



Children and Young Persons Act 2008

2008 CHAPTER 23

PART 2

FUNCTIONS IN RELATION TO CHILDREN AND YOUNG PERSONS

Enforcement of care standards

26 Power of Chief Inspector where person is failing to comply with requirement relating to children's home etc.

(1) In section 14(1) of the 2000 Act (cancellation of registration) after paragraph (c) insert—

“(ca) on the ground that—

(i) a notice under section 22A relating to the establishment or agency has been served on that person or any other person; and

(ii) the person on whom the notice was served has failed to take the steps specified in that notice within the period so specified;”.

(2) After section 22 of that Act insert—

“22A Power of CIECSS to serve notice where person is failing to comply with regulations

(1) This section applies if—

(a) a person (“P”) is registered in respect of a relevant establishment or agency; and

(b) the CIECSS is of the opinion that P is failing or has failed to comply with a requirement imposed on P in relation to that establishment or agency.

(2) The CIECSS may serve a compliance notice on P.

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 2008, Cross Heading: Enforcement of care standards. (See end of Document for details)

- (3) A compliance notice is a notice which—
- (a) states that the CIECSS is of the opinion mentioned in subsection (1) (b);
 - (b) specifies the requirement with which the CIECSS considers P is failing or has failed to comply;
 - (c) specifies how the CIECSS considers that P is failing or has failed to comply with that requirement;
 - (d) specifies the establishment or agency in relation to which the CIECSS considers P is failing or has failed to comply with that requirement;
 - (e) specifies the steps the CIECSS considers need to be taken by P in relation to that establishment or agency to comply with that requirement or (as the case may be) to prevent a recurrence of the failure to comply with that requirement;
 - (f) specifies a period for the taking of those steps; and
 - (g) explains the effect of subsections (4) and (5).
- (4) Failing to take the steps specified in a compliance notice within the period so specified is an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section—
- (a) a “relevant establishment or agency” means an establishment or agency in relation to which the functions of the registration authority under section 13 are exercisable by the CIECSS;
 - (b) references to a “requirement” are references to a requirement imposed by regulations under—
 - (i) section 22;
 - (ii) section 9 of the Adoption Act 1976; or
 - (iii) section 9 of the Adoption and Children Act 2002.”

Commencement Information

II S. 26 in force at 1.4.2010 for E. by S.I. 2009/3354, art. 3(2)(a)

27 Notice restricting accommodation at certain establishments

After section 22A of the 2000 Act (which is inserted by section 26) insert—

“22B Notice restricting accommodation at certain establishments

- (1) The registration authority may serve a notice on a person who is registered in respect of an establishment to which this section applies imposing on that person the requirement in subsection (2) in relation to that establishment.
- (2) The requirement is to ensure that no child is accommodated at the establishment unless the child—
 - (a) was accommodated there when the notice was served; and
 - (b) has continued to be accommodated there since the notice was served.

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- (3) A notice under subsection (1) must—
 - (a) explain the requirement imposed by the notice;
 - (b) specify the establishment in relation to which that requirement is imposed;
 - (c) give the registration authority's reasons for serving the notice;
 - (d) explain the right of appeal conferred by section 21.
- (4) A notice under subsection (1) ceases to have effect—
 - (a) at such time as may be specified in the notice;
 - (b) if the registration authority serves a notice to that effect on the person on whom the notice under subsection (1) was served;
 - (c) if the Tribunal so directs under section 21(4A) or (4B).
- (5) Subsection (6) applies if—
 - (a) the registration authority serves a notice on a person under subsection (1) or (4)(b); and
 - (b) one or more other persons are registered in respect of the establishment to which the notice relates.
- (6) The registration authority must as soon as practicable serve a notice in the same terms under subsection (1) or (as the case may be) (4)(b) on the persons mentioned in subsection (5)(b).
- (7) The reference in subsection (5) to serving a notice on a person does not include a reference to serving a notice on a person in pursuance of subsection (6).
- (8) This section applies to the following establishments—
 - (a) a children's home;
 - (b) a residential family centre.”

Commencement Information

- I2** S. 27 in force at 1.4.2010 for E. by S.I. 2009/3354, art. 3(2)(b)
I3 S. 27 in force at 26.4.2010 for W. by S.I. 2010/1329, art. 2(k)

28 Appeals etc. in relation to notices under section 22B of the 2000 Act

- (1) Section 21 of the 2000 Act (appeals to the Tribunal) is amended in accordance with subsections (2) to (5).
- (2) In subsection (1), after paragraph (b) insert “; or
(c) a notice served under section 22B(1)”.
- (3) After subsection (2) insert—

“(2A) No appeal against a notice under section 22B(1) may be brought by a person more than 28 days after the notice was served on him.”
- (4) After subsection (4) insert—

“(4A) On an appeal against a notice served under section 22B(1) the Tribunal may confirm the notice or direct that it shall cease to have effect.

Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 2008, Cross Heading: Enforcement of care standards. (See end of Document for details)

- (4B) If the Tribunal directs that a notice (“the first notice”) under section 22B(1) shall cease to have effect it must direct that any other notice under that section which is connected to the first notice shall also cease to have effect.
- (4C) For the purposes of subsection (4B), notices are connected if they impose the requirement mentioned in section 22B(2) in relation to the same establishment.”
- (5) In subsection (5) omit “against a decision or order”.
- (6) In section 23(4) of that Act (occasions on which national minimum standards are to be taken into account)—
- (a) after paragraph (b) insert—
 - “(ba) by the registration authority in considering whether to serve a notice under section 22B;”; and
 - (b) in paragraph (c) for “against such a decision or order” substitute “ under section 21 ”.

Commencement Information

- I4** S. 28 in force at 1.4.2010 for E. by S.I. 2009/3354, art. 3(2)(c)
I5 S. 28 in force at 26.4.2010 for W. by S.I. 2010/1329, art. 2(1)

29 Notification of matters relating to persons carrying on or managing children's homes etc.

Before section 31 of the 2000 Act, but after the cross-heading which precedes that section, insert—

“30A Notification of matters relating to persons carrying on or managing certain establishments or agencies

- (1) This section applies where a person (“P”) is carrying on or managing an establishment or agency mentioned in subsection (6).
- (2) If the registration authority—
 - (a) has decided to adopt a proposal under section 17(4)(a) to cancel the registration of P in respect of the establishment or agency,
 - (b) has brought proceedings against P for a relevant offence which it alleges P committed in relation to the establishment or agency, or
 - (c) has served a notice on P under section 22B,
 it must as soon as practicable notify each local authority in England and Wales of that fact.
- (3) If the registration authority becomes aware of any prescribed circumstances which relate to P it must as soon as practicable notify each local authority in England and Wales of those circumstances.
- (4) A notification under this section must contain such information as may be prescribed.

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- (5) A notification under this section may be transmitted to a local authority electronically if—
- (a) the local authority has agreed that notifications may be given to them by being transmitted to an electronic address and in an electronic form specified in the agreement; and
 - (b) the notification is a notification to which that agreement applies.
- (6) The establishments and agencies are—
- (a) a children's home;
 - (b) a residential family centre;
 - (c) a fostering agency;
 - (d) a voluntary adoption agency;
 - (e) an adoption support agency;
 - (f) a provider of social work services.
- (7) In this section—
- “electronic address” includes any number or address used for the purposes of receiving electronic communications;
- “electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000 the processing of which on receipt is intended to produce writing;
- “electronically” means in the form of an electronic communication;
- “relevant offence” means an offence under—
- (a) this Part;
 - (b) regulations under this Part;
 - (c) section 9(4) of the Adoption Act 1976;
 - (d) regulations under section 9 of the Adoption and Children Act 2002;
- “prescribed” means prescribed by regulations made—
- (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the Welsh Ministers.”

Commencement Information

- I6** S. 29 in force at 1.9.2009 for specified purposes for E. by S.I. 2009/2273, **art. 2(2)(i)**
- I7** S. 29 in force at 26.4.2010 for specified purposes for W. by S.I. 2010/1329, **art. 2(m)**
- I8** S. 29 in force at 28.3.2011 for W. so far as not already in force by S.I. 2011/949, **art. 3(1)(c)**
- I9** S. 29 in force at 1.4.2011 for E. so far as not already in force by S.I. 2010/2981, **art. 4(k)**

Changes to legislation:

There are currently no known outstanding effects for the Children and Young Persons Act 2008,
Cross Heading: Enforcement of care standards.