

2003 No. 369

**CHILDREN AND YOUNG PERSONS, ENGLAND
SOCIAL CARE, ENGLAND**

**National Care Standards Commission (Registration)
(Amendment) Regulations 2003**

Made - - - - - *25th February 2003*

Laid before Parliament *25th February 2003*

Coming into force - *18th March 2003*

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 11(4), 12(2), 16(1) and 118(5) to (7) of the Care Standards Act 2000(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the National Care Standards Commission (Registration) (Amendment) Regulations 2003 and shall come into force on 18th March 2003.

(2) These Regulations apply to England only.

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

2.—(1) The National Care Standards Commission (Registration) Regulations 2001(b) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) in the definition of “statement of purpose”, after paragraph (c) of that definition there shall be inserted the following definitions—

“(ca) in relation to a residential family centre, the written statement required to be compiled in relation to the residential family centre in accordance with regulation 4(1) of the Residential Family Centres Regulations 2002(c);

(cb) in relation to a domiciliary care agency, the written statement required to be compiled in relation to the domiciliary care agency in accordance with regulation 4(1) of the Domiciliary Care Agencies Regulations 2002(d);

(cc) in relation to a fostering agency, the written statement required to be compiled in relation to the fostering agency in accordance with regulation 3(1) of the Fostering Services Regulations 2002(e);

(a) 2000 c.14. These powers are exercisable by the appropriate Minister, who is defined in section 121(1) of the Care Standards Act 2000, in relation to England, Scotland or Northern Ireland, as the Secretary of State. “Prescribed” and “regulations” are defined in section 121(1) of that Act.

(b) S.I. 2001/3969, amended by S.I. 2002/865.

(c) S.I. 2002/3213.

(d) S.I. 2002/3214.

(e) S.I. 2002/57.

- (cd) in relation to a nurses agency, the written statement required to be compiled in relation to the nurses agency in accordance with regulation 4(1) of the Nurses Agencies Regulations 2002(a);
 - (ce) in relation to a voluntary adoption agency, the written statement required to be compiled in relation to the voluntary adoption agency in accordance with regulation 3(1) of the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003(b);”;
- (ii) the following definitions shall be inserted at the appropriate places—
- “direct service provider” means a provider who supplies a domiciliary care worker who is employed by, and who acts for and under the control of, the provider;
- “domiciliary care service user” means any person for whom a domiciliary care agency—
- (a) supplies a domiciliary care worker who is employed by the agency (including domiciliary care workers supplied by a direct service provider); or
 - (b) provides services for the purpose of supplying him with a domiciliary care worker for employment by him;
- “domiciliary care worker” means a person who—
- (a) is employed by a domiciliary care agency to act for, and under the control of, another person;
 - (b) is introduced by a domiciliary care agency to a domiciliary care service user for employment by him; or
 - (c) is employed by a direct service provider,
- in a position which is concerned with the provision of personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance;
- “nurse” means a registered nurse, registered midwife or registered health visitor(c);
- “nurses agency service user” means a person to whom a nurses agency—
- (a) supplies a nurse who is employed by the agency; or
 - (b) provides services for the purpose of supplying him with a nurse for employment by him;”;
- (b) there shall be added at the end the following paragraph—
- “(4) In these Regulations—
- (a) references to the supply of a nurse mean—
 - (i) the supply of a nurse who is employed for the purposes of a nurses agency to act for and under the control of another person; and
 - (ii) the introduction of a nurse by a nurses agency to a nurses agency service user for employment by him;
 - (b) references to the supply of a domiciliary care worker mean—
 - (i) the supply of a domiciliary care worker who is employed by a domiciliary care agency to act for and under the control of another person;

(a) S.I. 2002/3212.

(b) S.I. 2003/367.

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

- (ii) the introduction of a domiciliary care worker by a domiciliary care agency to a domiciliary care service user for employment by him; and
 - (iii) the supply of a domiciliary care worker employed by a direct service provider to a domiciliary care service user;
 - (c) the terms “employed” and “employment” include employment under a contract of service or a contract for services, or otherwise than under a contract and whether or not for payment.”.
- (3) In regulation 8 (registers)—
 - (a) in paragraph (1), the words “, other than that of voluntary adoption agency” shall be omitted;
 - (b) after paragraph (2), there shall be inserted the following paragraph—

“(2A) For the purposes of paragraph 3 of Schedule 7, the reference to the address of an agency shall mean, in the case of a voluntary adoption agency, the address of the principal office and any branch of the agency.”.
- (4) In regulation 9 (contents of certificate), there shall be added at the end the following paragraph—

“(j) in the case of a voluntary adoption agency, the address of the principal office and any branch of the agency.”.
- (5) In Schedule 2 (documents to be supplied on an application for registration as a person who carries on an establishment or agency), in paragraph 10—
 - (a) in sub-paragraph (1), at the beginning, for the words “A statement” there shall be substituted the words “In the case of an establishment or agency other than a domiciliary care agency or a nurses agency, a statement”;
 - (b) there shall be added at the end the following sub-paragraphs—
 - “(3) In the case of a domiciliary care agency, a statement confirming that—
 - (a) where the applicant is an organisation, the documents specified in sub-paragraph (2) have been issued to the responsible individual;
 - (b) the information specified in sub-paragraph (4) has been provided to the applicant in relation to any person who is supplied, or is intended to be supplied, as a domiciliary care worker by the domiciliary care agency;
 - (c) the applicant will make the documents or information referred to in this sub-paragraph available for inspection by the Commission if the Commission so requires.
 - (4) The following information is specified, that is to say, details of any criminal offences—
 - (a) of which a person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974^(a) and which may be disclosed by virtue of the Rehabilitation of Offenders (Exceptions) Order 1975^(b); or
 - (b) in respect of which a person has been cautioned by a constable and which, at the time the caution was given, he admitted.
 - (5) In the case of a nurses agency, a statement confirming that—
 - (a) the documents specified in sub-paragraph (2) have been issued—
 - (i) in the case of any applicant, to any person who carries out, or is intended to carry out, the selection of any nurses to be supplied by the nurses agency; and
 - (ii) where the applicant is an organisation, to the responsible individual;

^(a) 1974 c.53.

^(b) S.I. 1975/1023. Relevant amendments have been made by S.I. 1986/1249, 1986/2268, 2001/1192, 2001/3816 and 2002/441.

- (b) the information specified in sub-paragraph (4) has been provided to the applicant in relation to any nurse who is supplied, or is intended to be supplied, by the nurses agency;
- (c) the applicant will make the documents or information referred to in this sub-paragraph available for inspection by the Commission if the Commission so requires.”.

(6) In Schedule 7 (particulars to be recorded in the registers kept by the Commission), after paragraph 9 there shall be added the following paragraph—

“Voluntary adoption agencies register

10.—(1) In the case of the register relating to voluntary adoption agencies, which of the following categories of voluntary adoption agency is applicable, each category to be indicated by reference to the following code—

domestic adoption services only	DA
intercountry adoption services only	ICA
domestic and intercountry adoption services	DICA

(2) For the purposes of sub-paragraph (1)—

“domestic adoption services” means services in relation to adoptions other than intercountry adoptions;

“domestic and intercountry adoption services” means domestic adoption services and intercountry adoption services;

“intercountry adoption” means—

- (a) the adoption of a child habitually resident in the British Islands by prospective adopters habitually resident outside the British Islands; or
- (b) the adoption of a child habitually resident outside the British Islands;

“intercountry adoption services” means services in relation to intercountry adoptions.”.

Signed by authority of the Secretary of State for Health

25th February 2003

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Care Standards Commission (Registration) Regulations 2001 (“the 2001 Regulations”), which make provision in relation to the registration of certain establishments and agencies under Part II of the Care Standards Act 2000. The amendments relate to the registration of the following descriptions of establishments and agencies—

residential family centres

fostering agencies

domiciliary care agencies

nurses agencies

voluntary adoption agencies.

In relation to each of the above descriptions of establishments and agencies, these Regulations amend the 2001 Regulations so as to define the statement of purpose that is to be provided to the National Care Standards Commission by certain applicants for registration (amendment to regulation 2). Certain new definitions are added in regulation 2 in consequence of the amendments made by these Regulations.

In relation to domiciliary care agencies and nurses agencies, these Regulations amend the provisions in the 2001 Regulations so as to specify the documents to be supplied or made available to the National Care Standards Commission by an applicant for registration as a person who carries on the agency (amendment of Schedule 2).

In relation to voluntary adoption agencies, these Regulations amend the 2001 Regulations so that—

the National Care Standards Commission will be obliged to keep a register of voluntary adoption agencies containing the particulars specified in Schedule 7 to the 2001 Regulations (amendment of regulation 8 and Schedule 7); and

the certificate of registration will include the address of the principal office and any branch of the agency (amendment of regulation 9).

2003 No. 369

**CHILDREN AND YOUNG PERSONS, ENGLAND
SOCIAL CARE, ENGLAND**

National Care Standards Commission (Registration)
(Amendment) Regulations 2003

£2.00

© Crown copyright 2003

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty's Stationery Office and Queen's Printer of
Acts of Parliament

E0230 2/03 ON (MFK)