

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part II Establishments and Agencies

Registration procedure

Sections 17 to 19 Notices and right to make representations

78. *Section 17* provides for the registration authority to give notice of decisions it intends to take (“notice of proposal”) with respect to applications for registration, cancellation of registration or any change to the conditions of registration. Notice must be given to the applicant or registered person and must set out the reasons (*subsection (6)*). For example, in the case of a person applying for registration for the first time, the notice of proposal will state whether or not the registration authority proposes to register them, and if so, the conditions subject to which they propose to grant the application. *Section 17* does not apply where the registration authority decides to grant an application for registration unconditionally, or subject to agreed conditions.
79. *Section 18* states that a notice given under *section 17* must indicate that the person can, if they so wish, make written representations to the registration authority within a time limit of 28 days (*subsection (1)*). This stage ensures that the applicant has the opportunity to make their point of view known. *Subsection (2)* provides that the registration authority may not make a decision until the 28 day period has ended unless they receive representations during the 28 day period or the person notifies the registration authority that he will not be making representations.
80. Once the representations stage has been completed, *section 19* requires the registration authority to serve a notice in writing of their decision on the applicant. The notice must explain the right of appeal conferred by *section 21* and in the case of a decision to grant an application subject to conditions or to vary conditions, set out those conditions. A decision to cancel registration, to grant an application subject to conditions which are not agreed, or to or change conditions will take effect only after the outcome of any appeal has been determined, or after 28 days if no appeal is brought. In the case of a decision to grant an application subject to conditions which are not agreed, if the applicant decides not to pursue his appeal the decision will take effect immediately.

Section 20 Urgent procedure for cancellation etc.

81. This section provides that the registration authority may apply to a justice of the peace for the immediate cancellation of registration or change in the conditions of registration of an establishment or agency. The justice may only make the order where it appears to him that unless the order is made there is a serious risk to a person’s life, health or well-being. An order made under this section has immediate effect. It is intended to provide for a fast track procedure for appeals to the Tribunal against orders made under this section (see *section 21*).

*These notes refer to the Care Standards Act 2000
(c.14) which received Royal Assent on 20 July 2000*

82. *Subsection (3)* requires the registration authority to notify the local authority and Health Authority as well as any other statutory authority it considers appropriate, of the making of an urgent application. This is necessary so that the local authority can comply with their statutory duties as required, for example to provide or arrange alternative care for the service users in accordance with their duties under section 47(1) of the National Health Service and Community Care Act 1990, and that the Health Authority may consider whether to make provision for NHS services. It will be important that all statutory bodies that may be affected by the cancellation of a provider's registration have as much notice as possible to make any necessary arrangements. *Subsection (7)* defines a statutory authority for this purpose.

Section 21 Appeals to the Tribunal

83. *Section 21* provides for an appeal against a decision of the registration authority under Part II. The appeal is to the Tribunal established under section 9 of the Protection of Children Act 1999. *Subsections (3) to (5)* provide for the Tribunal's powers on considering an appeal.