or receives money from, the service user;
 - (b) the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
 - (c) that a service user is not to be subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that, or another, service user;
 - (d) that any allegation of a type mentioned in paragraph (b) of this sub-paragraph or the use of any physical restraint upon a service user is to be reported to the registered person;
 - (e) the circumstances in which an adult placement carer may administer or assist in the administration of a service user’s medication;
 - (f) the records to be kept by the adult placement carer in relation to the service user’s plan.

CHAPTER 3

SERVICE USER’S PLAN

Service user’s plan

- 20.**—(1) The registered person shall not make a placement of a service user unless —
- (a) an assessment of the needs of the service user in respect of his health and welfare has been undertaken; and
 - (b) a written plan (“the service user’s plan”) has been produced for the purposes of the placement indicating how those needs are to be met.
- (2) If it has not been practicable to comply with paragraph (1) prior to the commencement of a placement, the registered person shall comply with sub-paragraphs (a) and (b) of paragraph (1) as soon as reasonably practicable after the commencement of a placement.
- (3) The registered person shall keep the service user’s plan under review and amend it as appropriate.
- (4) In producing or amending a service user’s plan, the registered person shall—
- (a) ensure the service user’s plan is consistent with any care plan for the service user produced by or on behalf of a public authority;
 - (b) consult the service user or, where appropriate, his representative and any placing authority, care manager or social worker responsible for the service user.
- (5) The registered person shall make the service user’s plan available to the service user or his representative.

PART 4
CONDUCT OF ADULT PLACEMENT SCHEMES
CHAPTER 1
OPERATION OF ADULT PLACEMENT SCHEME

General conduct of adult placement scheme

21.—(1) The registered person shall make suitable arrangements to ensure that the scheme is conducted, and that care or support (including any accommodation) is provided—

- (a) so as to ensure the safety of service users;
- (b) so as to ensure that a placement is not made in an emergency unless that is in the interests of the service user in question, and the needs of the adult placement carer and other household members have been considered;
- (c) so as to safeguard service users against abuse, harm or neglect;
- (d) so as to promote the independence of service users;
- (e) so as to ensure the safety and security of service users' property;
- (f) in a manner which respects the privacy, dignity and wishes of service users, and the confidentiality of information relating to them; and
- (g) with due regard to the sex, sexual orientation, age, religious persuasion, racial origin, and cultural and linguistic background and any disability of service users, and to the way in which they wish to conduct their lives.

(2) The registered provider and the registered manager (if any) shall, in relation to the conduct of the scheme—

- (a) maintain good personal and professional relationships with each other and with adult placement carers, service users and staff;
- (b) encourage and assist staff to maintain good personal and professional relationships with both adult placement carers and service users;
- (c) encourage and assist adult placement carers to maintain good personal and professional relationships with service users.

(3) The registered person shall make appropriate arrangements to ensure that the views of service users are taken into account in the conduct of the scheme.

Information, documents and records

22.—(1) The registered person shall ensure that the information and documents specified in Schedule 3 and the records specified in Schedule 4 are kept and that they are—

- (a) kept up to date, in good order, in a secure manner and in accordance with any rule of law applicable to the information contained within them;
- (b) at all times available for inspection at the principal office of the scheme by any person authorised by the CSCI to enter and inspect the premises;
- (c) retained for a period of not less than three years beginning on the date of the last entry.

(2) The registered person must ensure that the scheme has a written policy about the keeping of the information, documents and records specified in Schedules 3 and 4.

Complaints

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

(2) The complaints procedure must be appropriate to the needs of service users.

(3) The registered provider shall ensure that any complaint made under the complaints procedure is fully investigated.

(4) The registered provider shall, as soon as is reasonably practicable but in any event within 28 days of the date on which the complaint was received inform the person who made the complaint of the action (if any) that is to be taken in response.

(5) The registered provider shall supply a copy of the complaints procedure to every service user whom it has placed and to any person acting on behalf of a service user if that person so requests.

(6) The copy of the complaints procedure shall include—

- (a) the address and telephone number of the CSCI; and
- (b) the procedure (if any) that has been notified by the CSCI to the registered person for the making of complaints to the CSCI in relation to the scheme.

(7) The registered person shall supply to the CSCI at its request a statement containing a summary of the complaints made during the preceding twelve months and of the action that was taken in response to each complaint.

Review of quality of scheme's operations

24.—(1) The registered person shall establish and maintain a system for—

- (a) reviewing at appropriate intervals and in any event at least once in every 12 months; and
- (b) improving,

the quality of the operation of the scheme, including the quality of the accommodation (where provided) and care or support provided in placements.

(2) The registered person shall supply to the CSCI a report in respect of any review conducted by him for the purposes of paragraph (1), and make a copy of the report available, on request, to adult placement carers, service users and to any representatives of service users.

(3) The system referred to in paragraph (1) shall provide for consultation with adult placement carers, service users and their representatives.

Visits by registered provider

25.—(1) Where the registered provider is an individual who does not manage the scheme, he shall visit the principal office of the scheme in accordance with this regulation.

(2) Where the registered provider is an organisation or partnership, the principal office of the scheme shall be visited in accordance with this regulation by—

- (a) the responsible individual or one of the partners, as the case may be;
- (b) another of the directors or other persons responsible for the management of the organisation or partnership; or
- (c) an employee of the organisation or the partnership who is not directly concerned with the conduct of the scheme.

(3) Visits under paragraph (1) or (2) shall take place at least once every 12 months and shall be announced.

(4) The registered provider shall assist adult placement carers with whom it has placed a service user and such service users to provide their views about the scheme for the purposes of visits carried out under this regulation.

(5) The person carrying out the visit shall—

- (a) interview, in private, such adult placement carers and service users and their representatives who wish to be interviewed;
- (b) inspect the records referred to in paragraph (4) of Schedule 4, and records of any complaints; and
- (c) prepare a written report on the conduct of the scheme.

(6) An interview referred to in paragraph (5)(a) must take place in such reasonable place chosen by the person to be interviewed.

- (7) The registered provider shall supply a copy of the report required to be made under paragraph (5)(c) to—
- (a) the CSCI;
 - (b) any registered manager; and
 - (c) in the case of a visit under paragraph (2)—
 - (i) where the registered provider is an organisation, to each of the directors or other persons responsible for the management of the organisation; and
 - (ii) where the registered provider is a partnership, to each of the partners.

Staff views as to conduct of scheme

26.—(1) This regulation applies to any matter relating to the conduct of the scheme so far as it may affect the health or welfare of service users.

(2) The registered person shall make arrangements to enable staff to inform the registered person and the CSCI of their views about any matter to which this regulation relates.

CHAPTER 2 PREMISES

Fitness of premises

27. Subject to regulation 4(3), the registered person shall not use premises for the purposes of a scheme unless the premises are suitable for the purpose of achieving the aims and objectives of the scheme set out in the statement of purpose.

CHAPTER 3 STAFFING

Fitness of staff

28. The registered person shall ensure that no person works for the purposes of the scheme unless—

- (a) he is of integrity and good character;
- (b) he has the qualifications, skills and experience necessary for the work he is to perform;
- (c) he is physically and mentally fit for that work; and
- (d) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 2.

Staffing

29.—(1) The registered person shall, having regard to the size of the scheme, its statement of purpose and the number and needs of service users and adult placement carers, take all reasonable measures to ensure that—

- (a) at all times there are an appropriate number of suitably qualified, skilled, and experienced staff employed for the purposes of the scheme; and
 - (b) appropriate information and advice are provided to staff about the needs of service users which may be met by the scheme;
- (2) The registered person shall ensure that each member of staff—
- (a) is provided with a job description outlining his responsibilities;
 - (b) receives training and appraisal which is appropriate to his work;
 - (c) is enabled from time to time to obtain further qualifications appropriate to his or her work; and

- (d) is appropriately supervised.

Employment of staff

30.—(1) The registered person shall—

- (a) ensure that all permanent appointments of persons to its staff are subject to the satisfactory completion of a period of probation;
- (b) operate a disciplinary procedure which, in particular—
 - (i) provides for suspension, and the taking of other action short of suspension, in relation to a member of staff where appropriate in the interests of service users and the proper operation of the scheme; and
 - (ii) provides that a failure on the part of a member of staff to report an incident of abuse, or suspected abuse, of a service user placed by the scheme to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(2) For the purposes of paragraph (1)(b)(ii), an appropriate person is the registered person, a police constable or an employee of the CSCI.

Staff handbook

31.—(1) The registered person shall prepare a staff handbook and provide a copy of it to every member of staff.

(2) The staff handbook 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 staff and adult placement carers;
- (c) record keeping requirements;
- (d) recruitment procedures; and
- (e) training and career development opportunities and requirements.

CHAPTER 4

FINANCIAL MATTERS

Financial position

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

(2) Subject to paragraph (4), the registered person shall provide to the CSCI such information and documents as it may require in order to consider the financial viability of the scheme, including—

- (a) the annual accounts of the scheme, certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the scheme;
- (d) where the registered provider is a company, information as to any of its associated companies;
- (e) a certificate of insurance for the registered provider in respect of any liability which may be incurred by him in relation to the scheme in respect of death, injury, public liability, damage or other loss.

(3) Subject to paragraph (4) the registered provider shall—

- (a) ensure that adequate accounts are maintained in respect of the scheme and kept up to date;
- (b) ensure that the accounts give details of the running costs of the scheme, including rent, payments under a mortgage and expenditure on salaries and wages of staff; and
- (c) supply a copy of the accounts to the CSCI at its request.

(4) Paragraphs (2) and (3) do not apply where the registered provider is a local authority or a National Health Service body.

(5) For the purposes of this regulation, one company is associated with another if one of them has control of the other, or both are under the control of the same person.

CHAPTER 5

NOTICES TO BE GIVEN TO THE CSCI

Notification of incidents

33.—(1) The registered person shall notify the CSCI if an incident described in paragraph (2) takes place.

(2) That notification must be made within 24 hours of the registered person being informed, or otherwise becoming aware, of the incident.

(3) The incidents are—

- (a) the death of any service user, including the circumstances of his death;
- (b) the outbreak within the adult placement carer's home of any infectious disease which in the opinion of any registered medical practitioner attending persons in the home is sufficiently serious to be so notified;
- (c) any serious injury to a service user;
- (d) any serious illness of a service user;
- (e) any event of which the adult placement carer is aware which adversely affects the well-being or safety of any service user;
- (f) any theft or burglary at the adult placement carer's home;
- (g) any incident which—
 - (i) occurs in connection with the placement; and
 - (ii) is reported to, or investigated by the police;
- (h) any allegation of misconduct by a service user in relation to the adult placement carer or a member of his family;
- (i) any unexplained absence of more than 12 hours of a service user from the adult placement carer's home.

(4) Any notification under this regulation which is given orally shall be confirmed in writing.

(5) The registered person must ensure that members of staff are required to inform the registered person forthwith when they become aware of the occurrence of any of the incidents described in paragraph (3).

Notice of absence

34.—(1) Where—

- (a) the registered provider, if he is an individual; or
- (b) the registered manager,

proposes to be absent from the scheme for a continuous period of 28 days or more, the registered person shall give notice in writing to the CSCI 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 absence commences, or within such shorter period as may be agreed with the CSCI and the notice shall specify—

- (a) the length or expected length of the proposed absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for running the scheme during the absence;

- (d) the name, address and qualifications of the person responsible for the scheme during the 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 scheme during that absence, including the proposed date by which the appointment is to be made.

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

(4) Where—

- (a) the registered provider, if he is an individual; or
- (b) the registered manager,

has been absent from the scheme for a continuous period of 28 days or more, and the CSCI has not been given notice of the absence, the registered person shall forthwith give notice in writing to the CSCI specifying the matters mentioned in sub-paragraphs (2)(a) to (e).

(5) The registered person shall notify the CSCI 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 his return.

Notice of changes

35.—(1) The registered person shall give notice in writing to the CSCI 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 provides or manages the scheme;
- (b) a person ceases to provide or manage the scheme;
- (c) where a registered person is an individual, he changes his name;
- (d) the name or address of the principal office of the scheme is changed;
- (e) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (f) 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 of responsible individual;
- (g) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (h) where the registered provider is a company or partnership, a receiver, manager, liquidator, or provisional liquidator is appointed; or
- (i) additional premises are acquired for the purposes of the scheme.

Appointment of liquidators etc.

36.—(1) Any person to whom paragraph (2) applies shall—

- (a) forthwith notify the CSCI of his appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the scheme in any case where there is no registered manager; and
- (c) within 28 days of appointment, notify the CSCI of his intentions regarding the future operation of the scheme.

(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 of a scheme;
- (b) the liquidator or provisional liquidator of a company which is the registered provider of a scheme; or
- (c) the trustee in bankruptcy of a registered provider of a scheme.

Death of registered person

37.—(1) If more than one person is registered in respect of a scheme, and a registered person dies, the surviving registered person shall without delay notify the CSCI of the death in writing.

(2) If only one person is registered in respect of a scheme, and he dies, his personal representatives must notify the CSCI in writing—

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

(3) The personal representatives of the deceased registered provider may provide the scheme 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 CSCI may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the CSCI 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 scheme during any period in which, in accordance with paragraph (3), they provide the scheme without being registered in respect of it.

PART 5

MISCELLANEOUS

Compliance with regulations

38. Where there is more than one registered person in respect of a scheme, 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

39.—(1) Where the registered person contravenes or fails to comply with any of the provisions of regulations 4 to 35 he shall be guilty of an offence.

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

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice, within which the registered person may make representations to the CSCI, 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 CSCI 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, or has failed to comply with, any of the 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 CSCI, 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 CSCI about the notice.

(4) The CSCI 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 22, and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

Application of Part 2 of the Act to persons carrying on or managing an adult placement scheme

40.—(1) A person who carries on or manages an adult placement scheme is hereby prescribed for the purposes of section 42(1) of the Act.

(2) Part 2 of the Act, in so far as not already applied by the Care Standards Act 2000 (Extension of Part 2 to Adult Placement Schemes) (England) Regulations 2004(a) shall apply to persons prescribed by paragraph (1) with the modifications specified in Schedule 5.

Amendment of the Care Homes Regulations 2001

41. The Care Homes Regulations 2001(b) are amended in accordance with the provisions of Schedule 6.

Amendment of the National Care Standards Commission (Registration) Regulations 2001

42. The National Care Standards Commission (Registration) Regulations 2001(c) are amended in accordance with the provisions of Schedule 7.

Amendment of the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004

43. The Commission for Social Care Inspection (Fees and Inspections) Regulations 2004(d) are amended in accordance with the provisions of Schedule 8.

Amendment of the Domiciliary Care Agencies Regulations 2002

44. The Domiciliary Care Agencies Regulations 2002(e) are amended in accordance with the provisions of Schedule 9.

Transitional and savings Provisions

45. The transitional and savings provisions set out in Schedule 10 shall apply.

Signed by authority of the Secretary of State for Health

2nd August 2004

Stephen Ladyman
Parliamentary Under Secretary of State,
Department of Health

(a) S. I. 2004/1972.

(b) S.I. 2001/3965 as amended by S.I. 2002/865, S.I. 2003/534, 1703 and 2323.

(c) S.I. 2001/3969 as amended by S.I. 2003/369.

(d) S.I. 2004/662.

(e) S.I. 2002/3214 and S.I. 2003/2323.

SCHEDULE 1

Regulation 4(1)

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The name and address of the registered provider and of any registered manager.
2. If the registered provider is not an organisation, his relevant qualifications and experience.
3. If the registered provider is an organisation, the name and address of the responsible individual and his qualifications and experience.
4. The relevant qualifications and experience of any registered manager.
5. The number, relevant qualifications and experience of the staff working for the purposes of the scheme.
6. The organisational structure of the scheme.
7. The age-range and sex of the service users in respect of whom the scheme may make placements.
8. The range of needs that the scheme intends to meet through the making of placements.
9. The arrangements made for consultation with service users about the operation of the scheme.
10. The arrangements made so as to ensure that service users whom the scheme has placed can enjoy appropriate contact with their relatives, friends and representatives.
11. The arrangements for dealing with complaints about the operation of the scheme.

SCHEDULE 2

Regulations 8(3), 10(2) and 28

INFORMATION AND DOCUMENTS IN RESPECT OF PERSONS PROVIDING, MANAGING OR WORKING FOR THE PURPOSES OF A SCHEME (EXCLUDING ADULT PLACEMENT CARERS)

1. Proof of identity including a recent photograph.
2. Either—
 - (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997 (registration under Part II of the Care Standards Act 2000 as applied by these Regulations(a)), or the position falls within section 115(4) of that Act(b), an enhanced criminal record certificate issued under section 115 of that Act; or
 - (b) in any other case, a criminal record certificate issued under section 113 of that Act,including, where applicable, the matters specified in the following provisions, namely section 113(3C)(a) and (b) and section 115(6B)(a) and (b) of that Act(c).
3. Two written references, including a reference from the last employer if any.
4. Where a person has previously worked in a position whose duties involved work with vulnerable adults, so far as reasonably practicable, verification of the reason why the position ended.
5. Documentary evidence of any relevant qualification.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

(a) Section 115(5)(ea) is inserted by the Care Standards Act 2000, section 104.

(b) A position is within section 115(4) if it is of a kind specified in regulations and involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.

(c) Sections 113(3C) and 115(6B) are added to the Police Act 1997 by section 90 of the Care Standards Act 2000 on a date to be appointed.

SCHEDULE 3

Regulations 16(3) and 22

INFORMATION AND DOCUMENTS IN RESPECT OF ADULT PLACEMENT CARERS AND OTHERS

1. Proof of identity including a recent photograph.
2. Either—
 - (a) where the position falls within section 115(4) of the Police Act 1997, an enhanced criminal record certificate issued under section 115 of that Act; or
 - (b) in any other case, a criminal record certificate issued under section 113 of that Act,including, where applicable, the matters specified in the following provisions, namely section 113(3C)(a) and (b) and section 115(6B)(a) and (b) of that Act.
3. Two written personal references from persons (not being relatives of the adult placement carer) who have known the adult placement carer for at least 2 years.
4. A written reference from the last employer if any.
5. Details of health record.
6. Details of a check with the local authority in whose area the adult placement carer resides.
7. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the position ended.
8. Documentary evidence of any relevant qualification.
9. A full employment history, together with a satisfactory written explanation of any gaps in employment.
10. A letter from a mortgage lender or landlord (as the case may be) confirming—
 - (a) that the adult placement carer has sought and obtained permission to undertake placements where such permission is required by the terms of any mortgage, lease or tenancy agreement; and
 - (b) that the adult placement carer is not in arrears with his mortgage payments, rent or (where applicable) service charges and that he is not in breach of the terms of his mortgage, lease or tenancy agreement.
11. A copy of the assessment report in respect of the adult placement carer prepared on behalf of an adult placement scheme.
12. A written statement as to the suitability of a person for the role and responsibilities of an adult placement carer signed by the chair of the approval panel.

SCHEDULE 4

Regulation 22 and 25

RECORDS TO BE KEPT BY A SCHEME

Records

1. The following information or documents in respect of each adult whom the scheme has placed—
 - (a) full name and address;
 - (b) date of birth;
 - (c) sex;
 - (d) marital status;
 - (e) next of kin;

- (f) ethnic origin where the person agrees to provide that information;
- (g) the assessment referred to in regulation 20(1);
- (h) the service user's plan;
- (i) the placement agreement;
- (j) the date that the placement commenced and, where applicable, ceased.

2. A record of all persons working for the purposes of the scheme, which shall include the following matters—

- (a) full name;
- (b) sex;
- (c) ethnic origin where the person agrees to provide that information;
- (d) date of birth;
- (e) home address;
- (f) qualifications relevant to, and experience of, work involving vulnerable adults;
- (g) written confirmation that the information referred to in Schedule 2 is available in relation to the person;

3. A record of all persons with whom the scheme has placed an adult including—

- (a) full name;
- (b) sex;
- (c) ethnic origin where the person agrees to provide that information;
- (d) date of birth;
- (e) where relevant, the address of the premises to which the placement relates;
- (f) qualifications relevant to, and experience of, work involving vulnerable adults;
- (g) a copy of the placement agreement;
- (h) a record of the monitoring undertaken in respect of the placement under regulation 14;
- (i) written confirmation that the information referred to in Schedule 3 is available in relation to the adult placement carer.
- (j) a copy of the carer agreement.

4. A record of—

- (a) all accidents that have occurred during the course of placements made by the scheme involving service users;
- (b) any use of physical restraint upon a relevant adult placed by the scheme;
- (c) any allegation of abuse, neglect or other harm made by or in relation to a relevant adult whom the scheme has placed; and
- (d) any complaint made in relation to the scheme or to an adult placement carer working for the purposes of the scheme.

SCHEDULE 5

Regulation 40

Modification of the Care Standards Act 2000 in respect of persons carrying on and managing adult placement schemes

Modification of section 11 of the Act

1. In section 11 (requirement to register)—

- (a) in subsection (1)—
 - (i) after the word “description” on the first occasion where it occurs, insert “or an adult placement scheme”; and
 - (ii) after the word “description” on the second occasion where it occurs, insert “or as an adult placement scheme”;
- (b) in subsection (2)—
 - (i) after the word “agency” on the first occasion where it occurs, insert “or adult placement scheme”; and
 - (ii) after the word “agency” on the second occasion where it occurs, insert “or adult placement scheme (as the case may be)”;
- (c) in subsection (6)—
 - (i) in paragraph (a), after the word “agency” insert “or adult placement scheme”; and
 - (ii) for paragraph (b) substitute—
 - “(b) in the case of a conviction in relation to an establishment or agency, the conviction is a second or subsequent conviction of the offence and the earlier conviction, or one of the earlier convictions, was of an offence in relation to an establishment or agency of the same description; or
 - (c) in the case of a conviction in relation to an adult placement scheme, the conviction is a second or subsequent conviction of the offence.”.

Modification of section 12 of the Act

- 2. In section 12 (applications for registration)—
 - (a) in subsection (3), after the word “agency” insert “or of an adult placement scheme”; and
 - (b) in subsection (4), after the word “agency” insert “or adult placement scheme”.

Modification of section 13 of the Act

- 3. In section 13 (grant or refusal of registration)—
 - (a) in subsection (1), after the word “agency” insert “or adult placement scheme”; and
 - (b) in subsection (2), after the word “agency” insert “or adult placement scheme”.

Modification of section 14 of the Act

- 4. In section 14(1) (cancellation of registration)—
 - (a) in paragraph (b), after the word “agency” insert “or adult placement scheme”; and
 - (b) in paragraph (c), after the word “agency” insert “or adult placement scheme”

Modification of section 17 of the Act

- 5. In section 17 (notice of proposals)—
 - (a) in subsection (1), after the word “agency” insert “or adult placement scheme”; and
 - (b) in subsection (4), after the word “agency” insert “or adult placement scheme”.

Modification of section 19

- 6. In section 19(1) (notice of decisions), after the word “agency” insert “or adult placement scheme”.

Modification of section 20

- 7. In section 20 (urgent procedure for cancellation etc.)—

- (a) in subsection (1)(a)(i), after the word “agency” insert “or adult placement scheme”;
- (b) in subsection (5), after the word “agency” insert “or adult placement scheme”; and
- (c) in subsection (6)(a) and (b), after the word “agency” insert “or adult placement scheme”.

Modification of section 21

8. In section 21 (appeals to the tribunal), in subsection (5)(a) and (c), after the word “agency” insert “or adult placement scheme”.

Modification of section 23

9. In section 23 (national minimum standards), in subsection (1), after the word “agencies” insert “or adult placement schemes”.

Modification of section 24

10. In section 24 (failure to comply with conditions), after the word “agency” on both occasions where it occurs, insert “or adult placement scheme”.

Modification of section 26 of the Act

11. In section 26 (false descriptions of establishments and agencies)—

- (a) in subsection (1), after the word “description” in both places where it occurs, insert “or an adult placement scheme”; and
- (b) in subsection (3), after the word “agency”, on both occasions where it occurs, insert “or adult placement scheme”.

Modification of section 28 of the Act

12. In section 28 (failure to display certificate of registration)—

- (a) in subsection (1)—
 - (i) after the word “agency” on the first occasion where it occurs, insert “or adult placement scheme”; and
 - (ii) after the word “agency” on the second occasion where it occurs, insert “or at any premises from which the adult placement scheme is carried on”; and
- (b) in subsection (2), after the word “agency” insert “or adult placement scheme”.

Modification of section 31

13. In section 31 (inspections by persons authorised by registration authority)—

- (a) in subsection (1), after the word “agency” on both occasions where it occurs, insert “or adult placement scheme”;
- (b) in subsection (2), after the word “agency” insert “or adult placement scheme”;
- (c) in subsection (3)(c), after the word “agency” insert “or adult placement scheme”;
- (d) in subsection (3)(e), after the word “there” insert “; or in the case of an adult placement scheme, any person provided with care or support under such a scheme,”; and
- (e) in subsection (4)(a), after the word “agency” insert “or adult placement scheme”.

Modification of section 32

14. In section 32 (inspections: supplementary)—

- (a) in subsection (4), after the word “agency” on both occasions where it occurs, insert “or adult placement scheme”;

- (b) in subsection (5), after the word “agency” on both occasions where it occurs, insert “or adult placement scheme”; and
- (c) in subsection (8), after the word “agency” insert “or adult placement scheme”.

Modification of section 34

15. In section 34(3) (liquidators etc.)—

- (a) in the definition of “relevant company”, after the word “agency” insert “or adult placement scheme”; and
- (b) in the definition of “relevant individual”, after the word “agency” insert “or adult placement scheme”.

Modification of section 35

16. In section 35(1)(a) (death of registered person), after the word “agency” insert “or adult placement scheme”.

Modification of section 37

17. In section 37 (service of documents)—

- (a) in subsection (1), after the word “agency” insert “or adult placement scheme”; and
- (b) in subsection (2)—
 - (i) after the word “agency” on the first occasion where it occurs, insert “or adult placement scheme”; and
 - (ii) at the end, insert “or the premises from which the adult placement scheme is carried on”.

SCHEDULE 6

Regulation 41

AMENDMENT OF THE CARE HOMES REGULATIONS 2001

1. The Care Homes Regulations 2001(a) are amended in accordance with the following provisions of this Schedule.

2. In regulation 3(1) (excepted establishments)—

- (a) at the end of sub-paragraph (e), the word “or” is omitted;
- (b) in sub-paragraph (g)(iii), for the word “birthday.” substitute “birthday; or”; and
- (c) after sub-paragraph (g) add—

“(h) all the persons who are provided with care or support are the subject of placement agreements made under the Adult Placement Schemes (England) Regulations 2004.”.

3. Regulations 45 (adult placements), 46 (modification of regulations in respect of adult placement carers) and 47 (modification of regulations in respect of adult placement carer providing short term break for service user)(b), are omitted.

(a) S.I. 2001/3965 as amended by S.I. 2002/865, S.I. 2003/534, 1703 and 2323.

(b) Regulation 47 was inserted by S.I. 2003/1845.

AMENDMENT OF THE NATIONAL CARE STANDARDS COMMISSION(a) (REGISTRATION) REGULATIONS 2001

1. The National Care Standards Commission (Registration) Regulations 2001(b) are amended in accordance with the following provisions of this Schedule.

2.—(1) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of “the Act”, at the end, add “or that Act as applied by the Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004(c)”;

(ii) after the definition of “the Act”, insert—

““adult placement scheme” has the same meaning as in the Adult Placement Schemes (England) Regulations 2004;”;

(iii) in the definition of “statement of purpose” insert—

“(cf) in relation to an adult placement scheme, the written statement to be compiled in accordance with regulation 4 of the Adult Placement Schemes (England) Regulations 2004;”.

(b) in paragraph (3), at the end, add—

“(d) to an agency shall include a reference to an adult placement scheme, and accordingly in relation to a scheme—

(i) reference to a registered provider carrying on an agency shall include reference to a registered provider carrying on an adult placement scheme;

(ii) reference to a registered manager managing an agency shall include reference to a registered manager managing an adult placement scheme; and

(iii) reference to a service user shall include reference to a service user who is placed under an adult placement scheme.”.

3. For regulation 8(1) (registers), substitute—

“(1) The Commission shall keep a register in respect of—

(a) each description of establishment or agency specified in section 4(8)(a) or (9)(a) of the Act; and

(b) adult placement schemes.”.

4. In regulation 9 (contents of certificate), in paragraph (e), after the words “by reference” insert “, where applicable;”.

5. In Schedule 1 (information to be supplied on an application for registration as a person who carries on an establishment or agency), in paragraph 4(d), after the words “unless otherwise provided in these Regulations”, insert “, and except where the applicant is applying for registration as the provider of an adult placement scheme and is a local authority or a National Health Service body”.

6. In Schedule 7 (particulars to be recorded in the registers kept by the commission)—

(a) in paragraph 6(a), the entry entitled “care home providing adult placement” is omitted; and

(b) in paragraph 9—

(a) The National Care Standards Commission was abolished by section 44 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), and its functions have been transferred to the CSCI and the CHAI.

(b) S.I. 2001/3969 as amended by S.I. 2002/865 and S.I. 2003/369.

(c) S.I. 2004/1972.

(d) Paragraph 4 of Schedule 1 was amended by S.I. 2003/1845.

- (i) in the heading, for the words “nursing agencies and fostering agencies” substitute “nursing agencies, fostering agencies and adult placement schemes”; and
- (ii) after paragraph (d) add—
“(e) adult placement schemes, the code APS.”.

SCHEDULE 8

Regulation 43

AMENDMENT OF THE COMMISSION FOR SOCIAL CARE INSPECTION (FEES AND FREQUENCY OF INSPECTIONS) REGULATIONS 2004

1. The Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004^(a) are amended in accordance with the following provisions of this Schedule.

2. In regulation 2(1) (interpretation)—

- (a) in the definition of “the Act”, at the end, add—
“or that Act as applied by the Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004”;
- (b) for the definition of “adult placement home” substitute—
““adult placement scheme” has the same meaning as in the Adult Placement Schemes (England) Regulations 2004^(b)”;
- (c) for the definition of “registered manager” substitute—
““registered manager” in relation to an establishment, agency or an adult placement scheme means a person who is registered under Part 2 of the Act as the manager of the establishment, agency or adult placement scheme”;
- (d) for the definition of “registered person” substitute—
““registered person” means any person who is the registered provider or registered manager in respect of an establishment, agency or adult placement scheme”;
- (e) for the definition of “registered provider” substitute—
““registered provider” in relation to an establishment, agency or adult placement scheme means a person who is registered under Part 2 of the Act as the person carrying on the establishment, agency or adult placement scheme”;
- (f) in the definition of “service user”—
 - (i) at the end of paragraph (a), the word “or” is omitted;
 - (ii) in paragraph (b), after the word “school;” insert “or”; and
 - (iii) after paragraph (b), add—
“(c) in relation to an adult placement scheme, an adult who is or may be placed by the provider of a scheme”;
- (g) in the definition of “small establishment”, the words “,other than an adult placement home,” are omitted;
- (h) after the definition of “small establishment” add—
““small scheme” means an adult placement scheme carried on by a registered provider who—
 - (a) employs no more than two members of staff, including registered persons, at any one time; and

^(a) S.I. 2004/662.

^(b) S.I. 2004/1972.

- (b) who has entered into carer agreements with no more than 50 adult placement carers at any one time.”.

3. In regulation 3 (registration fees)—

- (a) in paragraph (1)(a), after the words “in sub-paragraph (b),” insert “or an adult placement scheme,”;
- (b) in paragraph (2)—
 - (i) the words “or an adult placement home” are omitted; and
 - (ii) after the words “a small agency”, insert “or an adult placement scheme is a small scheme”;
- (c) in paragraph (3)—
 - (i) for the words “a person who manages an establishment or agency other than a small establishment or an adult placement home or a small agency” substitute “a person who manages an establishment, agency or adult placement scheme other than a small establishment, agency or adult placement scheme”; and
 - (ii) in sub-paragraph (a), after the words “in sub-paragraph (b),” insert “or an adult placement scheme”.

4. In regulation 4 (variation fees)—

- (a) in paragraph (1)(a), after the words “sub-paragraph (b),” insert “or an adult placement scheme,”; and
- (b) in paragraph (2), for the words “or an adult placement home or an agency is a small agency” substitute “, the agency is a small agency or the adult placement scheme is a small scheme”.

5. In regulation 5 (annual fees)—

- (a) in paragraph (1)—
 - (i) after the words “an establishment or agency” insert “or an adult placement scheme”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) shall be payable—
 - (i) except in relation to an adult placement scheme, for the year beginning 1st April 2004 and subsequent years in accordance with column (5); and
 - (ii) in relation to an adult placement scheme, in accordance with column (5).”;
 - (iii) in the Table, in column (1) of the heading, after the words “local authority fostering service” add “, or adult placement scheme”; and
 - (iv) after the entry in the Table entitled “(i) Local authority fostering service” insert—

(j)	Adult placement scheme	£1,440			on the date on which the certificate is issued, and thereafter on the anniversary of that date.
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- (b) in paragraph (2), the words “which is an adult placement home, or a care home” are omitted; and
- (c) after paragraph (4), insert—
 - “(4A) In the case of an adult placement scheme which is a small scheme, the annual fee shall be 50% of the flat rate specified in column (2).”.

6. In regulation 6 (frequency of inspections)—

- (a) in paragraph (1), after the words “for the purposes of an agency,” insert “or an adult placement scheme”;
- (b) in paragraph (4), after the words “establishment or agency” insert “or an adult placement scheme”.

SCHEDULE 9

Regulation 44

AMENDMENT OF THE DOMICILIARY CARE AGENCIES REGULATIONS 2002

1. For regulation 3 of the Domiciliary Care Agencies Regulations 2002 (excepted undertakings)(a), substitute—

“3. For the purposes of the Act, an undertaking is excepted from the definition of “domiciliary care agency” in section 4(3) of the Act if—

- (a) the undertaking is carried on by an individual who—
 - (i) carries it on otherwise than in partnership with others;
 - (ii) is not employed by an organisation to carry it on; and
 - (iii) does not employ any other person for the purpose of the undertaking; or
- (b) it is an adult placement scheme as defined in regulation 2 of the Adult Placement Schemes (England) Regulations 2004.”.

SCHEDULE 10

Regulation 45

TRANSITIONAL AND SAVINGS PROVISIONS

1. In this Schedule “relevant date” means the date on which these Regulations come into force.

2.—(1) This paragraph applies to persons who, by virtue of the provisions of the Act and these Regulations, are required to be registered under Part 2 of the Act, but who immediately prior to the relevant date were not required to be so registered.

(2) Where paragraph (1) applies, a person who immediately prior to the relevant date was carrying on or managing an adult placement scheme, may continue to carry on or manage the scheme—

- (a) during a period of 12 months beginning on the relevant date; and
- (b) if, within that period, an application is made to the CSCI for registration under Part 2 of the Act, until that application is finally disposed of or withdrawn.

(3) Where paragraph (2) applies, section 11(1), (2), (5) and (6) of the Act shall not apply to such a person.

(4) In this regulation “finally disposed of” means the date 28 days following the grant or refusal of registration and, if an appeal is made, the date when the appeal is finally determined or abandoned.

3.—(1) This paragraph applies where, immediately prior to the relevant date, a person was the registered provider (“the adult placement carer”) in respect of a care home providing an adult placement.

(2) Where paragraph (1) applies—

- (a) the amendments set out in Schedules 5 to 7 of these Regulations shall not have effect in relation to the adult placement carer until the date on which the provider of an adult placement scheme with whom the adult placement carer has entered into a carer agreement to provide a placement for a service user is registered with the CSCI under Part 2 of the Act; and

(a) S.I. 2002/3214 as amended by S.I. 2003/2323.

- (b) the provisions of the Care Homes Regulations 2001 shall continue in force in relation to that adult placement carer until that date.

4.—(1) This paragraph applies where—

- (a) at any time after the relevant date, an adult placement carer wishes to enter, or has entered, into a carer agreement with the provider of an adult placement scheme to provide a placement (“the placement”) for a service user;
- (b) the provider of that adult placement scheme has not applied to be registered under Part 2 of the Act; and
- (c) the adult placement carer has not entered into a carer agreement to provide a placement with the provider of another adult placement scheme who is registered under Part 2 of the Act.

(2) Where paragraph (1) applies—

- (a) the amendments set out in Schedules 5 to 7 of these Regulations shall not have effect in relation to the adult placement carer until the date on which the provider of the adult placement scheme with whom he has entered into a carer agreement to provide the placement is registered with the CSCI under Part 2 of the Act; and
- (b) the provisions of the Care Homes Regulations 2001 shall apply in relation to that adult placement carer until that date.

5. Where an appeal under section 21 of the Act (appeals to the tribunal) is made by a registered provider in respect of a care home providing an adult placement against a decision of the CSCI—

- (a) before the relevant date but where the appeal has not been determined by that date; or
- (b) on or after the relevant date but within the time limit specified in section 21 of the Act,

the appeal shall be dealt with in accordance with the relevant provisions of the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002(a).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 (“the Act”) and apply to England only. Part 1 of the Act (as amended by the Health and Social Care (Community Health and Standards) Act 2003) provides for the registration and inspection of certain establishments and agencies by the CSCI. Part 2 of the Act also provides powers for regulations governing the conduct of establishments and agencies. Section 42 of the Act makes provision for regulations to apply Part 2 of the Act in respect of the future registration of other persons who are not covered on the face of the Act, and for the CSCI to be specified as the registration authority and these Regulations make such provision in relation to adult placement schemes. (Regulations (see the Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004) have previously been made under the power in section 42 of the Act, to provide that the regulation making powers in Part 2 of the Act shall apply, with the modifications set out in those Regulations, in respect of adult placement schemes, and that the CSCI shall be the registration authority in relation to those regulation making powers).

Regulation 3 specifies that the CSCI is the registration authority for the purposes of these Regulations.

By regulation 4, a statement of purpose must be prepared in respect of an adult placement scheme in relation to the matters set out in Schedule 1 and a service user’s guide to the scheme must be produced (regulation 5).

Regulations 8 to 12 make provision about the fitness of the persons carrying on and managing a scheme and require satisfactory information to be obtained in relation to the matters specified in Schedule 2. In the case of an organisation, it must nominate a responsible individual in respect of whom this information must be available (regulation 8). Regulation 9 prescribes the circumstances where a manager must be appointed in

(a) S.I. 2002/816 (to which there are amendments which are not relevant to this paragraph).

respect of the scheme, and regulation 10 makes provision concerning the fitness of the manager. Regulation 11 imposes general requirements in relation to the proper conduct of the scheme, and the need for appropriate training.

Part 3 of the Regulations makes provision as to the making of placements under the scheme. Regulations 13 and 14 deal with the conditions to which placement agreements must be subject and also provide for the monitoring and review of placements. Regulation 15 sets out the situations in which the provider carrying on a scheme must terminate a placement. Regulation 16 makes provision about the fitness of adult placement carers and requires satisfactory information to be obtained in relation to the matters specified in Schedule 3. Regulation 17 deals with the contents of the carer agreement, and in addition provision is made for the training of adult placement carers (regulation 18), an adult placement carer handbook (regulation 19) and the production of a service user's plan (regulation 20).

Part 4 of the Regulations makes provision about the operation of a scheme. Provision is made as to general conduct (regulation 21), record keeping (regulation 22 and Schedule 4) and complaints (regulation 23). Provision is also made about the fitness of premises (regulation 27) and about the fitness of staff (regulation 28 and Schedule 2) and staffing (regulation 29). Regulations also deal with the financial management of the scheme (regulation 32) and the giving of notices to the CSCI (regulations 33 to 35).

Part 5 of the Regulations deals with miscellaneous matters. In particular, regulation 39 provides for offences. A breach of regulations 4 to 35 will be an offence on the part of the registered person. However, no prosecution may be brought unless the CSCI has given notice which sets out in what respect it is alleged the person is not complying with a regulation, and what action (if any), and by when, the CSCI considers is necessary in order to comply with the regulation.

Regulation 40 applies Part 2 of the Act (in so far as it has not already been applied and modified) to persons carrying on and managing adult placement schemes with the modifications set out in Schedule 5.

Regulation 41 and Schedule 6 amend the Care Homes Regulations 2001.

Regulation 42 and Schedule 7 amend the National Care Standards Commission (Registration) Regulations 2001.

Regulation 43 and Schedule 8 amend the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004.

Regulation 44 and Schedule 9 amend the Domiciliary Care Agencies Regulations 2002.

Regulation 45 gives effect to the transitional and savings provisions contained in Schedule 10.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department of Health's website www.doh.gov.uk/regulatoryimpact/index.htm In addition, a copy can be obtained from Room 547, Wellington House, 133-155 Waterloo Road, London, SE1 8UG.