

*Draft Regulations laid before the Scottish Parliament under section 78(2) of the Regulation of Care (Scotland) Act 2001, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2009 No.**

**SOCIAL CARE**

**The Regulation of Care (Fitness to Register,  
Provide and Manage Care Services)  
(Scotland) Amendment Regulations 2009**

<i>Made</i>	- - - -	<i>2009</i>
<i>Coming into force</i>	- -	<i>2009</i>

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 28(1) of the Regulation of Care (Scotland) Act 2001(1) and of all other powers enabling them to do so.

They have consulted such persons and groups of persons as they consider appropriate in accordance with section 28(3) of that Act.

**Citation and commencement**

1. These Regulations may be cited as the Regulation of Care (Fitness to Register, Provide and Manage Care Services) (Scotland) Amendment Regulations 2009 and come into force on 1st April 2009.

**Amendment of the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002**

2. In the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002(2), for Regulation 4(1)(a) substitute the following—

“(a) a person who has been convicted whether in the United Kingdom or elsewhere of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period without the option of a fine, and who, in the reasonable opinion of the Care Commission, having regard to the circumstances of the conviction, is unsuitable to be a provider of a care service;”;

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(1) 2001 asp 8; see section 77(1) for definition of “regulations”.

(2) S.S.I. 2002/115 as amended by S.S.I. 2003/148.

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**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Regulation of Care (Fitness to Register, Provide and Manage Care Services) (Scotland) Amendment Regulations 2009* ISBN 978-0-11-100291-9

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### **Amendment of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002**

3. The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002(3) are amended in accordance with regulation 4.

4. In regulation 6 (fitness of providers), in paragraph (2)(b), after “fine” insert “and who, in the reasonable opinion of the Commission, having regard to the circumstances of the conviction, is unsuitable to be a provider of a care service.”

### **Amendment of the Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003**

5. The Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003(4) are amended in accordance with regulation 6.

6. In regulation 4(2)(b) after “fine” insert “and who, in the reasonable opinion of the Care Commission, having regard to the circumstances of the conviction is unsuitable to be a provider of such a service;”.

St Andrew’s House,  
Edinburgh  
2009

Authorised to sign by the Scottish Ministers

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(3) S.S.I. 2002/114 as amended by S.I.2003/1590, S.S.I. 2003/149 and 572, 2004/94 and 2006/274 and 457.  
(4) S.S.I. 2003/150.

## EXPLANATORY NOTE

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

These Regulations amend the Regulation of Care (Registration and Registers) (Scotland) Regulations 2002 (S.S.I.

[2002/115](#)), the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 (S.S.I.

[2002/114](#)) and the Regulation of Care (Requirements as to Limited Registration Services) (Scotland) Regulations 2003 (S.S.I.

[2003/150](#)). The Regulations give the Care Commission an element of discretion in considering persons fit to apply for registration of a care service, or to provide or manage a care service, where those persons have been convicted of an offence.