Care Standards Act 2000

2000 CHAPTER 14

An Act to establish a National Care Standards Commission; to make provision for the registration and regulation of children's homes, independent hospitals, independent clinics, care homes, residential family centres, independent medical agencies, domiciliary care agencies, fostering agencies, nurses agencies and voluntary adoption agencies; to make provision for the regulation and inspection of local authority fostering and adoption services; to establish a General Social Care Council and a Care Council for Wales and make provision for the registration, regulation and training of social care workers; to establish a Children's Commissioner for Wales; to make provision for the registration, regulation and training of those providing child minding or day care; to make provision for the protection of children and vulnerable adults; to amend the law about children looked after in schools and colleges; to repeal the Nurses Agencies Act 1957; to amend Schedule 1 to the Local Authority Social Services Act 1970; and for connected purposes. [20th July 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act amended (W.) (1.4.2002) by The Children's Homes (Wales) Regulations 2002 (S.I. 2002/327), regs. 1(2), **3**

C2 Act modified (temp.) (1.4.2009) by The Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/462), **art. 8**, Sch. 2

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PART I

INTRODUCTORY

Preliminary

1 [F1Children's homes in England].

(1) Subsections (2) to (6) have effect for the purposes of this Act **[**F2as it applies in relation to England**]**.

(2) An establishment **[**F3in England**]** is a children's home (subject to the following provisions of this section) if it provides care and accommodation wholly or mainly for children.

(3) An establishment is not a children's home merely because a child is cared for and accommodated there by a parent or relative of his or by a foster parent.

F4(4) . . . . . .

[F5(4A) An establishment F6... is not a children's home if it is—

(a) a hospital (within the meaning of the National Health Service Act 2006); or

(b) a residential family centre,

or if it is of a description excepted by regulations.**]**

(5) Subject to subsection (6), an establishment is not a children's home if it is a school.

(6) A school is a children's home at any time if at that time accommodation is provided for children at the school and either—

(a) in each year that fell within the period of two years ending at that time, accommodation was provided for children, either at the school or under arrangements made by the proprietor of the school, for more than 295 days; or

(b) it is intended to provide accommodation for children, either at the school or under arrangements made by the proprietor of the school, for more than 295 days in any year;

and in this subsection "year" means a period of twelve months.

But accommodation shall not for the purposes of paragraph (a) be regarded as provided to children for a number of days unless there is at least one child to whom it is provided for that number of days; and paragraph (b) shall be construed accordingly.

(7) For the purposes of this section a person is a foster parent in relation to a child if—

(a) he is a local authority foster parent in relation to the child;

(b) he is a foster parent with whom a child has been placed by a voluntary organisation under section 59(1)(a) of the 1989 Act; or

(c) he fosters the child privately.

Textual Amendments

F1 S. 1 heading substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 2(e)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F2 Words in s. 1(1) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 2(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

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F3 Words in s. 1(2) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 2(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F4 S. 1(4) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 2(c)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F5 S. 1(4A) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 2(3)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F6 Words in s. 1(4A) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 2(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

Modifications etc. (not altering text)

C3 S. 1(6): power to disapply conferred (temp.) (25.3.2020) by Coronavirus Act 2020 (c. 7), s. 87(1), **Sch. 17 para. 5** (with ss. 88-90)

Commencement Information

I1 S. 1 wholly in force at 1.4.2002; s. 1 not in force at Royal Assent see s. 122; s. 1 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 1 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 1 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 1 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

2 Independent hospitals etc.

(1) Subsections (2) to (6) apply for the purposes of this Act **[**[F7]as it applies in relation to Wales**]**.

(2) A hospital which is not a health service hospital is an independent hospital.

(3) "Hospital" (except in the expression health service hospital) means—

(a) an establishment—

(i) the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care; or

(ii) in which (whether or not other services are also provided) any of the listed services are provided;

(b) any other establishment in which treatment or nursing (or both) are provided for persons liable to be detained under the [M1]Mental Health Act 1983.

(4) "Independent clinic" means an establishment of a prescribed kind (not being a hospital) in which services are provided by medical practitioners (whether or not any services are also provided for the purposes of the establishment elsewhere).

But an establishment in which, or for the purposes of which, services are provided by medical practitioners in pursuance of the **[**[F8]National Health Service Act 2006 or the National Health Service (Wales) Act 2006**]** is not an independent clinic.

(5) "Independent medical agency" means an undertaking (not being an independent clinic **[**[F9]or an independent hospital**]**) which consists of or includes the provision of services by medical practitioners.

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But if any of the services are provided for the purposes of an independent clinic, or by medical practitioners in pursuance of the **[**[F8]National Health Service Act 2006 or the National Health Service (Wales) Act 2006**]**, it is not an independent medical agency.

(6) References to a person liable to be detained under the [M2]Mental Health Act 1983 do not include a person absent in pursuance of leave granted under section 17 of that Act.

(7) In this section "listed services" means—

(a) medical treatment under anaesthesia or sedation;
(b) dental treatment under general anaesthesia;
(c) obstetric services and, in connection with childbirth, medical services;
(d) termination of pregnancies;
(e) cosmetic surgery;
(f) treatment using prescribed techniques or prescribed technology.

(8) Regulations may—

(a) except any description of establishment from the definitions in subsections (2) to (4);
(b) except any description of undertaking from the definition in subsection (5);
(c) modify the definition in subsection (7).

Textual Amendments

F7 Words in s. 2(1) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 3**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F8 Words in s. 2(4)(5) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 199** (with Sch. 3 Pt. 1)

F9 Words in s. 2(5) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 106**, 199; S.I. 2004/759, art. 3(1); S.I. 2004/873, **art. 2**

Commencement Information

I2 S. 2 wholly in force at 1.4.2002; s. 2 not in force at Royal Assent see s. 122; s. 2 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 2 in force for E. at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 2 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 2 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Marginal Citations

M1 1983 c. 20.

M2 1983 c. 20.

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3 [F10Care homes in England]

(1) For the purposes of this Act, an establishment **[**F11 in England**]** is a care home if it provides accommodation, together with nursing or personal care, for any of the following persons.

(2) They are—

(a) persons who are or have been ill;

(b) persons who have or have had a mental disorder;

(c) persons who are disabled or infirm;

(d) persons who are or have been dependent on alcohol or drugs.

F12(3) . . . . . .

[F13(4) And an establishment F14... is not a care home if it is—

(a) a hospital (within the meaning of the National Health Service Act 2006); or

(b) a children's home,

or if it is of a description excepted by regulations.**]**

Textual Amendments

F10 S. 3 heading substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 3(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F11 Words in s. 3(1) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 3(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F12 S. 3(3) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 3(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F13 S. 3(4) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 4(3)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F14 Words in s. 3(4) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 3(c)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

Commencement Information

I3 S. 3 wholly in force at 1.4.2002; s. 3 not in force at Royal Assent see s. 122; s. 3 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 3 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 3 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 3 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

4 Other basic definitions.

(1) This section has effect for the purposes of this Act.

(2) "Residential family centre" means, subject to subsection (6), any establishment **[**F15in England**]** at which—

(a) accommodation is provided for children and their parents;

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(b) the parents' capacity to respond to the children's needs and to safeguard their welfare is monitored or assessed; and

(c) the parents are given such advice, guidance or counselling as is considered necessary.

In this subsection "parent", in relation to a child, includes any person who is looking after him.

(3) "Domiciliary care agency" means, subject to subsection (6), an undertaking which consists of or includes arranging the provision of personal care in their own homes for persons **[**[F16]in England**]** who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.

(4) "Fostering agency" means, subject to subsection (6)—

(a) an undertaking which consists of or includes discharging functions of local authorities **[**[F17]in England**]** in connection with the placing of children with foster parents; or

(b) a voluntary organisation **[**[F18]in England**]** which places children with foster parents under section 59(1) of the 1989 Act.

[F19](5) . . . . . .

(6) The definitions in subsections (2) to (5) do not include any description of establishment, undertaking or organisation excepted from those definitions by regulations.

(7) "Voluntary adoption agency" means an adoption society within the meaning of the **[**[F20]the Adoption and Children Act 2002**]** which is a voluntary organisation within the meaning of that Act **[**[F21]whose principal office is in England**]**.

[[F22](7A) "Adoption support agency" **[**[F23]means an undertaking in England which is an adoption support agency within**]** the meaning given by section 8 of the Adoption and Children Act 2002.**]**

(8) Below in this Act—

[[F24](a) any reference to a description of establishment is a reference to—

(i) a children's home **[**[F25]in England**]**,

(ii) a children's home **[**[F26]in England**]** providing accommodation for the purpose of restricting liberty,

(iii) an independent hospital in Wales,

(iv) an independent hospital in Wales in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983,

(v) an independent clinic in Wales,

[F27](vi) . . . . . .

(vii) a residential family centre **[**[F28]in England**]**;**]**

(b) a reference to any establishment is a reference to an establishment of any of those descriptions.

[[F29](9) Below in this Act—

(a) any reference to a description of agency is a reference to—

(i) an independent medical agency in Wales or, where the activities of an independent medical agency are carried on from two or more branches, a branch in Wales of an independent medical agency,

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F30(ii) . . . . . .

F30(iii) . . . . . .

(iv) a fostering agency or, where the activities of a fostering agency are carried on from two or more branches, a branch of a fostering agency,

(v) a voluntary adoption agency, or

(vi) an adoption support agency or, where the activities of an adoption support agency are carried on from two or more branches, a branch of an adoption support agency;

(b) a reference to any agency is a reference to an agency or branch of any of those descriptions.**]**

F31(10) . . . . . .

Textual Amendments

F15 Words in s. 4(2) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F16 Words in s. 4(3) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F17 Words in s. 4(4)(a) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(c)(i)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F18 Words in s. 4(4)(b) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(c)(ii)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F19 S. 4(5) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F20 Words in s. 4(7) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 104** (with Sch. 4 paras. 6-8); S.I 2005/2213, {art. 2}

F21 Words in s. 4(7) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(e)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F22 S. 4(7A) inserted (7.12.2004 for E. for certain purposes and 30.12.2005 otherwise) by Adoption and Children Act 2002 (c. 38), ss. 8(3)(a), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/3203, **art. 2**; S.I 2005/2213, {art. 3}; S.I. 2005/3112, **art. 2**

F23 Words in s. 4(7A) substituted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(f)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F24 S. 4(8)(a) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 5(2)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F25 Words in s. 4(8)(a)(i) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(g)(i)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F26 Words in s. 4(8)(a)(ii) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(g)(ii)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F27 S. 4(8)(a)(vi) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(g)(iii)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F28 Words in s. 4(8)(a)(vii) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(g)(iv)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F29 S. 4(9) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 5(3)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F30 S. 4(9)(a)(ii)(iii) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 4(h)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F31 S. 4(10) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 93(1)**, 115(7); S.I. 2015/994, art. 6(q)

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Commencement Information

I4 S. 4 wholly in force at 30.4.2003; s. 4 not in force at Royal Assent see s. 122; s. 4 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 4 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 4 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(4)(a)(i)(ii)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 4(4) in force for E. and s. 4(1)(6)(8)(9) in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(b) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 4(1)(9) in force for E. for certain purposes, s. 4(2)(3)(5) in force for E. and s. 4(6)(8) in force for E. in so far as not already in force at 1.4.2003 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(8)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 4(7)(9) in force for E. for certain purposes at 25.2.2003 and otherwise in force for E. at 30.4.2003 by S.I. 2003/365, **art. 3(1)(3)-(5)** (subject to Sch.)

Registration authorities

5 Registration authorities.

For the purposes of this Act—

[[F32](a) the registration authority in the case of establishments and agencies mentioned in subsection (1A) is Her Majesty's Chief Inspector of Education, Children's Services and Skills (referred to in this Act as "the CIECSS");**]**

(b) the registration authority **[**[F33]in the case of establishments and agencies mentioned in subsection (1B)**]** is the National Assembly for Wales (referred to in this Act as "the Assembly").

[[F34](1A) The establishments and agencies **[**[F35]mentioned in subsection (1)(a)**]** are—

(a) children's homes in England,

(b) residential family centres in England,

(c) fostering agencies in England or, where the activities of a fostering agency are carried on from two or more branches, the branches in England,

(d) voluntary adoption agencies whose principal office is in England, and

(e) adoption support agencies in England or, where the activities of an adoption support agency are carried on from two or more branches, the branches in England. [F36]...

[F36](f) . . . . . **]**

[[F37](1B) The establishments mentioned in subsection (1)(b) are—

(a) independent hospitals in Wales;

(b) independent clinics in Wales;

(c) independent medical agencies in Wales.**]**

[F38](2) . . . . . .

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Textual Amendments

F32 S. 5(1)(a) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 6(2)(a)**; S.I. 2010/807, **art. 2**, Sch. 1 Pt. 2 (with arts. 3-22)

F33 Words in s. 5(1)(b) substituted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 5(a)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F34 S. 5(1A) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170, **Sch. 5 para. 6(3)**; S.I. 2010/807, **art. 2**, Sch. 1 Pt. 2 (with arts. 3-22)

F35 Words in s. 5(1A) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 5(b)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F36 S. 5(1A)(f) and preceding word omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 93(2)(a)(i)**, 115(7); S.I. 2015/994, art. 6(q)

F37 S. 5(1B) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 5(c)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F38 S. 5(2) repealed (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 5(d)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

Commencement Information

I5 S. 5 partly in force; s. 5 not in force at Royal Assent see s. 122; s. 5 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 5 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, **art. 3(2)(7)(c)** (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

[F39 5A General duties of Commission for Healthcare Audit and Inspection

F40 . . . . . .]

Textual Amendments

F39 S. 5A inserted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. {103}, 199; S.I. 2004/759, **art. 3(1)**

F40 S. 5A repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170, Sch. 5 para. 7, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

[F41 5B General duties of Commission for Social Care Inspection

F42 . . . . . .]

Textual Amendments

F41 S. 5B inserted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. {104}, 199; S.I. 2004/759, **art. 4(2)**

F42 S. 5B repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170, Sch. 5 para. 7, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

6 National Care Standards Commission.

F43 . . . . . .

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Textual Amendments

F43 S. 6 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

7 General duties of the Commission.

[F44] . . . . . .

Textual Amendments

F44 S. 7 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

8 General functions of the Assembly.

(1) The Assembly shall have the general duty of encouraging improvement in the quality of Part II services provided in Wales.

(2) The Assembly shall make information about Part II services provided in Wales available to the public.

[[F45](3) The Assembly shall have such additional functions in relation to Part II services provided in Wales as may be specified in regulations made by the Assembly.

[[F46](3A) But the functions which may be so specified do not include functions of making, confirming or approving subordinate legislation (as defined by section 158(1) of the Government of Wales Act 2006).**]]**

(4) The Assembly may charge a reasonable fee determined by it in connection with the exercise of any power conferred on it by or under this Act.

(5) The Assembly may provide training for the purpose of assisting persons to attain standards set out in any statements published by it under section 23.

[[F47](6) The Assembly must have particular regard to the need to safeguard and promote the rights and welfare of children in the exercise of—

(a) its functions exercisable by virtue of **[**[F48]section 5(1)(b)**]** and subsections (1) to (3) of this section; and

[[F49](b) any other functions exercisable by the Assembly corresponding to functions exercisable **[**[F50]by the Care Quality Commission—

(i) under Chapters 2 and 3 of Part 1 of the Health and Social Care Act 2008 in relation to health care in England, or

(ii) under the Mental Health Act 1983 in relation to England.**]]]**

[[F51]**[**[F52](7)**]** In this section, "Part II services" means services of the kind provided by persons registered under Part II [F53]. . . **]**

Textual Amendments

F45 S. 8(3)(3A) substituted (1.4.2007) for s. 8(3) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 40(2)**; S.I. 2007/935, **art. 5**

F46 S. 8(3A) substituted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 8(2)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F47 S. 8(6) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 109, 199; S.I. 2004/873, **art. 2**

F48 Words in s. 8(6)(a) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 6(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F49 S. 8(6)(b) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 40(3)**; S.I. 2007/935, **art. 5**

F50 S. 8(6)(b)(i)(ii) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 6(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F51 S. 8(7) (originally numbered s. 8(6)) inserted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 147, 199, **Sch. 9 para. 18(3)**; S.I. 2004/759, **art. 5(2)**

F52 S. 8(6) (as second appearing) renumbered as s. 8(7) (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 40(4)**; S.I. 2007/935, **art. 5**

F53 Words in s. 8(7) repealed (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 8(4)**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

Commencement Information

I6 S. 8 partly in force; s. 8 not in force at Royal Assent see s. 122; s. 8 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 8 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 8 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 8 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 8 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 8 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

9 Co-operative working.

F54 . . . . . .

Textual Amendments

F54 S. 9 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

10 Inquiries.

(1) F55 . . . . . .

(2) The appropriate Minister may cause an inquiry to be held into any matter connected with a service provided in or by an establishment or agency.

(3) Before an inquiry is begun, the person causing the inquiry to be held may direct that it shall be held in private.

(4) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.

(5) Subsections (2) to (5) of section 250 of the M3Local Government Act 1972 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they

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apply in relation to a local inquiry under that section; and references in those provisions as so applied to a Minister shall be taken to include references to the Assembly.

(6) [F56] . . . . . .

(7) The report of the person who held the inquiry shall, unless the Minister who caused the inquiry to be held considers that there are exceptional circumstances which make it inappropriate to publish it, be published in a manner which that Minister considers appropriate.

Textual Amendments

F55 S. 10(1) repealed (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 147, 196, 199, Sch. 9 para. 19(b), **Sch. 14 Pt. 2**; S.I. 2004/759, **arts. 5(2)**, 13

F56 S. 10(6) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170, Sch. 5 para. 9, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

Commencement Information

I7 S. 10 partly in force; s. 10 not in force at Royal Assent see s. 122; s. 10(1)-(5)(7) in force for E. at 1.4.2002 by S.I. 2001/3852, art. 3(2)(7)(e) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 10(2)-(7) in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 10(2)-(7) in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 10(2)-(7) in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 10(2)-(7) in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

Marginal Citations

M3 1972 c. 70.

PART II

ESTABLISHMENTS AND AGENCIES

Modifications etc. (not altering text)

C4 Pt. 2 restricted (7.12.2004) by Adoption and Children Act 2002 (c. 38), **ss. 2(4)**, 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/3203, **art. 2**

C5 Pt. 2: functions transferred (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 102(1)-(3)**, 199; S.I. 2004/759, **art. 5(2)**

C6 Pt. 2 modified (W.) (30.4.2003) by The Care Standards Act 2000 (Commencement No. 10) and Transitional Provisions (Wales) Order 2003 (S.I. 2003/152), **art. 3**

C7 Pt. 2 applied (with modifications) (E.) (31.8.2004) by The Adult Placement Schemes (England) Regulations 2004 (S.I. 2004/2071), **reg. 40(2)**, Sch. 5

C8 Pt. 2 applied (with modifications) (W.) (1.8.2004) by The Adult Placement Schemes (Wales) Regulations 2004 (S.I. 2004/1756), **reg. 3(3)**, Sch. 1

C9 Pt. 2: functions transferred (8.11.2006 for certain purposes and 1.4.2007 otherwise) by Education and Inspections Act 2006 (c. 40), ss. 148(1), 188(3); S.I. 2007/935, **art. 5**

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C10 Pt. 2 applied (with modifications) (W.) (1.4.2017) by The Private Dentistry (Wales) Regulations 2017 (S.I. 2017/202), regs. 1, 39, **Sch. 4**

Registration

11 Requirement to register.

(1) Any person who carries on or manages an establishment or agency of any description without being registered under this Part in respect of it (as an establishment or, as the case may be, agency of that description) shall be guilty of an offence.

(2) [F57] . . . . . .

(3) The **[**[F58]references in **[**[F59]subsection (1)**]** to an agency do**]** not include a reference to a voluntary adoption agency.

(4) The Secretary of State may by regulations make provision about the keeping of registers by [F60]. . . **[**[F61]the CIECSS**]** for the purposes of this Part.

(5) A person guilty of an offence under this section shall be liable on summary conviction—

(a) if subsection (6) does not apply, to a fine not exceeding level 5 on the standard scale;

(b) if subsection (6) applies, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

(6) This subsection applies if—

(a) the person was registered in respect of the establishment or agency at a time before the commission of the offence but the registration was cancelled before the offence was committed; or

(b) 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.

Textual Amendments

F57 S. 11(2) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(1)(b), Sch. 5 para. 10(a), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F58 Words in s. 11(3) substituted (25.2.2003 for E. for certain purposes, 30.4.2003 for E. otherwise and 28.11.2003 for W.) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 106** (with Sch. 4 paras. 6-8); S.I 2003/366, art. 2(1)(4); S.I. 2003/3079, **art. 2(1)**

F59 Words in s. 11(3) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), Sch. 5 para. 10(b); S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F60 Words in s. 11(4) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(1)(b), Sch. 5 para. 10(c), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)

F61 Words in s. 11(4) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 42**; S.I. 2007/935, **art. 5**

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Modifications etc. (not altering text)

C11 S. 11 applied (W.) (1.4.2003) by S.I. 2003/237, reg. 52(4)(6) (as substituted by The Fostering Services (Wales) (Amendment) Regulations 2003 (S.I. 2003/896), **reg. 2(2)**)

C12 S. 11 applied (W.) (1.9.2003) by The Residential Family Centres (Wales) Regulations 2003 (S.I. 2003/781), **reg. 34(4)(b)**

C13 S. 11 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 1** (with reg. 1(2), Sch. 10 para. 8(a))

C14 S. 11(1)(5)(6) excluded (W.) (temp.) (1.4.2003) by S.I. 2003/237, reg. 52(2)(3) (as substituted by The Fostering Services (Wales) (Amendment) Regulations 2003 (S.I. 2003/896), **reg. 2(2)**)

C15 S. 11(1)(5)(6) excluded (W.) (1.9.2003) by The Residential Family Centres (Wales) Regulations 2003 (S.I. 2003/781), **reg. 34(2)**

C16 S. 11(1) excluded (temp.) (W.) (1.4.2017) by The Private Dentistry (Wales) Regulations 2017 (S.I. 2017/202), regs. 1, **40(3)**

C17 S. 11(4) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(a), **Sch.**

C18 S. 11(5) excluded (temp.) (W.) (1.4.2017) by The Private Dentistry (Wales) Regulations 2017 (S.I. 2017/202), regs. 1, **40(3)**

C19 S. 11(6) excluded (temp.) (W.) (1.4.2017) by The Private Dentistry (Wales) Regulations 2017 (S.I. 2017/202), regs. 1, **40(3)**

Commencement Information

I8 S. 11 partly in force; s. 11 not in force at Royal Assent see s. 122; s. 11 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 11 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 11 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 11 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 11 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 11 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 11 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 11 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

12 Applications for registration.

(1) A person seeking to be registered under this Part shall make an application to the registration authority.

(2) The application—

(a) must give the prescribed information about prescribed matters;

(b) must give any other information which the registration authority reasonably requires the applicant to give,

and must be accompanied by **[**[F62]a fee of **[**[F63]the prescribed amount**]]**.

(3) A person who applies for registration as the manager of an establishment or agency must be an individual.

(4) A person who carries on or manages, or wishes to carry on or manage, more than one establishment or agency must make a separate application in respect of each of them.

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Textual Amendments

F62 Words in s. 12(2) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. {105(3)}, 199; S.I. 2006/1680, **art. 2(2)**

F63 Words in s. 12(2) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 11**; S.I. 2009/2862, **art. 2**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

Modifications etc. (not altering text)

C20 S. 12 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 2** (with reg. 1(2))

C21 S. 12(2) modified (temp.) (E.) (26.6.2006) by The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 9) Order 2006 (S.I. 2006/1680), **art. 4(2)**

C22 S. 12(2) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(b), **Sch.**

C23 S. 12(2) applied (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(a), **Sch.**

Commencement Information

I9 S. 12 partly in force; s. 12 not in force at Royal Assent see s. 122; s. 12 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 12 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 12 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 12 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 12 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 12 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 12 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 11 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 12 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

13 Grant or refusal of registration.

(1) Subsections (2) to (4) apply where an application under section 12 has been made with respect to an establishment or agency in accordance with the provisions of this Part.

(2) If the registration authority is satisfied that—

(a) the requirements of regulations under section 22; and

(b) the requirements of any other enactment which appears to the registration authority to be relevant,

are being and will continue to be complied with (so far as applicable) in relation to the establishment or agency, it shall grant the application; otherwise it shall refuse it.

(3) The application may be granted either unconditionally or subject to such conditions as the registration authority thinks fit.

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(4) On granting the application, the registration authority shall issue a certificate of registration to the applicant.

(5) The registration authority may at any time—

(a) vary or remove any condition for the time being in force in relation to a person's registration; or

(b) impose an additional condition.

Modifications etc. (not altering text)

C24 S. 13 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 3** (with reg. 1(2))

Commencement Information

I10 S. 13 partly in force; s. 13 not in force at Royal Assent see s. 122; s. 13 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 13 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 13 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 13 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 13 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 13 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 13 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

14 Cancellation of registration.

(1) The registration authority may at any time cancel the registration of a person in respect of an establishment or agency—

(a) on the ground that that person has been convicted of a relevant offence;

(b) on the ground that any other person has been convicted of such an offence in relation to the establishment or agency;

(c) on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements;

[[F64](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;**]**

(d) on any ground specified by regulations.

(2) For the purposes of this section the following are relevant offences—

(a) an offence under this Part or regulations made under it;

(b) an offence under the [M4]Registered Homes Act 1984 or regulations made under it;

(c) an offence under the 1989 Act or regulations made under it;

[[F65](d) an offence under regulations under section 1(3) of the Adoption (Intercountry Aspects) Act 1999;

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(e) an offence under the Adoption and Children Act 2002 or regulations made under it**]**;

[[F66](f) an offence under Part 1 of the Health and Social Care Act 2008 or regulations made under that Part.**]**

[[F67](g) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.**]**

(3) In this section "relevant requirements" means—

(a) any requirements or conditions imposed by or under this Part; and

(b) the requirements of any other enactment which appear to the registration authority to be relevant.

Textual Amendments

F64 S. 14(1)(ca) inserted (1.4.2010 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 26(1)**, 44; S.I. 2009/3354, **art. 3(2)**

F65 S. 14(2)(d)(e) substituted (30.12.2005) for s. 14(2)(d) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 107** (with Sch. 4 paras. 6-8); S.I 2005/2213, {art. 2}

F66 S. 14(2)(f) inserted (21.7.2008 for certain purposes and 1.10. 2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 12**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F67 S. 14(2)(g) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 7**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

Modifications etc. (not altering text)

C25 S. 14 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 4** (with reg. 1(2))

C26 S. 14(1)(d) applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(a)**, 3

C27 S. 14(1)(d) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(c), **Sch.**

C28 S. 14(1)(d) applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(b), **Sch.**

Commencement Information

I11 S. 14 partly in force; s. 14 not in force at Royal Assent see s. 122; s. 14 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 14 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 14 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 14 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 14 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 14 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 14 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 14 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

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Marginal Citations

M4 1984 c. 23.

[F68 14A Suspension of registration

(1) The **[**F69 registration authority**]** may at any time suspend for a specified period the registration of a person in respect of an establishment or agency F70....

(2) Except where the **[**F71 registration authority gives **]** notice under section 20B, the power conferred by subsection (1) is exercisable only on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements.

(3) The suspension of a person's registration does not affect the continuation of the registration (but see sections 24A and 26 as to offences).

(4) A period of suspension may be extended under subsection (1) on one or more occasions.

(5) Reference in this Part to the suspension of a person's registration is to suspension under this section, and related expressions are to be read accordingly.

(6) In this section "relevant requirements" has the same meaning as in section 14.**]**

Textual Amendments

F68 S. 14A inserted (1.4.2009 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 13**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F69 Words in s. 14A(1) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(1)(a)**, 139(4)

F70 Words in s. 14A(1) omitted (13.5.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 102(1)(b)**, 139(4)

F71 Words in s. 14A(2) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(2)**, 139(4)

15 Applications by registered persons.

(1) A person registered under this Part may apply to the registration authority—

(a) for the variation or removal of any condition for the time being in force in relation to the registration; or

(b) for the cancellation of the registration**[**F72; or

(c) for the cancellation of, or the variation of the period of, any suspension of the registration.**]**

(2) But a person may not make an application under subsection (1)(b)—

(a) if the registration authority has given him notice under section 17(4)(a) of a proposal to cancel the registration, unless the registration authority has decided not to take that step; or

(b) if the registration authority has given him notice under section 19(3) of its decision to cancel the registration and the time within which an appeal may

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be brought has not expired or, if an appeal has been brought, it has not been determined.

(3) An application under subsection (1) shall be made in such manner and state such particulars as may be prescribed and, if made under paragraph (a) **[**[F73]or (c)**]** of that subsection, shall be accompanied by**[**[F74] a fee of the prescribed amount**]**.

(4) If the registration authority decides to grant an application under subsection (1)(a) it shall serve notice in writing of its decision on the applicant (stating, where applicable, the condition as varied) and issue a new certificate of registration.

[[F75](4A) If the **[**[F76]registration authority decides **]** to grant an application under subsection (1)(c), **[**[F77]it**]** must serve notice in writing of **[**[F78]its**]** decision on the applicant (stating, where applicable, the period as varied).**]**

[[F79](5) If different amounts are prescribed under subsection (3), the regulations may provide for the appropriate Minister to determine which amount is payable in a particular case.**]**

Textual Amendments

F72 S. 15(1)(c) and preceding word inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 14(a)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F73 Word in s. 15(3) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 14(b)(i)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F74 Words in s. 15(3) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 14(b)(ii)**; S.I. 2009/2862, **art. 2**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2

F75 S. 15(4A) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 14(c)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F76 Words in s. 15(4A) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(3)(a)**, 139(4)

F77 Word in s. 15(4A) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(3)(b)**, 139(4)

F78 Word in s. 15(4A) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(3)(c)**, 139(4)

F79 S. 15(5) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 14(d)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2

Modifications etc. (not altering text)

C29 S. 15(3) modified (temp.) (E.) (26.6.2006) by The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 9) Order 2006 (S.I. 2006/1680), **art. 4(2)**

C30 S. 15(3) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(d), **Sch.**

C31 S. 15(3)(5) applied (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(c), **Sch.**

C32 S. 15(5) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(d), **Sch.**

Commencement Information

I12 S. 15 partly in force; s. 15 not in force at Royal Assent see s. 122; s. 15 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 15 in force for E. for certain purposes

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at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 15 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 15 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 15 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 15 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 15 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 15 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

16 Regulations about registration.

(1) Regulations may make provision about the registration of persons under this Part in respect of establishments or agencies, and in particular about—

(a) the making of applications for registration;

(b) the contents of certificates of registration.

(2) Regulations may provide that no application for registration under this Part may be made in respect of a fostering agency [F80]. . . which is an unincorporated body.

[[F81](3) Persons registered under this Part must also pay to the registration authority, at such time as may be prescribed,**[**[F82] an annual fee of the prescribed amount**].]**

(4) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Textual Amendments

F80 Words in s. 16(2) repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, Sch. 3 para. 108, **Sch. 5** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2**; S.I. 2005/2897, **art. 2**

F81 S. 16(3) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 105(6)**, 199; S.I. 2006/1860, **art. 2(2)**

F82 Words in s. 16(3) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 15**; S.I. 2009/2862, **art. 2**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2

Modifications etc. (not altering text)

C33 S. 16(1)(3) applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(b)**, 3

C34 S. 16(1) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(e), **Sch.**

C35 S. 16(1)(3) applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(d), **Sch.**

C36 S. 16(3) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(e), **Sch.**

C37 S. 16(3) modified (temp.) (E.) (26.6.2006) by The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 9) Order 2006 (S.I. 2006/1680), **art. 4(2)**

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Commencement Information

I13 S. 16 wholly in force at 1.4.2002; s. 16 not in force at Royal Assent see s. 122; s. 16 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 16 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 16 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Registration procedure

17 Notice of proposals.

(1) Subsections (2) and (3) apply where a person applies for registration in respect of an establishment or agency.

(2) If the registration authority proposes to grant the application subject to any conditions which have not been agreed in writing between it and the applicant, it shall give the applicant written notice of its proposal and of the conditions subject to which it proposes to grant his application.

(3) The registration authority shall give the applicant notice of a proposal to refuse the application.

(4) Except where it makes an application under section 20 **[**[F83]or 20A or gives notice under section 20B**]**, the registration authority shall give any person registered in respect of an establishment or agency notice of a proposal—

(a) to cancel the registration (otherwise than in accordance with an application under section 15(1)(b));

[[F84](aa) to suspend the registration or extend a period of suspension;**]**

(b) to vary or remove (otherwise than in accordance with an application under section 15(1)(a)) any condition for the time being in force in relation to the registration; or

(c) to impose any additional condition in relation to the registration.

(5) The registration authority shall give the applicant notice of a proposal to refuse an application under section 15(1)(a) **[**[F85]or (c)**]**.

(6) A notice under this section shall give the registration authority's reasons for its proposal.

Textual Amendments

F83 Words in s. 17(4) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 16(a)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2

F84 S. 17(4)(aa) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 16(b)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F85 Word in s. 17(5) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 16(c)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

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Modifications etc. (not altering text)

C38 S. 17 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 5** (with reg. 1(2))

Commencement Information

I14 S. 17 partly in force; s. 17 not in force at Royal Assent see s. 122; s. 17 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 17 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 17 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 17 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 17 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 17 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

18 Right to make representations.

(1) A notice under section 17 shall state that within 28 days of service of the notice any person on whom it is served may make written representations to the registration authority concerning any matter which that person wishes to dispute.

(2) Where a notice has been served under section 17, the registration authority shall not determine any matter to which the notice relates until either—

(a) any person on whom the notice was served has made written representations to it concerning the matter;

(b) any such person has notified the registration authority in writing that he does not intend to make representations; or

(c) the period during which any such person could have made representations has elapsed.

Modifications etc. (not altering text)

C39 S. 18(2) modified (W.) (2.10.2003) by The Nurses Agencies (Wales) Regulations 2003 (S.I. 2003/2527), reg. 30, **Sch. 5 para. 4(2)(b)**

Commencement Information

I15 S. 18 partly in force; s. 18 not in force at Royal Assent see s. 122; s. 18 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 18 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 18 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 18 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 18 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 18 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

19 Notice of decisions.

(1) If the registration authority decides to grant an application for registration in respect of an establishment or agency unconditionally, or subject only to conditions which have been agreed in writing between it and the applicant, it shall give the applicant written notice of its decision.

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(2) A notice under subsection (1) shall state the agreed conditions.

(3) If the registration authority decides to adopt a proposal under section 17, it shall serve notice in writing of its decision on any person on whom it was required to serve notice of the proposal.

(4) A notice under subsection (3) shall—

(a) explain the right of appeal conferred by section 21;

(b) in the case of a decision to adopt a proposal under section 17(2), state the conditions subject to which the application is granted; [F86]. . .

[[F87](ba) in the case of a decision to adopt a proposal under section 17(4)(aa), state the period (or extended period) of suspension; and**]**

(c) in the case of a decision to adopt a proposal under section 17(4)(b) or (c), state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.

(5) Subject to subsection (6), a decision of the registration authority to adopt a proposal under section 17(2) or (4) shall not take effect—

(a) if no appeal is brought, until the expiration of the period of 28 days referred to in section 21(2); and

(b) if an appeal is brought, until it is determined or abandoned.

(6) Where, in the case of a decision to adopt a proposal under section 17(2), the applicant notifies the registration authority in writing before the expiration of the period mentioned in subsection (5)(a) that he does not intend to appeal, the decision shall take effect when the notice is served.

Textual Amendments

F86 Word at the end of s. 19(4)(b) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 17(a), **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

F87 S. 19(4)(ba) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 17(b)**S.I. 2009/462, **art. 2**, Sch. 1 para. 35

Modifications etc. (not altering text)

C40 S. 19 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 6** (with reg. 1(2))

Commencement Information

I16 S. 19 partly in force; s. 19 not in force at Royal Assent see s. 122; s. 19 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 19 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 19 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 19 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 19 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 19 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

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20 [F88 Urgent procedure for cancellation, variation etc: England]

(1) If[F89 in respect of an establishment or agency for which the CIECSS is the registration authority]

(a) [F90the CIECSS] applies to a justice of the peace for an order—

(i) cancelling the registration of a person in respect of [F91the] establishment or agency;

(ii) varying or removing any condition for the time being in force by virtue of this Part; or

(iii) imposing an additional condition; and

(b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,

the justice may make the order, and the cancellation, variation, removal or imposition shall have effect from the time when the order is made.

(2) An application under subsection (1) may, if the justice thinks fit, be made without notice.

(3) As soon as practicable after the making of an application under this section, [F92the CIECSS] shall notify the appropriate authorities of the making of the application.

(4) An order under subsection (1) shall be in writing.

(5) Where such an order is made, [F93the CIECSS] shall, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—

(a) a copy of the order; and

(b) notice of the right of appeal conferred by section 21.

[F94(6) For the purposes of this section the appropriate authorities are—

(a) the local authority in whose area the establishment or agency is situated; and

(b) any other statutory authority whom the CIECSS thinks it appropriate to notify.]

(7) In this section "statutory authority" means a body established by or under an Act of Parliament.

Textual Amendments

F88 S. 20 heading substituted (1.10.2010) by virtue of Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(6)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F89 Words in s. 20(1) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(2)(a)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F90 Words in s. 20(1)(a) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(2)(b)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F91 Word in s. 20(1)(a)(i) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(2)(c)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F92 Words in s. 20(3) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(3)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F93 Words in s. 20(5) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(4)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F94 S. 20(6) substituted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 18(5)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

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Modifications etc. (not altering text)

C41 S. 20 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 7** (with reg. 1(2))

C42 S. 20(2)(4)(5) applied (W.) (1.4.2003) by S.I. 2003/237, reg. 52(5) (as substituted by The Fostering Services (Wales) (Amendment) Regulations 2003 (S.I. 2003/896), **reg. 2(2)**)

C43 S. 20(2)(4)(5) applied (W.) (1.9.2003) by The Residential Family Centres (Wales) Regulations 2003 (S.I. 2003/781), **reg. 34(5)**

Commencement Information

I17 S. 20 partly in force; s. 20 not in force at Royal Assent see s. 122; s. 20 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 20 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 20 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 20 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 20 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 20 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

[F95 20A Urgent procedure for cancellation: Wales

(1) If in respect of an establishment or agency for which the Welsh Ministers are the registration authority—
   (a) the Welsh Ministers apply to a justice of the peace for an order cancelling the registration of a person in respect of the establishment or agency, and
   (b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,

   the justice may make the order, and the cancellation has effect from the time when the order is made.

(2) An application under subsection (1) may, if the justice thinks fit, be made without notice.

(3) As soon as practicable after the making of an application under this section, the Welsh Ministers must notify the appropriate authorities of the making of the application.

(4) An order under subsection (1) is to be in writing.

(5) Where such an order is made, the Welsh Ministers must, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—
   (a) a copy of the order, and
   (b) notice of the right of appeal conferred by section 21.

(6) For the purposes of this section the appropriate authorities are—
   (a) the local authority in whose area the establishment or agency is situated,
   (b) the Local Health Board in whose area the establishment or agency is situated, and
   (c) any statutory authority not falling within paragraph (a) or (b) whom the Welsh Ministers think it appropriate to notify.

(7) In this section "statutory authority" has the same meaning as in section 20.

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F95 Ss. 20A, 20B inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 19**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

20B Urgent procedure for suspension or variation etc[F96]...

(1) Subsection (2) applies where—

(a) a person is registered under this Part in respect of an establishment or agency [F97]..., and

(b) the **[**[F98]registration authority has **]** reasonable cause to believe that unless **[**[F99] it acts**]** under this section any person will or may be exposed to the risk of harm.

(2) Where this subsection applies, the **[**[F100]registration authority **]** may, by giving notice in writing under this section to the person registered in respect of the establishment or agency, provide for any decision of the **[**[F100]registration authority**]** that is mentioned in subsection (3) to take effect from the time when the notice is given.

(3) Those decisions are—

(a) a decision under section 13(5) to vary or remove a condition for the time being in force in relation to the registration or to impose an additional condition;

(b) a decision under section 14A to suspend the registration or extend the period of suspension.

(4) The notice must—

(a) state that it is given under this section,

(b) state the **[**[F101]registration authority's**]** reasons for believing that the circumstances fall within subsection (1)(b),

(c) specify the condition as varied, removed or imposed or the period (or extended period) of suspension, and

(d) explain the right of appeal conferred by section 21.**]**

Textual Amendments

F95 Ss. 20A, 20B inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 19**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F96 Word in s. 20B heading omitted (13.5.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 102(4)**, 139(4)

F97 Words in s. 20B(1)(a) omitted (13.5.2014) by virtue of Children and Families Act 2014 (c. 6), **ss. 102(5)(a)**, 139(4)

F98 Words in s. 20B(1)(b) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(5)(b)(i)**, 139(4)

F99 Words in s. 20B(1)(b) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(5)(b)(ii)**, 139(4)

F100 Words in s. 20B(2) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(6)**, 139(4)

F101 Words in s. 20B(4)(b) substituted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 102(7)**, 139(4)

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21 Appeals to the Tribunal.

(1) An appeal against—

(a) a decision of the registration authority under this Part; [F102]. . .

(b) an order made by a justice of the peace under section 20 **[**[F103]or 20A**]**[[F104]; or

(c) a notice served under section 22B(1)**]**,

shall lie to the Tribunal.

(2) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.

[[F105](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.**]**

(3) On an appeal against a decision of the registration authority **[**[F106], other than a decision to which a notice under section 20B relates,**]** the Tribunal may confirm the decision or direct that it shall not have effect.

(4) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.

[[F107](4ZA) On an appeal against a decision to which a notice under section 20B relates, the Tribunal may confirm the decision or direct that it shall cease to have effect.**]**

[[F108](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.

(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) The Tribunal shall also have power on an appeal [F109]. . . —

(a) to vary any condition for the time being in force in respect of the establishment or agency to which the appeal relates;

(b) to direct that any such condition shall cease to have effect; [F110]. . .

(c) to direct that any such condition as it thinks fit shall have effect in respect of the establishment or agency**[**[F111]; or

(d) to vary the period of any suspension.**]**

[[F112](6) Subsection (1) does not apply to a decision of the Welsh Ministers under section 30ZA (penalty notices).**]**

Textual Amendments

F102 Word preceding s. 21(1)(b) repealed (1.4.2010 for E. and 28.3.2011 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 42, 44, **Sch. 4**; S.I. 2009/3354, **art. 3(2)**; S.I. 2011/949, **art. 3(1)(d)**

F103 Words in s. 21(1) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 20(2)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F104 S. 21(1)(c) and preceding word inserted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 28(2), 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

F105 S. 21(2A) inserted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 28(3), 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

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F106 Words in s. 21(3) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 20(3)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F107 S. 21(4ZA) inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 20(4)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F108 S. 21(4A)-(4C) inserted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 28(4), 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

F109 Words in s. 21(5) repealed (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 28(5)**, 42, 44, Sch. 4; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**; S.I. 2011/949, **art. 3(1)(d)**

F110 Word at the end of s. 21(5)(b) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 20(5)(a), **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

F111 S. 21(5)(d) and preceding word inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 166, 170(3), **Sch. 5 para. 20(5)(b)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F112 S. 21(6) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 166, 170(3), **Sch. 5 para. 20(6)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

Modifications etc. (not altering text)

C44 S. 21 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 8** (with reg. 1(2))

Commencement Information

I18 S. 21 partly in force; s. 21 not in force at Royal Assent see s. 122; s. 21 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(b) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 21 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 21 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 21 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 21 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 21 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 21 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

Regulations and standards

22 Regulation of establishments and agencies.

(1) Regulations may impose in relation to establishments and agencies any requirements which the appropriate Minister thinks fit for the purposes of this Part and —

(a) regulations made by the Secretary of State may in particular make any provision such as is mentioned in subsection (1A), (2), (7) or (8), and

(b) regulations made by the Welsh Ministers—

(i) may make provision only in relation to establishments for which the Welsh Ministers are the registration authority, and

(ii) may in particular make any provision such as is mentioned in subsection (2) **[**[F113]or (7) in so far as relevant to those establishments and agencies.**]**

[[F114](1A) Regulations made by the Secretary of State may prescribe objectives and standards which must be met in relation to an establishment or agency for which the CIECSS is the registration authority.**]**

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(2) Regulations may—

(a) make provision as to the persons who are fit to carry on or manage an establishment or agency;

(b) make provision as to the persons who are fit to work at an establishment or for the purposes of an agency;

(c) make provision as to the fitness of premises to be used as an establishment or for the purposes of an agency;

(d) make provision for securing the welfare of persons accommodated in an establishment or provided with services by an establishment, an independent medical agency or a domiciliary care agency;

(e) make provision for securing the welfare of children placed, under section 22C of the 1989 Act [F115]..., by a fostering agency;

(f) make provision as to the management and control of the operations of an establishment or agency;

(g) make provision as to the numbers of persons, or persons of any particular type, working at an establishment or for the purposes of an agency;

(h) make provision as to the management and training of such persons;

(i) impose requirements as to the financial position of an establishment or agency;

(j) make provision requiring the person carrying on an establishment or agency to appoint a manager in prescribed circumstances.

[F116](3) . . . . . .

[F116](4) . . . . . .

(5) Regulations under paragraph (d) of subsection (2) may, in particular, make provision—

(a) as to the promotion and protection of the health of persons such as are mentioned in that paragraph;

(b) as to the control and restraint of adults accommodated in, or provided with services by, an establishment;

(c) as to the control, restraint and discipline of children accommodated in, or provided with services by, an establishment.

(6) Regulations under paragraph (e) of subsection (2) may, in particular, make provision—

(a) as to the promotion and protection of the health of children such as are mentioned in that paragraph;

(b) as to the control, restraint and discipline of such children.

(7) Regulations may make provision as to the conduct of establishments and agencies, and such regulations may in particular—

(a) make provision as to the facilities and services to be provided in establishments and by agencies;

(b) make provision as to the keeping of accounts;

(c) make provision as to the keeping of documents and records;

(d) make provision as to the notification of events occurring in establishments or in premises used for the purposes of agencies;

(e) make provision as to the giving of notice by the person carrying on an establishment or agency of periods during which he or (if he does not manage

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it himself) the manager proposes to be absent from the establishment or agency, and specify the information to be supplied in such a notice;

(f) provide for the making of adequate arrangements for the running of an establishment or agency during a period when the manager is absent from it;

(g) make provision as to the giving of notice by a person registered in respect of an establishment or agency of any intended change in the identity of the manager or the person carrying it on;

(h) make provision as to the giving of notice by a person registered in respect of an establishment or agency which is carried on by a body corporate of changes in the ownership of the body or the identity of its officers;

(i) make provision requiring the payment **[**[F117], in respect of any notification required to be made by virtue of paragraph (h), of **[**[F118] a fee of the prescribed amount;**]]**

(j) make provision requiring arrangements to be made by the person who carries on, or manages, an establishment or agency for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided in the establishment or by the agency and requiring that person to take steps for publicising the arrangements;

(k) make provision requiring arrangements to be made by the person who carries on, or manages, an independent hospital, independent clinic or independent medical agency for securing that any medical or psychiatric treatment, or listed services, provided in or for the purposes of the establishment or (as the case may be) for the purposes of the agency are of appropriate quality and meet appropriate standards;

(l) make provision requiring arrangements to be made by the person who carries on, or manages, a care home for securing that any nursing provided by the home is of appropriate quality and meets appropriate standards.

[F119](m) . . . . . .

(8) Regulations may make provision—

(a) [F120]. . . . . .

(b) imposing other requirements (in addition to those imposed by section 25 of the 1989 Act [F121]... (use of accommodation for restricting liberty)) as to the placing of a child in accommodation provided for the purpose **[**[F122]of restricting liberty**]**, including a requirement to obtain the permission of any local authority who are looking after the child;

(c) as to the facilities which are to be provided for giving religious instruction to children in children's homes.

(9) Before making regulations under this section, except regulations which amend other regulations made under this section and do not, in the opinion of the appropriate Minister, effect any substantial change in the provision made by those regulations, the appropriate Minister shall consult any persons he considers appropriate.

(10) References in this section to agencies do not include references to voluntary adoption agencies **[**[F123]or adoption support agencies**]**.

(11) In subsection (7)(k), "listed services" has the same meaning as in section 2.

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Textual Amendments

F113 Words in s. 22(1)(b)(ii) substituted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **9(a)**

F114 S. 22(1A) inserted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 103(2)**, 139(4)

F115 Words in s. 22(2)(e) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **9(b)**

F116 S. 22(3)(4) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 8(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F117 Words in s. 22(7)(i) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 105(7)**, 199; S.I. 2006/1680, **art. 2(2)**

F118 Words in s. 22(7)(i) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 21**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F119 S. 22(7)(m) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **9(c)**

F120 S. 22(8)(a) repealed (1.4.2006 for W. and otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 107(2)(a)**, 196, 199, Sch. 14 Pt. 2; S.I. 2005/3285, **art. 2(2)(c)**

F121 Words in s. 22(8)(b) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **9(d)**

F122 Words in s. 22(8)(b) substituted (1.4.2006 for W. and otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 107(2)(b)**, 199; S.I. 2005/3285, **art. 2**

F123 Words in s. 22(10) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 109** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2**

Modifications etc. (not altering text)

C45 S. 22 applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(c)**, 3

C46 S. 22 applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(f), **Sch.**

C47 S. 22 applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(e), **Sch.**

C48 S. 22(7)(i) modified (temp.) (E.) (26.6.2006) by The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 9) Order 2006 (S.I. 2006/1680), **art. 4(2)**

Commencement Information

I19 S. 22 wholly in force at 20.11.2001; s. 22 not in force at Royal Assent see s. 122; s. 22 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 22 in force for E. at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(c) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

[F124 22A Power of CIECSS to serve notice where person is failing to comply with regulations

(1) This section applies if—

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(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.

(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.**]**

Textual Amendments

F124 S. 22A inserted (1.4.2010 for E. and otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), **ss. 26(2)**, 44; S.I. 2009/3354, **art. 3(2)**

Modifications etc. (not altering text)

C49 S. 22A applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 9** (with reg. 1(2))

[[F125]**22B Notice restricting accommodation at certain establishments**

(1) The **[**[F126]CIECSS**]** 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.

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(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.

(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 **[**[F127]CIECSS'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 **[**[F128]CIECSS**]** 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 **[**[F129]CIECSS**]** 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 **[**[F130]CIECSS**]** 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 **[**[F131]in England**]**;
  (b) a residential family centre **[**[F132]in England**].]**

Textual Amendments

F125 S. 22B inserted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 27**, 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

F126 Word in s. 22B(1) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F127 Word in s. 22B(3)(c) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F128 Word in s. 22B(4)(b) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(c)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F129 Word in s. 22B(5)(a) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F130 Word in s. 22B(6) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(e)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F131 Words in s. 22B(8)(a) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(f)(i)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F132 Words in s. 22B(8)(b) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 9(f)(ii)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

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Modifications etc. (not altering text)

C50 S. 22B applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 10** (with reg. 1(2))

23 National minimum standards.

(1) The appropriate Minister may prepare and publish statements of national minimum standards applicable to establishments or agencies.

[[F133](1ZA) But the Welsh Ministers may prepare and publish such a statement only in relation to establishments for which the Welsh Ministers are the registration authority.**]**

[[F134](1A) The standards applicable to an establishment or agency for which the CIECSS is the registration authority may, in particular, explain or supplement requirements imposed in relation to that establishment or agency by regulations under section 22.**]**

(2) The appropriate Minister shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.

(3) Before issuing a statement, or an amended statement which in the opinion of the appropriate Minister effects a substantial change in the standards, the appropriate Minister shall consult any persons he considers appropriate.

(4) The standards shall be taken into account—

(a) in the making of any decision by the registration authority under this Part;

(b) in any proceedings for the making of an order under section 20;

[[F135](ba) by the registration authority in considering whether to serve a notice under section 22B;**]**

(c) in any proceedings on an appeal **[**[F136]under section 21**]**; and

(d) in any proceedings for an offence under regulations under this Part **[**[F137]or proceedings against a voluntary adoption agency for an offence under section 9(4) of the Adoption Act 1976 or **[**[F138]against a voluntary adoption agency or adoption support agency for an offence under**]** section 9 of the Adoption and Children Act 2002**]**.

Textual Amendments

F133 S. 23(1ZA) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 10**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F134 S. 23(1A) inserted (13.5.2014) by Children and Families Act 2014 (c. 6), **ss. 104**, 139(4)

F135 S. 23(4)(ba) inserted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 28(6)(a)**, 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

F136 Words in s. 23(4)(c) substituted (1.4.2010 for E. and 26.4.2010 for W.) by Children and Young Persons Act 2008 (c. 23), ss. 28(6)(b), 44; S.I. 2009/3354, **art. 3(2)**; S.I. 2010/1329, **art. 2**

F137 Words in s. 23(4)(d) inserted (30.4.2003 for E., 28.11.2003 for W. for certain purposes and 30.12.2005 for W. otherwise) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 110** (with Sch. 4 paras. 6-8); S.I. 2003/366, **art. 2(4)**; S.I. 2003/3079, **art. 2(1)**; S.I. 2005/2213, **art. 2**

F138 Words in s. 23(4)(d) inserted (20.11.2003 for certain purposes, 1.4.2004 for E. so far as not already in force, otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 147, 199, **Sch. 9 para. 21**; S.I. 2004/759, **art. 4(2)**

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Modifications etc. (not altering text)

C51 S. 23(1)-(3) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(g), **Sch.**

C52 S. 23(1)-(3) applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(f), **Sch.**

Commencement Information

I20 S. 23 wholly in force at 1.4.2002; s. 23 not in force at Royal Assent see s. 122; s. 23(1)-(3) in force for E. at 2.3.2001 by S.I. 2001/731, **arts. 1(2)**, 2; s. 23 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 23(4) in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(4)(b)(6) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 23 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Offences

24 Failure to comply with conditions.

If a person registered in respect of an establishment or agency fails, without reasonable excuse, to comply with any condition for the time being in force by virtue of this Part in respect of the establishment or agency, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Modifications etc. (not altering text)

C53 S. 24 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 11** (with reg. 1(2))

Commencement Information

I21 S. 24 partly in force; s. 24 not in force at Royal Assent see s. 122; s. 24 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 24 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 24 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 24 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 24 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 24 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

[F139 24A Offences relating to suspension

(1) If a person who is registered under this Part in respect of an establishment or agency carries on or (as the case may be) manages the establishment or agency while the person's registration is suspended, the person is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

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Textual Amendments

F139 S. 24A inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), **Sch. 5 para. 22**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

Modifications etc. (not altering text)

C54 S. 24A applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 12** (with reg. 1(2))

25 Contravention of regulations.

(1) Regulations under this Part may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence.

(2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Modifications etc. (not altering text)

C55 S. 25(1) applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(d)**, 3

C56 S. 25(1) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(h), **Sch.**

C57 S. 25(1) applied (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(g), **Sch.**

Commencement Information

I22 S. 25 wholly in force at 1.4.2002; s. 25 not in force at Royal Assent see s. 122; s. 25 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 25 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 25 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

26 False descriptions of establishments and agencies.

(1) A person who, with intent to deceive any person—

(a) applies any name to premises in England or Wales; or

(b) in any way describes such premises or holds such premises out,

so as to indicate, or reasonably be understood to indicate, that the premises are an establishment, or an agency, of a particular description shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale unless registration has been effected under this Part in respect of the premises as an establishment or agency of that description.

[[F140](1A) If a person's registration under this Part has been suspended, the registration is to be treated for the purposes of subsection (1) as if it had not been effected.**]**

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(2) References to premises in subsection (1) shall be taken to include references to an undertaking or organisation.

(3) No person shall, with intent to deceive any person, in any way describe or hold out an establishment or agency as able to provide any service or do any thing the provision or doing of which would contravene a condition for the time being in force by virtue of this Part in respect of the establishment or agency.

(4) A person who contravenes subsection (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F140 S. 26(1A) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 166, 170(3), **Sch. 5 para. 23**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

Modifications etc. (not altering text)

C58 S. 26 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 13** (with reg. 1(2))

Commencement Information

I23 S. 26 partly in force; s. 26 not in force at Royal Assent see s. 122; s. 26 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 26 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 26 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 26 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 26 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 26 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

27 False statements in applications.

(1) Any person who, in an application for registration under this Part or for the variation of any condition in force in relation to his registration, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I24 S. 27 partly in force; s. 27 not in force at Royal Assent see s. 122; s. 27 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(b)(6) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 27 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 27 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 27 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 27 in force for W. for certain purposes at 2.10.2003 by S.I.

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2003/2528, **art. 2**; s. 27 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 27 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

28 Failure to display certificate of registration.

(1) A certificate of registration issued under this Part in respect of any establishment or agency shall be kept affixed in a conspicuous place in the establishment or at the agency.

(2) If default is made in complying with subsection (1), any person registered in respect of the establishment or agency shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Modifications etc. (not altering text)

C59 S. 28 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 14** (with reg. 1(2))

C60 S. 28(1) modified (W.) (1.1.2009) by The Private Dentistry (Wales) Regulations 2008 (S.I. 2008/1976), **reg. 4**

Commencement Information

I25 S. 28 partly in force; s. 28 not in force at Royal Assent see s. 122; s. 28 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 28 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 28 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 28 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 28 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 28 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

29 Proceedings for offences.

[[F141](1) Proceedings in respect of an offence under this Part or regulations made under it shall not, without the written consent of the Attorney General, be taken by any person other than the CIECSS or the Welsh Ministers.**]**

(2) Proceedings for an offence under this Part or regulations made under it may be brought within **[**[F142]the permitted period**]** from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this subsection more than three years after the commission of the offence.

[[F143](3) "The permitted period" means—

(a) in the case of proceedings brought by the Welsh Ministers, a period of 12 months;

(b) in any other case, a period of 6 months.**]**

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Textual Amendments

F141 S. 29(1) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 24(a)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F142 Words in s. 29(2) substituted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 24(b)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

F143 S. 29(3) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 24(c)**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

Commencement Information

I26 S. 29 partly in force; s. 29 not in force at Royal Assent see s. 122; s. 29 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 29 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 29 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 29 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 29 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 29 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

30 Offences by bodies corporate.

(1) This section applies where any offence under this Part or regulations made under it is committed by a body corporate.

(2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) any director, manager, or secretary of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(3) The reference in subsection (2) to a director, manager or secretary of a body corporate includes a reference—

(a) to any other similar officer of the body; and

(b) where the body is a local authority, to any officer or member of the authority.

Commencement Information

I27 S. 30 partly in force; s. 30 not in force at Royal Assent see s. 122; s. 30 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 30 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 30 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 30 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 30 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 30 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
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[F144 *Penalty notices*

Textual Amendments

F144 Ss. 30ZA, 30ZB and preceding cross-heading inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 25**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

30ZA Penalty notices

(1) Where the Welsh Ministers are satisfied that a person has committed a fixed penalty offence, they may give the person a penalty notice in respect of the offence.

(2) A fixed penalty offence is any relevant offence which—

(a) relates to an establishment or agency for which the Welsh Ministers are the registration authority, and

(b) is prescribed for the purposes of this section.

(3) A relevant offence is—

(a) an offence under this Part or under regulations made under this Part [F145]...

[F146](b) . . . . . .

(4) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment of a penalty in accordance with the notice.

(5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

(6) Where a person is given a penalty notice, the person cannot be convicted of the offence to which the notice relates if the person pays the penalty in accordance with the notice.

(7) Penalties under this section are payable to the Welsh Ministers.

(8) In this section "prescribed" means prescribed by regulations made by the Welsh Ministers.

Textual Amendments

F145 Word in s. 30ZA(3) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **10(a)**

F146 S. 30ZA(3)(b) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **10(b)**

Modifications etc. (not altering text)

C61 S. 30ZA applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(h), **Sch.**

30ZB Penalty notices: supplementary provision

(1) The Welsh Ministers may by regulations make—

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(a) provision as to the form and content of penalty notices,

(b) provision as to the monetary amount of the penalty and the time by which it is to be paid,

(c) provision determining the methods by which penalties may be paid,

(d) provision as to the records to be kept in relation to penalty notices,

(e) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—

(i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and

(ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates,

(f) provision for a certificate—

(i) purporting to be signed by or on behalf of a prescribed person, and

(ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,

to be received in evidence of the matters so stated,

(g) provision as to action to be taken if a penalty is not paid in accordance with a penalty notice, and

(h) such other provision in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.

(2) Regulations under subsection (1)(b)—

(a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but

(b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction **[**[F147]or, where there is no such maximum amount, that it does not exceed the amount corresponding to level 4 on the standard scale for summary offences**]** .

(3) In this section—

"penalty" means a penalty under a penalty notice;

"penalty notice" has the meaning given by section 30ZA(4).**]**

Textual Amendments

F147 Words in s. 30ZB(2)(b) inserted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 5 para. 8** (with reg. 5(1))

Modifications etc. (not altering text)

C62 S. 30ZB applied (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(i), **Sch.**

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Miscellaneous and supplemental

[F148 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 **[**F149 in England**]** mentioned in subsection (6).

(2) If the **[**F150 CIECSS**]** —

(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,

[F151 (aa) has decided to adopt a proposal under section 17(4)(aa) to suspend the registration of P in respect of the establishment or agency or to extend any such suspension,

(ab) has given a notice under section 20B to suspend the registration of P in respect of the establishment or agency or to extend any such suspension,**]**

(b) has brought proceedings against P for a relevant offence which it alleges P committed in relation to the establishment or agency, F152 ...

(c) has served a notice on P under section 22B F153 ...

F154 (d) . . . . . .

it must as soon as practicable notify each local authority in England and Wales of that fact.

(3) If the **[**F155 CIECSS**]** 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.

(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;

F156 (f) . . . . . .

(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;

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"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) [F157]...**]**

Textual Amendments

F148 S. 30A inserted (1.9.2009 for E. for certain purposes, 26.4.2010 for W. for certain purposes, 28.3.2011 for W. otherwise, and 1.4.2011 for E. otherwise) by Children and Young Persons Act 2008 (c. 23), **ss. 29**, 44; S.I. 2009/2273, **art. 2(2)**; S.I. 2010/1329, **art. 2**; S.I. 2010/2981, **art. 4**; S.I. 2011/949, **art. 3**

F149 Words in s. 30A(1) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 11(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F150 Word in s. 30A(2) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 11(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F151 S. 30A(2)(aa)(ab) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 26(2)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F152 Word at the end of s. 30A(2)(b) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(1)(b)(3), Sch. 5 para. 26(3), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F153 Word in s. 30A(2) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **11(a)**

F154 S. 30A(2)(d) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **11(b)**

F155 Word in s. 30A(3) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 11(c)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F156 S. 30A(6)(f) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 93(2)(a)(ii)**, 115(7); S.I. 2015/994, art. 6(q)

F157 Words in s. 30A(7) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 11(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

Modifications etc. (not altering text)

C63 S. 30A(1) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(i), **Sch.**

C64 S. 30A(1)(3)(4) applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(j), **Sch.**

C65 S. 30A(2)(a)(aa) applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 15** (with reg. 1(2))

C66 S. 30A(2)(b) applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 15** (with reg. 1(2))

C67 S. 30A(3) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(i), **Sch.**

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C68 S. 30A(4) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(i), **Sch.**

31 Inspections by persons authorised by registration authority.

(1) The registration authority may at any time require a person who carries on or manages an establishment or agency to provide it with any information relating to the establishment or agency which the registration authority considers it necessary or expedient to have for the purposes of its functions under this Part.

[[F158](1A) The power under subsection (1) to require the provision of information includes—

(a) power to require the provision of copies of any documents or records (including medical and other personal records); and

(b) in relation to records kept by means of a computer, power to require the provision of the records in legible form.**]**

(2) A person authorised by the registration authority may at any time enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency.

(3) A person authorised by virtue of this section to enter and inspect premises may—

(a) make any examination into the state and management of the premises and treatment of patients or persons accommodated or cared for there which he thinks appropriate;

[[F159](b) inspect and take copies of any documents or records (including medical and other personal records) required to be kept in accordance with regulations under this Part, section 9 of the Adoption and Children Act 2002, section 22C or 59(2) of the 1989 Act, section 1(3) of the Adoption (Intercountry Aspects) Act 1999 or section 81 of the Social Services and Well-being (Wales) Act 2014;**]**

(c) interview in private the manager or the person carrying on the establishment or agency;

(d) interview in private any person **[**[F160]working**]** there;

(e) interview in private any patient or person accommodated or cared for there who consents to be interviewed.

(4) The powers under subsection (3)(b) include—

(a) power to require the manager or the person carrying on the establishment or agency to produce any documents or records, wherever kept, for inspection on the premises; and

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(5) Subsection (6) applies where the premises in question are used as an establishment and the person so authorised—

(a) is a medical practitioner or registered nurse; and

(b) has reasonable cause to believe that a patient or person accommodated or cared for there is not receiving proper care.

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(6) The person so authorised may, with the consent of the person mentioned in subsection (5)(b), examine him in private [F161]. . . .

The **[**[F162]power**]** conferred by this subsection may be exercised in relation to a person who is incapable of giving consent without that person's consent.

(7) The Secretary of State may by regulations **[**[F163]require the CIECSS**]** to arrange for premises which are used as an establishment or for the purposes of an agency to be inspected on such occasions or at such intervals as may be prescribed.

(8) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.

(9) Any person who—

(a) intentionally obstructs the exercise of any power conferred by this section or section 32; or

(b) fails without a reasonable excuse to comply with any requirement under this section or that section,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Textual Amendments

F158 S. 31(1A) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 108(2)**, 199; S.I. 2004/759, **art. 5(2)**; S.I. 2004/873, **art. 2**

F159 S. 31(3)(b) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **172**

F160 Word in s. 31(3)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 108(3)(b)**, 199; S.I. 2004/759, **art. 5(2)**; S.I. 2004/873, **art. 2**

F161 Words in s. 31(6) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 108(4), 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, {arts. 5(2), 13}; S.I. 2004/873, **art. 2**

F162 Word in s. 31(6) substituted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 147, 199, **Sch. 9 para. 23(a)**; S.I. 2004/759, **art. 5(2)(b)**

F163 Words in s. 31(7) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 27**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

Modifications etc. (not altering text)

C69 S. 31 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 16** (with reg. 1(2))

C70 S. 31(5)(a) modified by SI 2008/1976 reg. 4A (as inserted (W.) (1.1.2012) by The Private Dentistry (Wales) (Amendment) Regulations 2011 (S.I. 2011/2686), regs. 1, **2(4)**)

C71 S. 31(7) applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(e)**, 3

C72 S. 31(7) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(j), **Sch.**

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Commencement Information

I28 S. 31 partly in force; s. 31 not in force at Royal Assent see s. 122; s. 31 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(c)(6), Sch. 1 para. 5(2)(3) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 31 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 31 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 31 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 31 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

32 Inspections: supplementary.

(1) A person authorised by virtue of section 31 to enter and inspect any premises may seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part.

(2) A person so authorised—

(a) may require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 31 or this section;

(b) may take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.

(3) A person authorised by virtue of section 31 to inspect any records shall be entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.

(4) The references in section 31 to the person carrying on the establishment or agency include, in the case of an establishment or agency which is carried on by a company, a reference to any director, manager, secretary or other similar officer of the company.

(5) Where any premises which are used as an establishment or for the purposes of an agency have been inspected under section 31, the registration authority—

(a) shall prepare a report on the matters inspected; and

(b) shall without delay send a copy of the report to each person who is registered in respect of the establishment or agency.

(6) The registration authority shall make copies of any report prepared under subsection (5) available for inspection at its offices by any person at any reasonable time; and may take any other steps for publicising a report which it considers appropriate.

(7) Any person who asks the registration authority for a copy of a report prepared under subsection (5) shall be entitled to have one on payment of a reasonable fee determined by the registration authority; but nothing in this subsection prevents the registration authority from providing a copy free of charge when it considers it appropriate to do so.

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(8) [F164] . . . . . .

Textual Amendments

F164 S. 32(8) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

Modifications etc. (not altering text)

C73 S. 32 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 17** (with reg. 1(2))

Commencement Information

I29 S. 32 partly in force; s. 32 not in force at Royal Assent see s. 122; s. 32 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(c)(6), Sch. 1 para. 5(2)(3) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 32 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 32 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 32 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 32 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 32 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 32 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

33 Annual returns.

(1) Regulations may require the person carrying on an establishment or agency to make an annual return to the registration authority.

(2) Provision may be made by the regulations as to the contents of the return and the period in respect of which and date by which it is to be made.

Modifications etc. (not altering text)

C74 S. 33 applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(f)**, 3

C75 S. 33 applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(k), **Sch.**

C76 S. 33 applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(k), **Sch.**

Commencement Information

I30 S. 33 wholly in force at 1.4.2002; s. 33 not in force at Royal Assent see s. 122; s. 33 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 33 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 33 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts.**

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1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

34 Liquidators etc.

(1) Regulations may—

(a) require any person to whom this section applies to give notice of his appointment to the registration authority;

(b) require any person to whom this section applies to appoint a person to manage the establishment or agency in question.

(2) This section applies to any person appointed as—

(a) a receiver or manager of the property of a relevant company;

(b) the liquidator or provisional liquidator of a relevant company; or

(c) the trustee in bankruptcy of a relevant individual.

(3) In this section—

"company" includes a partnership;

"relevant company" means a company which is registered under this Part in respect of an establishment or agency; and

"relevant individual" means an individual who is registered under this Part in respect of an establishment or agency.

Modifications etc. (not altering text)

C77 S. 34 applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(g)**, 3

C78 S. 34 applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(l), **Sch.**

C79 S. 34 applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(l), **Sch.**

Commencement Information

I31 S. 34 wholly in force at 1.4.2002; s. 34 not in force at Royal Assent see s. 122; s. 34 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 34 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 34 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

35 Death of registered person.

(1) Regulations may—

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(a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered under this Part in respect of an establishment or agency has died;

(b) require the personal representatives of a deceased person who was registered in respect of an establishment or agency to notify the registration authority of his death.

(2) Regulations under subsection (1)(a) may in particular—

(a) provide for the establishment or agency to be carried on for a prescribed period by a person who is not registered in respect of it; and

(b) include provision for the prescribed period to be extended by such further period as the registration authority may allow.

Modifications etc. (not altering text)

C80 S. 35 applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(h)**, 3

C81 S. 35 applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(m), **Sch.**

C82 S. 35 applied (with modifications) (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(m), **Sch.**

Commencement Information

I32 S. 35 wholly in force at 1.4.2002; s. 35 not in force at Royal Assent see s. 122; s. 35 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 35 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 35 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

36 Provision of copies of registers.

(1) Subject to subsection (3), the registration authority shall secure that copies of any register kept for the purposes of this Part are available at its offices for inspection at all reasonable times by any person.

(2) Subject to subsections (3) and (4), any person who asks the registration authority for a copy of, or of an extract from, a register kept for the purposes of this Part shall be entitled to have one.

(3) Regulations may provide that subsections (1) and (2) shall not apply—

(a) in such circumstances as may be prescribed; or

(b) to such parts of a register as may be prescribed.

(4) A fee determined by the registration authority shall be payable for the copy except—

(a) in prescribed circumstances;

(b) in any other case where the registration authority considers it appropriate to provide the copy free of charge.

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Modifications etc. (not altering text)

C83 S. 36(3) applied (with modifications) (E.) (2.8.2004) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004 (S.I. 2004/1972), **regs. 2(2)(i)**, 3

C84 S. 36(3) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(n), **Sch.**

C85 S. 36(3)(4) applied (31.3.2017) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017 (S.I. 2017/200), regs. 1(2), 3(2)(n), **Sch.**

C86 S. 36(4) applied (with modifications) (4.3.2013) by The Care Standards Act 2000 (Extension of the Application of Part 2 to Holiday Schemes for Disabled Children) (England) Regulations 2013 (S.I. 2013/253), regs. 1(1), 2(1)(2)(n), **Sch.**

Commencement Information

I33 S. 36 partly in force; s. 36 not in force at Royal Assent see s. 122; s. 36 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 36 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 36 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 36 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 36 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 36 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 36 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 36 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

[F165]36A Voluntary adoption agencies: distribution of functions

. . . . . .

Textual Amendments

F165 S. 36A repealed (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 12**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

37 Service of documents.

(1) Any notice or other document required under this Part to be served on a person carrying on or managing, or intending to carry on or manage, an establishment or agency may be served on him—

(a) by being delivered personally to him; or

(b) by being sent by post to him in a registered letter or by the recorded delivery service at his proper address.

(2) For the purposes of section 7 of the [M5]Interpretation Act 1978 (which defines "service by post") a letter addressed to a person carrying on or managing an establishment or agency enclosing a notice or other document under this Act shall be deemed to be properly addressed if it is addressed to him at the establishment or agency.

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(3) Where a notice or other document is served as mentioned in subsection (1)(b), the service shall, unless the contrary is proved, be deemed to have been effected on the third day after the day on which it is sent.

(4) Any notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.

(5) For the purposes of this section, and of section 7 of the [M6]Interpretation Act 1978 in its application to this section, without prejudice to subsection (2) above, the proper address of a person shall be—

(a) in the case of a secretary or clerk of a body corporate, that of the registered or principal office of that body;

(b) in the case of a partner of a firm, that of the principal office of the firm; and

(c) in any other case, the last known address of the person.

Modifications etc. (not altering text)

C87 S. 37 applied (with modifications) (1.7.2013) by The Residential Holiday Schemes for Disabled Children (England) Regulations 2013 (S.I. 2013/1394), reg. 1(1), **Sch. 7 para. 18** (with reg. 1(2))

Commencement Information

I34 S. 37 partly in force; s. 37 not in force at Royal Assent see s. 122; s. 37 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 37 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 37 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 37 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**; s. 37 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, **art. 2**; s. 37 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, **art. 2**

Marginal Citations

M5 1978 c. 30.

M6 1978 c. 30.

38 Transfers of staff under Part II.

(1) The appropriate Minister may by order make a scheme for the transfer to the new employer of any eligible employee.

(2) In this section—

"eligible employee" means a person who is employed under a contract of employment with an old employer on work which would have continued but for the provisions of this Part;

"new employer" means the registration authority;

"old employer" means a local authority or a Health Authority.

Commencement Information

I35 S. 38 wholly in force at 20.11.2001; s. 38 not in force at Royal Assent see s. 122; s. 38 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 38 in force for E. at 20.11.2001 by S.I. 2001/3852,

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arts. 1(4), 3(2)(3)(c) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

39 Temporary extension of meaning of "nursing home".

In section 21 of the [M7]Registered Homes Act 1984 (meaning of nursing home)—

(a) in subsection (1), after "(3)" there is inserted " and (3A) ";

(b) in subsection (2), for "subsection (1) above" there is substituted " this section ";

(c) in subsection (3)(e)(ii), "dental practitioner or" is omitted; and

(d) after subsection (3) there is inserted—

"(3A) The definition in subsection (1) above does not include any premises used, or intended to be used, wholly or mainly by a dental practitioner for the purpose of treating his patients unless subsection (3B) or (3C) below applies.

(3B) This subsection applies if—

(a) the premises are also used, or intended to be used, by that or another dental practitioner for the purpose of treating his patients under general anaesthesia; and

(b) the premises are not used, or intended to be used, by any dental practitioner for the purpose of treating his patients under general anaesthesia—

(i) in pursuance of the [M8]National Health Service Act 1977; or

(ii) under an agreement made in accordance with Part I of the [M9]National Health Service (Primary Care) Act 1997.

(3C) This subsection applies if the premises are used, or intended to be used, for the provision of treatment by specially controlled techniques and are not excepted by regulations under subsection (3)(g) above."

Commencement Information

I36 S. 39 wholly in force at 31.8.2001; s. 39 not in force at Royal Assent see s. 122; s. 39 in force for E. for certain purposes at 19.2.2001 and for E. in so far as not already in force at 19.3.2001 by S.I. 2001/290, **arts. 1(3)**, 2 (with transitional provisions in art. 3); s. 39 in force for W. for certain purposes at 31.7.2001 and for W. at 31.8.2001 as to the remainder by S.I. 2001/2504, **art. 2** (with transitional provisions in art. 3)

Marginal Citations

M7 1984 c. 23.

M8 1977 c. 49.

M9 1997 c. 46.

40 Temporary extension of meaning of "children's home".

In section 63(3)(a) of the 1989 Act (meaning of "children's home"), for "more than three children at any one time" there shall be substituted " children ".

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Commencement Information

I37 S. 40 wholly in force at 28.2.2001; s. 40 not in force at Royal Assent see s. 122; s. 40 in force for E. for certain purposes at 15.10.2000 and s. 40 in force for E. in so far as not already in force at 1.1.2001 by S.I. 2000/2795, **art. 2(1)(2)(a)** (with art. 3); s. 40 in force for W. for certain purposes at 1.2.2001 and s. 40 in force for W. in so far as not already in force at 28.2.2001 by S.I. 2001/139, **arts. 1(3)**, 2 (with transitional provisions in art. 3)

41 Children's homes: temporary provision about cancellation of registration.

(1) In paragraph 1(4) of Schedule 5 to the 1989 Act (voluntary homes and voluntary organisations)—

(a) in paragraph (a), after "is not" there shall be inserted " , or has not been, ";

(b) after "is" there shall be inserted " , or has been, ".

(2) In paragraph 2 of that Schedule, after sub-paragraph (5) there shall be inserted—

"(6) In relation to a home which has ceased to exist, the reference in sub-paragraph (4) to any person carrying on the home shall be taken to be a reference to each of the persons who carried it on."

(3) In paragraph 3(3) of Schedule 6 to the 1989 Act (registered children's homes), after "is being" there shall be inserted " and has been ".

(4) In paragraph 4 of that Schedule—

(a) in sub-paragraph (3) after "is being" there shall be inserted " , or has been, ";

(b) after sub-paragraph (4) there shall be inserted—

"(5) In relation to a home which has ceased to exist, references in this paragraph and paragraph 5(4) to the person, or any person, carrying on the home include references to each of the persons who carried it on."

Commencement Information

I38 S. 41 wholly in force at 28.2.2001; s. 41 not in force at Royal Assent see s. 122; s. 41 in force for E. at 1.1.2001 by S.I. 2000/2795, **art. 2(2)(a)** (with art. 3); s. 41 in force for W. at 28.2.2001 by S.I. 2001/139, **arts. 1(3)**, 2(2)(a) (with transitional provisions in art. 3)

42 Power to extend the application of Part II.

(1) Regulations may provide for the provisions of this Part to apply, with such modifications as may be specified in the regulations, to prescribed persons to whom subsection (2) **[**[F166], (2A)**]** or (3) applies.

[[F167](2) This subsection applies to persons who provide services which are similar to services which may or must be provided by Welsh NHS bodies.**]**

(2A) This subsection applies to—

(a) English local authorities providing services in the exercise of their social services functions so far as relating to persons aged under 18, and

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(b) persons who provide services which are similar to services which may or must be so provided by English local authorities.

(3) This subsection applies to persons who carry on or manage an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, individuals mentioned in subsection (4).

(4) The individuals referred to in subsection (3) are those who provide services for the purpose of any of the services mentioned in subsection (2) **[**[F168]or (2A)**]**.

[F169](5) . . . . . .

[[F170](6) For the purposes of this section, functions mentioned in section 135(1)(e) of the Education and Inspections Act 2006 are taken to be social services functions relating to persons aged under 18.

(7) In this section—

"cross-border Special Health Authorities" means Special Health Authorities not performing functions only or mainly in respect of England or only or mainly in respect of Wales,

"English local authorities" means local authorities in England,

[F171]…

"Welsh NHS bodies" means—

(a) Local Health Boards,

(b) National Health Service trusts all or most of whose hospitals, establishments and facilities are situated in Wales,

(c) Special Health Authorities performing functions only or mainly in respect of Wales, and

(d) cross-border Special Health Authorities but only so far as their functions are performed in respect of Wales.**]**

Textual Amendments

F166 Words in s. 42(1) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 28(2)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F167 S. 42(2) substituted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 13(a)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F168 Words in s. 42(4) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 28(4)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F169 S. 42(5) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(1)(b)(3), Sch. 5 para. 28(5); Sch. 15 Pt. 1; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F170 S. 42(6)(7) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 28(6)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

F171 Words in s. 42(7) repealed (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 13(b)**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

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Commencement Information

I39 S. 42 wholly in force at 1.9.2003; s. 42 not in force at Royal Assent see s. 122; s. 42 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 42 in force for E. at 1.9.2003 by S.I. 2003/933, **art. 2(3)**

PART III

LOCAL AUTHORITY SERVICES

Modifications etc. (not altering text)

C88 Pt. 3: functions transferred (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. {102(4)}, 199; S.I. 2004/759, **art. 5(2)**

43 Introductory.

(1) This section has effect for the purposes of this Part.

[[F172](1A) "Local authority" means a local authority in England.**]**

(2) "Relevant functions", in relation to a local authority, means relevant adoption functions and relevant fostering functions.

(3) In relation to a local authority—

(a) "relevant adoption functions" means functions under **[**[F173]the Adoption and Children Act 2002**]** of making or participating in arrangements for the adoption of children **[**[F174]or the provision of adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002)**]**; and

(b) "relevant fostering functions" means functions under—

(i) section 22C of the 1989 Act in connection with placements with local authority foster parents or regulations under paragraph 12E(a), (b), (d) or (e) or 12F of Schedule 2 to that Act,

[F175](ii) . . . . . .

Textual Amendments

F172 S. 43(1A) inserted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 14**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

F173 Words in s. 43(3)(a) substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 112** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 3**; S.I. 2005/3112, **art. 2**

F174 Words in s. 43(3)(a) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 112** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 3**; S.I. 2005/3112, **art. 2**

F175 S. 43(3)(b)(ii) omitted (29.4.2019) by virtue of The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **12**

Commencement Information

I40 S. 43 wholly in force at 30.4.2003; s. 43 not in force at Royal Assent see s. 122; s. 43 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 43 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(ii) (subject to transitional provisions in Sch. 1 and with

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transitional provisions in Sch. 2) as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 43(1)(2)(3)(b) in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in **Sch. 2**) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 43(1)(2)(3)(a) in force for E. for certain purposes at 24.2.2003 and for remaining purposes at 30.4.2003 by S.I. 2003/365, art. 3(2)(5) (subject to **Sch.**)

44 General powers of the Commission.

F176 . . . . . .

Textual Amendments

F176 S. 44 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt.2**; S.I. 2004/759, **art. 13**

45 Inspection by registration authority of adoption and fostering services.

(1) **F177** . . . . . .

(2) **F177** . . . . . .

(3) **F177** . . . . . .

(4) **F178** . . . . . .

(5) **F177** . . . . . .

Textual Amendments

F177 S. 45(1)-(3)(5) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

F178 S. 45(4) repealed (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 184, 188, Sch. 14 para. 51, **Sch. 18 Pt. 5**; S.I. 2007/935, **art. 5**

Commencement Information

I41 S. 45 wholly in force at 30.4.2003; s. 45 not in force at Royal Assent see s. 122; s. 45(4) in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(ii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 45 in force for E. for certain purposes in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 45 in force for W. at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 45(4) in force for E. for certain purposes at 24.2.2003 and for remaining purposes at 30.4.2003 by S.I. 2003/365, art. 3(2)(5)

46 Inspections: supplementary.

F179 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F179 Ss. 46, 47 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

47 Action following inspection.

F180 . . . . . .

Textual Amendments

F180 Ss. 46, 47 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

48 Regulation of the exercise of relevant fostering functions.

(1) Regulations may make provision about the exercise by local authorities of relevant fostering functions, and may in particular make provision—

(a) as to the persons who are fit to work for local authorities in connection with the exercise of such functions;

(b) as to the fitness of premises to be used by local authorities in their exercise of such functions;

(c) as to the management and control of the operations of local authorities in their exercise of such functions;

(d) as to the numbers of persons, or persons of any particular type, working for local authorities in connection with the exercise of such functions;

(e) as to the management and training of such persons;

[[F181](f) as to the fees or expenses which may be paid to persons assisting local authorities in making decisions in the exercise of such functions**]**.

(2) Regulations under subsection (1)(a) may, in particular, make provision for prohibiting persons from working for local authorities in such positions as may be prescribed unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1).

Textual Amendments

F181 S. 48(1)(f) inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 114** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2**

Commencement Information

I42 S. 48 wholly in force at 1.4.2002; s. 48 not in force at Royal Assent see s. 122; s. 48 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 48 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(ii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 48 in force for E. for remaining purposes at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

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49 National minimum standards.

(1) Subsections (1), (2) and (3) of section 23 shall apply to local authorities in their exercise of relevant functions as they apply to establishments and agencies.

(2) [F182] . . . . . .

Textual Amendments

F182 S. 49(2) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**

Commencement Information

I43 S. 49 wholly in force at 30.4.2003; s. 49 not in force at Royal Assent see s. 122; s. 49 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 49 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(d)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 49 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 49 in force for E. for certain purposes at 24.2.2003 and 30.4.2003 by S.I. 2003/365, and for remaining purposes at 30.4.2003 by S.I. 2003/365, **art. 3(2)(5)** (subject to Sch.)

50 Annual returns.

(1) Regulations may require a local authority to make to the **[**[F183]CIECSS**]** an annual return containing such information with respect to the exercise by the local authority of relevant functions as may be prescribed.

(2) Provision may be made by the regulations as to the period in respect of which and date by which the return is to be made.

Textual Amendments

F183 Word in s. 50(1) substituted (29.4.2019) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 15**; S.I. 2019/864, art. 2(3)(d), Sch. (with arts. 3-13)

Commencement Information

I44 S. 50 partly in force; s. 50 not in force at Royal Assent see s. 122; s. 50 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 50 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(ii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 50 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

51 Annual fee.

[F184] . . . . . .

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Textual Amendments

F184 S. 51 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt.2**; S.I. 2004/759, **art. 13**

52 Contravention of regulations.

(1) Regulations under this Part may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence.

(2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

I45 S. 52 partly in force; s. 52 not in force at Royal Assent see s. 122; s. 52 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 52 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(ii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 52 in force for E. for certain purposes in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

53 Offences: general provisions.

Sections 29 and 30 apply in relation to this Part as they apply in relation to Part II.

Commencement Information

I46 S. 53 partly in force; s. 53 not in force at Royal Assent see s. 122; s. 53 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(g) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 53 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2**; s. 53 in force for E. for remaining purposes at 30.4.2003, by S.I. 2003/365, art. 3(5)(b) (subject to Sch.)

PART IV

SOCIAL CARE WORKERS

Preliminary

F185 54 The Care Council for Wales

. . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F185 S. 54 repealed (11.7.2016 for specified purposes, 3.4.2017 in so far as not already in force) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), **ss. 67(1)**, 188(1); S.I. 2016/713, art. 2; S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

55 Interpretation.

(1) This section has effect for the purposes of this Part.

[F186(2) "Social care worker" means a person (other than a person excepted by regulations) who—

F187(a) . . . . . .

(b) is employed at a children's home in England, a care home in England or a residential family centre in England,

(c) manages a home or centre of a kind mentioned in paragraph (b),

(d) is employed for the purposes of a domiciliary care agency, a fostering agency, a voluntary adoption agency or an adoption support agency, in so far as the agency provides services to persons in England,

(e) manages an agency of the kind mentioned in paragraph (d), or

(f) is supplied by a domiciliary care agency to provide personal care in their own homes for persons in England who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.

(3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers—

(a) a person engaged in work for the purposes of a local authority in England's social services functions;

(b) a person engaged in work in England comprising the provision of services similar to services which may or must be provided by a local authority in England in the exercise of its social services functions;

(c) a person engaged in the provision of personal care for any person in England;

(d) a person who is employed in an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care to persons in England;

(e) a person who manages an undertaking of the kind mentioned in paragraph (d);

(f) a person who is employed in connection with the discharge of the functions of the Secretary of State under section 80 of the 1989 Act (inspection of children's homes etc.);

(g) a person who is employed as a member of staff of the Office for Standards in Education, Children's Services and Skills who inspects premises under—

(i) section 87 of the 1989 Act (welfare of children accommodated in independent schools and colleges),

(ii) section 31 of this Act (inspection of establishments and agencies by persons authorised by registration authority), or

(iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector);

(h) a person who is employed as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008,

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inspects premises used for or in connection with the provision of social care (within the meaning of that Part);

(i) a person who manages employees mentioned in paragraph (g) or (h);

(j) a person employed in a day centre in England;

[F188](k) . . . . . .]

[[F189](4A) [[F190]"Social care manager" means a person who falls within the description in subsection (2)(c).]]

(5) "Day centre" means a place where nursing or personal care (but not accommodation) is provided wholly or mainly for persons mentioned in section 3(2).

[[F191](6) [[F192]"The General Systems Regulations" means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059).]]

[[F193](7) [[F192]"Relevant European State" means an EEA State or Switzerland.]

(8) [[F192]"Exempt person" means—

(a) a national of a relevant European State other than the United Kingdom,

(b) a national of the United Kingdom who is seeking to engage in relevant social work [[F194], or to engage in work as a social care manager in Wales,] by virtue of an enforceable [[F195]EU] right, or

(c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable [[F195]EU] right, entitled to be treated, as regards the right to engage in relevant social work [[F196], or the right to engage in work as a social care manager in Wales,] , no less favourably than a national of a relevant European State;

and in this subsection, "national", in relation to a relevant European State, means the same as in [[F195]EU] Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and the Isle of Man) to the Treaty of Accession is not to benefit from [[F195]EU] provisions relating to the free movement of persons and services.]]

Textual Amendments

F186 S. 55(2)(3) substituted for s. 55(2)-(4) (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 42(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F187 S. 55(2)(a) omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 5 para. 8(2)** (with Sch. 5 para. 8(3)); S.I. 2019/1436, reg. 2(s)

F188 S. 55(3)(k) omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 5 para. 8(4)**; S.I. 2019/1436, reg. 2(s)

F189 S. 55(4A) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **100(2)** (with reg. 155)

F190 S. 55(4A) omitted by virtue of 2016 anaw 2, Sch. 3 para. 42(b) (as amended (3.4.2017) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **144(3)** (with reg. 155))

F191 S. 55(6) substituted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **100(3)** (with reg. 155)

F192 S. 55(6)(7)(8) omitted (3.4.2017) by virtue of Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 42(b)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F193 S. 55(6)-(8) added (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), **reg. 231**

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F194 Words in s. 55(8)(b) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **100(4)(a)** (with reg. 155)

F195 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with art. 3(2)(3)4(2)6(4)(5))

F196 Words in s. 55(8)(c) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **100(4)(b)** (with reg. 155)

Commencement Information

I47 S. 55 partly in force; s. 55 not in force at Royal Assent see s. 122; s. 55 in force for W. at 1.4.2001 by S.I. 2000/2992, art. 2(2), Sch. 2; s. 55 in force for E. for certain purposes at 7.5.2001 by S.I. 2001/1536, arts. 1(3), 2(2)(b); s. 55 in force for E. for certain purposes at 25.3.2002 by S.I. 2002/1245, arts. 1(3), **2(1)(d)**; s. 55(1)(2)(a)(4) in force for E. for certain purposes at 7.3.2003 by S.I. 2003/933, **art. 2**; s. 55(3)(g) in force for E. for certain purposes at 1.3.2004 by S.I. 2004/484, **art. 2**

Registration

[F197]56 The register.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

[F197]57 Applications for registration.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

[F197]58 Grant or refusal of registration.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

[F197]58A Visiting social workers from relevant European States

. . . . . .

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Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 58B. Visiting social care managers from relevant European States

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 59 Removal etc. from register.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 60 Rules about registration.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 61 Use of title “social worker” etc.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Codes of practice

F197 62 Codes of practice.

. . . . . .

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Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Training

F197 63 Approval of courses etc.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 64 Qualifications gained outside the Welsh Council's area– social workers

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 64A. Qualifications gained outside the Welsh Council’s area – social care managers

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 65 Post registration training.

. . . . . .

Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F197 66 Visitors for certain social work courses.

. . . . . .

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Textual Amendments

F197 Ss. 56-66 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

67 [F198Functions of the Secretary of State.]

(1) The [F199Secretary of State] has the function of—

(a) ascertaining what training is required by persons who are or wish to become social care workers;

(b) ascertaining what financial and other assistance is required for promoting such training;

(c) encouraging the provision of such assistance;

(d) drawing up occupational standards for social care workers.

F200(1A) . . . . . .

[F201(2) The Secretary of State shall encourage persons to take part in—

F202(a) . . . . . .

(b) F203...courses relevant to the training of persons who are or wish to become social care workers.]

(3) If it appears to the [F204Secretary of State] that adequate provision is not being made for training persons who are or wish to become social care workers, the [F205Secretary of State] may provide, or secure the provision of, courses for that purpose.

(4) The [F206Secretary of State] may, upon such terms and subject to such conditions as [F207he or she] considers appropriate—

(a) make grants, and pay travelling and other allowances, to persons resident in England F208... in order to secure their training in the work of social care workers;

(b) make grants to organisations providing training in the work of social care workers.

(5) Any functions of the Secretary of State under this section—

F209(a) . . . . . .

(b) may be exercised by any person, or by employees of any person, authorised to do so by the Secretary of State.

F210(6) . . . . . .

(7) For the purpose of determining—

(a) the terms and effect of an authorisation under subsection (5)(b) F211...; and

(b) the effect of so much of any contract made between the [F212Secretary of State] and the authorised person as relates to the exercise of the function,

Part II of the M10Deregulation and Contracting Out Act 1994 shall have effect as if the authorisation were given by virtue of an order under section 69 of that Act [F213and in subsection (5)(b)] "employee" has the same meaning as in that Part.

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Textual Amendments

F198 S. 67 heading substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(g)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F199 Words in s. 67(1) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(a)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F200 S. 67(1A) omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 5 para. 9(2)**; S.I. 2019/1436, reg. 2(s)

F201 S. 67(2) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(b)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F202 S. 67(2)(a) omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 5 para. 9(3)(a)** (with Sch. 5 para. 9(4)); S.I. 2019/1436, reg. 2(s)

F203 Word in s. 67(2)(b) omitted (2.12.2019) by virtue of Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 5 para. 9(3)(b)** (with Sch. 5 para. 9(4)); S.I. 2019/1436, reg. 2(s)

F204 Words in s. 67(3) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(c)(i)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F205 Words in s. 67(3) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(c)(ii)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F206 Words in s. 67(4) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(d)(i)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F207 Words in s. 67(4) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(d)(ii)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F208 Words in s. 67(4)(a) omitted (3.4.2017) by virtue of Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(d)(iii)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F209 S. 67(5)(a) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 15(b)**; S.I. 2012/1319, art. 2(4)

F210 S. 67(6) omitted (3.4.2017) by virtue of Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(e)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F211 Words in s. 67(7)(a) omitted (3.4.2017) by virtue of Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(f)(i)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F212 Words in s. 67(7)(b) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(f)(ii)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F213 Words in s. 67(7) substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 43(f)(iii)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Commencement Information

I48 S. 67 partly in force; s. 67 not in force at Royal Assent see s. 122; s. 67 in force for W. at 1.10.2001 by S.I. 2001/2538, art. 2(2)(4)(a); s. 67(1)-(4)(7) in force for E. for certain purposes and s. 67(5) in force for E. at 25.3.2002 by S.I. 2002/1245, arts. 1(3), **2(1)(c)**

Marginal Citations

M10 1994 c. 40.

[F214 67A Exercise by Special Health Authority of functions under s. 67(4)(a)

(1) The Secretary of State may direct a Special Health Authority to exercise such of his functions under section 67(4)(a) as may be specified in the directions.

(2) If the Secretary of State gives a direction under subsection (1), the National Health Service Act 2006 shall have effect as if—

(a) the direction were a direction of the Secretary of State under section 7 of that Act, and

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(b) the functions were exercisable by the Special Health Authority under section 7.

(3) Directions under subsection (1)—

(a) shall be given by an instrument in writing, and

(b) may be varied or revoked by subsequent directions.**]**

Textual Amendments

F214 S. 67A inserted (28.4.2008) by Health Act 2006 (c. 28), **ss. 72** (as amended by 2006 c. 43, s. 2, Sch. 1 para. 287), 83; S.I. 2008/1147, **art. 4**

Miscellaneous and supplemental

[F215]68 Appeals to the Tribunal.

[[F215](1) An appeal against a decision of **[**[F216]the Welsh Council**]** under this Part in respect of registration shall lie to the Tribunal.

[[F217](1A) An appeal shall lie to the Tribunal against a decision of **[**[F216]the Welsh Council**]** under Part 3 of the General Systems Regulations in respect of an aptitude test, or period of adaptation, in connection with a person's becoming permitted, by virtue of that Part of those Regulations, to have access to, and to pursue, the profession of social worker in the United Kingdom.**]**

[[F218](1B) An appeal shall lie to the Tribunal against a decision of the Welsh Council under Part 3 of the General Systems Regulations in respect of an aptitude test, or period of adaptation, in connection with a person becoming permitted, by virtue of that Part of those Regulations, to have access to, and to pursue, the profession of social care manager in the United Kingdom.

(1C) An appeal shall lie to the Tribunal against a decision of the Welsh Council under regulation 67 of the General Systems Regulations to send an alert about a person.**]**

(2) On an appeal against a decision, the Tribunal may confirm the decision or direct that it shall not have effect **[**[F219]or, in the case of an appeal under subsection (1C), direct that the alert be withdrawn or amended**]** .

(3) The Tribunal shall also have power on an appeal against a decision—

(a) to vary any condition for the time being in force in respect of the person to whom the appeal relates;

(b) to direct that any such condition shall cease to have effect; or

(c) to direct that any such condition as it thinks fit shall have effect in respect of that person.**]**

Textual Amendments

F215 S. 69 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(b)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F216 Words in s. 68(1)(1A) substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 16**; S.I. 2012/1319, art. 2(4)

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F217 S. 68(1A) inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), **reg. 241**

F218 S. 68(1B)(1C) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **109(2)** (with reg. 155)

F219 Words in s. 68(2) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **109(3)** (with reg. 155)

Modifications etc. (not altering text)

C89 S. 68 savings for effects of 2012 c. 7, Sch. 15 para. 16 (1.8.2012) by The General Social Care Council (Transfer of Register and Abolition Transitional and Saving Provision) Order of Council 2012 (S.I. 2012/1480), arts. 1(2)(b), **12(1)**

Commencement Information

I49 S. 68 partly in force; s. 68 not in force at Royal Assent see s. 122; s. 68 in force for E. for certain purposes at 1.4.2003 by S.I. 2003/933, **art. 2(2)**; s. 68 in force for W. at 1.6.2003 by S.I. 2003/501, **art. 2(4)**

F215 69 Publication etc. of register.

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Textual Amendments

F215 S. 69 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(b)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

F220 70 Abolition of Central Council for Education and Training in Social Work.

. . . . . .

Textual Amendments

F220 S. 70 omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 18**; S.I. 2012/1319, art. 2(4)

F221 71 Rules.

. . . . . .

Textual Amendments

F221 S. 71 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(b)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

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PART V

THE CHILDREN'S COMMISSIONER FOR WALES

72 Children's Commissioner for Wales.

(1) There shall be an office of the Children's Commissioner for Wales or Comisiynydd Plant Cymru.

(2) Schedule 2 shall have effect with respect to the Children's Commissioner for Wales (referred to in this Act as "the Commissioner").

Commencement Information

I50 S. 72 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

[[F222]72A Principal aim of the Commissioner

The principal aim of the Commissioner in exercising his functions is to safeguard and promote the rights and welfare of children to whom this Part applies.**]**

Textual Amendments

F222 S. 72A inserted (26.8.2001 for W.) by 2001 c. 18, **s. 2**; S.I. 2001/2783, **art. 2(2)(b)**

Commencement Information

I51 S. 72A in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(a)**

[[F224]72B Review of exercise of functions of [[F223]Welsh Ministers] and other persons

(1) The Commissioner may review the effect on children to whom this Part applies of—

(a) the exercise or proposed exercise of any function of the **[**[F225]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**, including the making or proposed making of any subordinate legislation; or

(b) the exercise or proposed exercise in relation to Wales of any function of any person mentioned in Schedule 2A.

(2) The **[**[F226]Welsh Ministers**]** may by order amend this section or Schedule 2A by—

(a) adding any person to that Schedule;

(b) omitting any person from that Schedule;

(c) altering the description of any person mentioned in that Schedule; or

(d) making provision specifying, in respect of a person mentioned in that Schedule and specified in the order, a function of the person which although exercisable in relation to Wales is not to be treated as such for the purposes of subsection (1)(b).

(3) An order under subsection (2) may add a person to Schedule 2A only if—

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(a) some or all of the person's functions are in a field in which **[**[F227]functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**;

(b) the person is established under an enactment or by virtue of Her Majesty's prerogative or is established in any other way by a Minister of the Crown or government department or by the **[**[F228]Welsh Ministers, the First Minister for Wales, or the Counsel General to the Welsh Assembly Government**]**; and

(c) (unless consent is given by the Secretary of State under subsection (4)), at least half of the person's expenditure on the exercise of functions in relation to Wales (or, where the person's functions relate only to a part of Wales, in relation to the part of Wales to which they relate) is met directly from payments made by the **[**[F229]Welsh Ministers**]**.

(4) An order under subsection (2) may add to Schedule 2A a person who does not satisfy the condition in subsection (3)(c) if the Secretary of State gives consent.

(5) An order under subsection (2) must not add to Schedule 2A a person whose sole or main activity is—

(a) the investigation of complaints by members of the public about the actions of any person; or

(b) the supervision or review of, or of steps taken following, such an investigation.

(6) The **[**[F230]Welsh Ministers**]** may not make an order under subsection (2) if the result would be that the Commissioner could review the effect of the exercise or proposed exercise of a person's function in a field in which **[**[F231]no functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**.

(7) In subsection (1)(a) "subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).**]**

Textual Amendments

F223 S. 72B: words in heading substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(2)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F224 S. 72B inserted (26.8.2001 for W.) by 2001 c. 18, **s. 3(1)**; S.I. 2001/2783, **art. 2(2)(c)**

F225 Words in s. 72B(1)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(3)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F226 Words in s. 72B(2) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(4)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F227 Words in s. 72B(3)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(5)**, the amendment coming into force immediately after the end of "the initial period" (which ended with

the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F228 Words in s. 72B(3)(b) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(6)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F229 Words in s. 72B(3)(c) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(7)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F230 Words in s. 72B(6) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(8)(a)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F231 Words in s. 72B(6) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 70(8)(b)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I52 S. 72B in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(b)**

73 Review and monitoring of arrangements.

(1) The Commissioner may review, and monitor the operation of, arrangements falling within subsection (2), **[**[F232](2A), (2B), (2C),**]** (3) or (4) for the purpose of ascertaining whether, and to what extent, the arrangements are effective in safeguarding and promoting the rights and welfare of children **[**[F233]—

(a) to or in respect of whom services are provided in Wales by, or on behalf of or under arrangements with, a person mentioned in Schedule 2B; or

(b) to or in respect of whom regulated children's services in Wales are provided.**]**

[[F234](1A) The Commissioner may also assess the effect on such children of the failure of any person to make such arrangements.**]**

(2) The arrangements falling within this subsection are the arrangements made by the providers of regulated children's services in Wales, or by the **[**[F235]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**, for dealing with complaints or representations **[**[F236]about such services made by or on behalf of children to whom such services are provided**]**.

[[F237](2A) The arrangements falling within this subsection are the arrangements made by a person mentioned in Schedule 2B for dealing with complaints or representations made to the person by or on behalf of a child about services provided in Wales by the person to or in respect of the child.

(2B) The arrangements falling within this subsection are the arrangements made by a person providing services in Wales on behalf of, or under arrangements with, a person mentioned in Schedule 2B for dealing with complaints or representations made to the

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person by or on behalf of a child about a service which is so provided to or in respect of the child.

(2C) The arrangements falling within this subsection are the arrangements made by the **[**[F235]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]** for dealing with complaints or representations made by or on behalf of a child about a service which is provided in Wales to or in respect of the child by, or on behalf of or under arrangements with, a person mentioned in Schedule 2B (other than the **[**[F235]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**).**]**

(3) The arrangements falling within this subsection are arrangements made by the providers of regulated children's services in Wales, **[**[F238]by the **[**[F235]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**, or by another person mentioned in Schedule 2B or subsection (2B)**]**, for ensuring that proper action is taken in response to any disclosure of information which may tend to show—

(a) that a criminal offence has been committed;

(b) that a person has failed to comply with any legal obligation to which he is subject;

(c) that the health and safety of any person has been endangered; or

(d) that information tending to show that any matter falling within one of the preceding paragraphs has been deliberately concealed,

in the course of or in connection with the provision of **[**[F239]the services mentioned in subsection (3A).**]**.

[[F240](3A) The services are—

(a) in the case of a person mentioned in Schedule 2B, services provided in Wales by the person to or in respect of a child;

(b) in the case of a person mentioned in subsection (2B), services provided in Wales by the person to or in respect of a child on behalf of, or under arrangements with, a person mentioned in Schedule 2B;

(c) in the case of a provider of regulated children's services in Wales, those services.**]**

(4) The arrangements falling within this subsection are arrangements made (whether by providers of regulated children's services in Wales, by the **[**[F235]Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]** or by any other person) for making persons available—

(a) to represent the views and wishes of children **[**[F241]—

(i) to or in respect of whom services are provided in Wales by, or on behalf of or under arrangements with, a person mentioned in Schedule 2B; or

(ii) to or in respect of whom regulated children's services in Wales are provided**]**; or

(b) to provide such children with advice and support of any prescribed kind.

(5) Regulations may confer power on the Commissioner to require prescribed persons to provide any information which the Commissioner considers it necessary or expedient to have for the purposes of his functions under this section.

[[F242](5A) The **[**[F243]Welsh Ministers**]** may by order amend this section or Schedule 2B by—

(a) adding any person to that Schedule;

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(b) omitting any person from that Schedule;

(c) altering the description of any person mentioned in that Schedule; or

(d) making provision specifying, in respect of a person mentioned in that Schedule and specified in the order, services which although provided by the person in Wales are not to be treated as such for the purposes of the exercise of the Commissioner's functions.

(5B) An order under subsection (5A) may add a person to Schedule 2B only if—

(a) the person provides services in Wales to or in respect of children;

(b) some or all of the person's functions are in a field in which **[**[F244]functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**;

(c) the person is established under an enactment or by virtue of Her Majesty's prerogative or is established in any other way by a Minister of the Crown or government department or by the **[**[F245]Welsh Ministers, the First Minister for Wales, or the Counsel General to the Welsh Assembly Government**]**; and

(d) (unless consent is given by the Secretary of State under subsection (5C)), at least half of the person's expenditure on the exercise of functions in relation to Wales (or, where the person's functions relate only to a part of Wales, in relation to the part of Wales to which they relate) is met directly from payments made by the **[**[F246]Welsh Ministers**]**.

(5C) An order may add to Schedule 2B a person who does not satisfy the condition in subsection (5B)(d) if the Secretary of State gives consent.

(5D) An order under subsection (5A) must not add to Schedule 2B a person whose sole or main activity is—

(a) the investigation of complaints by members of the public about the actions of any person; or

(b) the supervision or review of, or of steps taken following, such an investigation.

(5E) The **[**[F247]Welsh Ministers**]** may not make an order under subsection (5A) if the result would be that the Commissioner could exercise functions in relation to a person's functions in a field in which **[**[F248]no functions are exercisable by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**.**]**

Textual Amendments

F232 Words in s. 73(1) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 4(2)(a)**; S.I. 2001/2783, **art. 2(2)(d)**

F233 Words in s. 73(1) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 4(2)(b)**; S.I. 2001/2783, **art. 2(2)(d)**

F234 S. 73(1A) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 4(3)**; S.I. 2001/2783, **art. 2(2)(d)**

F235 Words in s. 73(2)(2C)(3)(4) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(2)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F236 Words in s. 73(2) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 4(4)**; S.I. 2001/2783, **art. 2(2)(d)**

F237 S. 73(2A)-(2C) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 4(5)**; S.I. 2001/2783, **art. 2(2)(d)**

F238 Words in s. 73(3) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 4(6)(a)**; S.I. 2001/2783, **art. 2(2)(d)**

F239 Words in s. 73(3) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 4(6)(b)**; S.I. 2001/2783, **art. 2(2)(d)**

F240 S. 73(3A) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 4(7)**; S.I. 2001/2783, **art. 2(2)(d)**

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F241 Words in s. 73(4) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 4(8)**; S.I. 2001/2783, **art. 2(2)(d)**

F242 S. 73(5A)-(5E) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 4(9)**; S.I. 2001/2783, **art. 2(2)(d)**

F243 Words in s. 73(5A) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(3)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F244 Words in s. 73(5B)(b) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(4)(a)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F245 Words in s. 73(5B)(c) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(4)(b)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F246 Words in s. 73(5B)(d) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(4)(c)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F247 Words in s. 73(5E) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(5)(a)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F248 Words in s. 73(5E) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 71(5)(b)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I53 S. 73 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(c)**

74 Examination of cases.

(1) Regulations may **[**[F249], in connection with the Commissioner's functions under this Part,**]**make provision for the examination by the Commissioner of the cases of particular children to whom this Part applies.

[[F250](1A) The reference in subsection (1) to functions of the Commissioner does not include a reference to his power to consider and make representations by virtue of section 75A(1).**]**

(2) The regulations may include provision about—

(a) the types of case which may be examined;

(b) the circumstances in which an examination may be made;

(c) the procedure for conducting an examination, including provision about the representation of parties;

(d) the publication of reports following an examination.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) The regulations may make provision for—

(a) requiring persons to provide the Commissioner with information; or

(b) requiring persons who hold or are accountable for information to provide the Commissioner with explanations or other assistance,

for the purposes of an examination or for the purposes of determining whether any recommendation made in a report following an examination has been complied with.

(4) For the purposes mentioned in subsection (3), the Commissioner shall have the same powers as the High Court in respect of—

(a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad); and

(b) the provision of information.

(5) No person shall be compelled for the purposes mentioned in subsection (3) to give any evidence or provide any information which he could not be compelled to give or provide in civil proceedings before the High Court.

(6) The regulations may make provision for the payment by the Commissioner of sums in respect of expenses or allowances to persons who attend or provide information for the purposes mentioned in subsection (3).

Textual Amendments

F249 Words in s. 74(1) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 5(2)(a)**; S.I. 2001/2783, **art. 2(2)(e)**

F250 S. 74(1A) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 5(2)(b)**; S.I. 2001/2783, **art. 2(2)(e)**

Commencement Information

I54 S. 74 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(d)**

75 Obstruction etc.

(1) The Commissioner may certify an offence to the High Court where—

(a) a person, without lawful excuse, obstructs him or any member of his staff in the exercise of any of his functions under regulations made by virtue of section 73(5) or 74; or

(b) a person is guilty of any act or omission in relation to an examination under regulations made by virtue of section 74 which, if that examination were proceedings in the High Court, would constitute contempt of court.

(2) Where an offence is so certified the High Court may inquire into the matter; and after hearing—

(a) any witnesses who may be produced against or on behalf of the person charged with the offence; and

(b) any statement that may be offered in defence,

the High Court may deal with the person charged with the offence in any manner in which it could deal with him if he had committed the same offence in relation to the High Court.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commencement Information

I55 S. 75 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(e)**

[F251 75ZA Working with [F252 other Commissioners]

(1) This section applies where it appears to the Commissioner that a case which he is—

(a) examining in accordance with regulations made under section 74, or

(b) considering whether to examine in accordance with such regulations,

relates to or raises a matter which could be the subject of an examination by the Commissioner for Older People in Wales **[**F253 or the Welsh Language Commissioner**]** (the 'connected matter').

(2) Where the Commissioner considers it appropriate, he must inform the Commissioner for Older People in Wales**[**F254, or may inform the Welsh Language Commissioner,**]** about the connected matter.

(3) Where the Commissioner considers that the case also relates to or raises a matter which he is entitled to examine himself ('the children matter'), he must **[**F255 (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner) **]** also if he considers it appropriate—

(a) inform the Commissioner for Older People in Wales **[**F256 or the Welsh Language Commissioner **]** about the Commissioner's proposals for the examination of the case; and

(b) consult the Commissioner for Older People in Wales **[**F256 or the Welsh Language Commissioner **]** about those proposals.

(4) Where the Commissioner and the Commissioner for Older People in Wales **[**F257 or the Welsh Language Commissioner **]** consider that they are entitled to examine, respectively, the children matter and the connected matter they may—

(a) co-operate with each other in the separate examination of each of those matters;

(b) act together in the examination of those matters; and

(c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each examined.

(5) Where the Commissioner considers—

(a) that the case is not one which relates to or raises a matter that he is entitled to examine himself, and

(b) that it is appropriate to do so,

he must **[**F258 (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)**]** inform the person whose case it is, or another person interested in it that he thinks fit, about how to secure the referral to **[**F259 that Commissioner**]** of the connected matter.**]**

Textual Amendments

F251 S. 75ZA inserted (14.10.2006 for W.) by Commissioner for Older People (Wales) Act 2006 (c. 30), ss. 22, 23, **Sch. 4 para. 1(2)**; S.I. 2006/2699, **art. 2**

F252 Words in s. 75ZA heading substituted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(a)**; S.I. 2015/1413, art. 3(g)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

F253 Words in s. 75ZA(1) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(b)**; S.I. 2015/1413, art. 3(g)

F254 Words in s. 75ZA(2) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(c)**; S.I. 2015/1413, art. 3(g)

F255 Words in s. 75ZA(3) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(d)(i)**; S.I. 2015/1413, art. 3(g)

F256 Words in s. 75ZA(3)(a)(b) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(d)(ii)**; S.I. 2015/1413, art. 3(g)

F257 Words in s. 75ZA(4) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(e)**; S.I. 2015/1413, art. 3(g)

F258 Words in s. 75ZA(5) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(f)(i)**; S.I. 2015/1413, art. 3(g)

F259 Words in s. 75ZA(5) substituted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 2(f)(ii)**; S.I. 2015/1413, art. 3(g)

[F260 75ZB Working jointly with the Public Services Ombudsman for Wales

(1) This section applies where it appears to the Commissioner that a case which he is—
  (a) examining in accordance with regulations made under section 74, or
  (b) considering whether to examine in accordance with such regulations,

relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales (the 'connected matter').

(2) Where the Commissioner considers it appropriate, he must inform the Ombudsman about the connected matter.

(3) Where the Commissioner considers that the case also relates to or raises a matter which he is entitled to examine himself (the 'children matter'), he must also if he considers it appropriate—
  (a) inform the Ombudsman about the Commissioners proposals for examination of the case, and
  (b) consult the Ombudsman about those proposals.

(4) Where the Commissioner and the Ombudsman consider that they are entitled to examine, respectively, the children matter and the connected matter they may—
  (a) co-operate with each other in the separate examination of each of those matters;
  (b) act together in the examination of those matters; and
  (c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each examined.

(5) Where the Commissioner considers—
  (a) that the case is not one which relates to or raises a matter that he is entitled to examine himself, and
  (b) that it is appropriate to do so,

he must inform the person whose case it is, or another person interested in it that he thinks fit, about how to secure referral to the Ombudsman of the connected matter.]

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F260 S. 75ZB inserted (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 1**; S.I. 2019/1096, reg. 2

[F261 75ZC Working jointly with the Public Services Ombudsman for Wales

(1) This section applies where it appears to the Commissioner that a case which he is—
  (a) examining in accordance with regulations made under section 74, or
  (b) considering whether to examine in accordance with such regulations,
relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales.

(2) Where the Commissioner considers it appropriate, he must—
  (a) inform the Ombudsman about the case, and
  (b) consult him in relation to it.

(3) Where the Commissioner consults the Ombudsman under this section, he and the Ombudsman may—
  (a) co-operate with each other in relation to the case;
  (b) conduct a joint examination into the case;
  (c) prepare and publish a joint report in relation to the case.**]**

Textual Amendments

F261 S. 75ZC inserted (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 2**; S.I. 2019/1096, reg. 2

[F262 75A Additional power of consideration and representation

(1) The Commissioner may consider, and make representations to the **[**F263 Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]** about, any matter affecting the rights or welfare of children in Wales.

(2) The function of the Commissioner under subsection (1) is exercisable only where he does not have power to consider and make representations about the matter in question by virtue of any other provision of this Act or any other enactment.**]**

Textual Amendments

F262 S. 75A inserted (26.8.2001 for W.) by 2001 c. 18, **s. 5(1)**; S.I. 2001/2783, **art. 2(2)(e)**

F263 Words in s. 75A substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 72**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I56 S. 75A in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(f)**

Status: *This version of this Act contains provisions that are prospective.*
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76 Further functions.

(1) Regulations may confer power on the Commissioner to assist a child to whom this Part applies—

(a) in making a complaint or representation to or in respect of a provider of regulated children's services in Wales; or

[[F264](aa) in making a complaint or representation to or in respect of a person mentioned in Schedule 2B or section 73(2B);**]**

(b) in any prescribed proceedings,

and in this subsection "proceedings" includes a procedure of any kind and any prospective proceedings.

[[F265](1A) The proceedings which may be prescribed by virtue of subsection (1)(b) are proceedings relating to—

(a) the exercise or proposed exercise of a function as mentioned in section 72B(1);

(b) the provision of services as mentioned in section 78(1)(b) or (c).**]**

(2) For the purposes of subsection (1), assistance includes—

(a) financial assistance; and

(b) arranging for representation, or the giving of advice or assistance, by any person,

and the regulations may provide for assistance to be given on conditions, including (in the case of financial assistance) conditions requiring repayment in circumstances specified in the regulations.

(3) The Commissioner may, in connection with his functions under this Part, give advice and information to any person.

(4) Regulations may, in connection with the Commissioner's functions under this Part, confer further functions on him.

(5) The regulations may, in particular,

[[F266](a)**]** include provision about the making of reports on any matter connected with any of his functions;

[[F267](b) provide that the Commissioner may make a joint report with the Commissioner for Older People in Wales where they have discharged their respective functions under this Act and the Commissioner for Older People (Wales) Act 2006 in relation to the same matters.**]**

[[F268](c) provide that the Commissioner may make a joint report with the Welsh Language Commissioner where they have exercised their respective functions under this Act and the Welsh Language (Wales) Measure 2011 in relation to the same matters.**]**

[[F269](5A) The references in subsections (4) and (5) to functions of the Commissioner do not include a reference to his power to consider and make representations by virtue of section 75A(1).**]**

(6) Apart from identifying any person investigated, a report by the Commissioner shall not—

(a) mention the name of any person; or

(b) include any particulars which, in the opinion of the Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

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unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Commissioner considers it necessary for the report to mention his name or include such particulars.

(7) For the purposes of the law of defamation, the publication of any matter by the Commissioner in a report is absolutely privileged.

[[F270](8) The Commissioner or a person authorised by him may for the purposes of any function of the Commissioner under section 72B or 73 or subsection (4) of this section at any reasonable time—

(a) enter any premises, other than a private dwelling, for the purposes of interviewing any child accommodated or cared for there; and

(b) if the child consents, interview the child in private.**]**

Textual Amendments

F264 S. 76(1)(aa) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 6(a)**; S.I. 2001/2783, **art. 2(2)(g)**

F265 S. 76(1A) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 6(b)**; S.I. 2001/2783, **art. 2(2)(g)**

F266 Words in s. 76(5) renumbered as s. 76(5)(a) (14.10.2006 for W.) by virtue of Commissioner for Older People (Wales) Act 2006 (c. 30), ss. 22, 23, **Sch. 4 para. 1(3)**; S.I. 2006/2699, **art. 2**

F267 S. 75(5)(b) inserted (14.10.2006 for W.) by Commissioner for Older People (Wales) Act 2006 (c. 30), ss. 22, 23, **Sch. 4 para. 1(3)**; S.I. 2006/2699, **art. 2**

F268 S. 76(5)(c) inserted (7.7.2015) by Welsh Language (Wales) Measure 2011 (nawm 1), s. 156(2), **Sch. 3 para. 3**; S.I. 2015/1413, art. 3(g)

F269 S. 76(5A) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 6(c)**; S.I. 2001/2783, **art. 2(2)(g)**

F270 S. 76(8) inserted (1.4.2006 for W.) by Children Act 2004 (c. 31), **ss. 61**, 67; S.I. 2006/885, **art. 2(2)**

Commencement Information

I57 S. 76 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(g)**

77 Restrictions.

(1) This Part does not authorise the Commissioner to enquire into or report on any matter so far as it is the subject of legal proceedings before, or has been determined by, a court or tribunal.

(2) This Part does not authorise the Commissioner to exercise any function which by virtue of an enactment is also exercisable by a prescribed person.

Commencement Information

I58 S. 77 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(h)**

78 Interpretation.

(1) This Part applies to a child—

(a) who is ordinarily resident in Wales;

(b) to or in respect of whom services are provided in Wales by, or on behalf of or under arrangements with, a person mentioned in Schedule 2B; or

(c) to or in respect of whom regulated children's services in Wales are provided.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(1A) Regulations may provide that, for the purposes of this Part of this Act, "child" includes a person aged 18 or over who falls within subsection (1B).

[[F271](1B) A person falls within this subsection if the person is a category 3, 4, 5 or 6 young person, within the meaning of section 104 of the Social Services and Well-being (Wales) Act 2014, in respect of whom services are provided in Wales by, or on behalf of, or under arrangements with, a county council or county borough council in Wales.**]**

(2) In this Part, "regulated children's services in Wales" means any of the following services for the time being provided in respect of children—

(a) services of a description provided by or in Part II undertakings, so far as provided in Wales;

[[F272](aa) regulated services within the meaning of section 2 of the 2016 Act;**]**

(b) services provided by local authorities in Wales in the exercise of relevant adoption functions or relevant fostering functions;

(c) services of a description provided by persons registered under Part XA of the 1989 Act, so far as provided in Wales;

(d) accommodation provided by schools or by an institution within the further education sector (as defined in section 91 of the [M11]Further and Higher Education Act 1992), so far as provided in Wales.

(3) For the purposes of this Part—

(a) in the case of the services mentioned in subsection (2)(a), the person who carries on the Part II undertaking is to be treated as the provider of the services;

[[F273](aa) in the case of the services mentioned in subsection (2)(aa), the person registered under section 7 of the 2016 Act in respect of the regulated service is to be treated as the provider of the services;**]**

(b) in the case of the services mentioned in subsection (2)(d), the relevant person (as defined in section 87 of the 1989 Act) is to be treated as the provider of the services.

(4) For the purposes of this section, an establishment or agency, and an undertaking of any other description, is a Part II undertaking if the provider of the services in question is for the time being required to be registered under that Part.

(5) Where the activities of an undertaking are carried on from two or more branches, each of those branches shall be treated as a separate undertaking for the purposes of this Part.

[[F274](5A) In the case of services mentioned in subsection (2)(aa), where a service is provided at, from or in relation to two or more places, the service is to be treated as a separate service in relation to each place where it is provided at, from or in relation to for the purposes of this Part.**]**

[[F275](6) Regulations may provide for the references to a child in subsection (1) to include references to a person (including a child) who was at any time (including a time before the commencement of this Part)—

(a) a child ordinarily resident in Wales;

(b) a child to or in respect of whom services were provided in Wales by, or on behalf of or under arrangements with, a person mentioned in Schedule 2B; or

(c) a child to or in respect of whom regulated children's services in Wales were provided.**]**

Status: *This version of this Act contains provisions that are prospective.*
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(7) In this Part—

"information" includes information recorded in any form;

"regulations" means regulations made by the **[**[F276]Welsh Ministers**]**.

[[F277](8) In this section—

"the 2016 Act" means the Regulation and Inspection of Social Care (Wales) Act 2016;

"relevant adoption functions" means the functions of local authorities in Wales under the Adoption and Children Act 2002 of making or participating in arrangements for the adoption of children or the provision of adoption support services (as defined in section 2(6) of that Act);

"relevant fostering functions" means the functions of local authorities in Wales under section 81 of the Social Services and Well-being (Wales) Act 2014 or regulations made under or by virtue of any of sections 87, 92(1)(a), (b), (d) or (e) or 93 of that Act in connection with placements with local authority foster parents.**]**

Textual Amendments

F271 S. 78(1B) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **174**

F272 S. 78(2)(aa) inserted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **13(a)**

F273 S. 78(3)(aa) inserted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **13(b)**

F274 S. 78(5A) inserted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **13(c)**

F275 S. 78(6) substituted (26.8.2001 for W.) by 2001 c. 18, **s. 1(3)**; S.I. 2001/2783, **art. 2(2)(a)**

F276 S. 78(7): words in definition of "regulations" substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 73**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

F277 S. 78(8) substituted (29.4.2019) by The Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Regulations 2019 (S.I. 2019/772), regs. 1(2), **13(d)**

Commencement Information

I59 S. 78 in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(1)(2)(i)**

Marginal Citations

M11 1992 c. 13.

PART VI

CHILD MINDING AND DAY CARE

79 Amendment of Children Act 1989.

(1) After Part X of the 1989 Act (child minding and day care for young children) there shall be inserted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

"PART XA

CHILD MINDING AND DAY CARE FOR CHILDREN IN ENGLAND AND WALES

Introductory

79A **Child minders and day care providers.**

(1) This section and section 79B apply for the purposes of this Part.

(2) "Act as a child minder" means (subject to the following subsections) look after one or more children under the age of eight on domestic premises for reward; and "child minding" shall be interpreted accordingly.

(3) A person who—
- (a) is the parent, or a relative, of a child;
- (b) has parental responsibility for a child;
- (c) is a local authority foster parent in relation to a child;
- (d) is a foster parent with whom a child has been placed by a voluntary organisation; or
- (e) fosters a child privately,

does not act as a child minder when looking after that child.

(4) Where a person—
- (a) looks after a child for the parents ("P1"), or
- (b) in addition to that work, looks after another child for different parents ("P2"),

and the work consists (in a case within paragraph (a)) of looking after the child wholly or mainly in P1's home or (in a case within paragraph (b)) of looking after the children wholly or mainly in P1's home or P2's home or both, the work is not to be treated as child minding.

(5) In subsection (4), "parent", in relation to a child, includes—
- (a) a person who is not a parent of the child but who has parental responsibility for the child;
- (b) a person who is a relative of the child.

(6) "Day care" means care provided at any time for children under the age of eight on premises other than domestic premises.

(7) This Part does not apply in relation to a person who acts as a child minder, or provides day care on any premises, unless the period, or the total of the periods, in any day which he spends looking after children or (as the case may be) during which the children are looked after on the premises exceeds two hours.

(8) In determining whether a person is required to register under this Part for child minding, any day on which he does not act as a child minder at any time between 2 am and 6 pm is to be disregarded.

Status: *This version of this Act contains provisions that are prospective.*
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79B **Other definitions, etc.**

(1) The registration authority in relation to England is Her Majesty's Chief Inspector of Schools in England (referred to in this Part as the Chief Inspector) and references to the Chief Inspector's area are references to England.

(2) The registration authority in relation to Wales is the National Assembly for Wales (referred to in this Act as "the Assembly").

(3) A person is qualified for registration for child minding if—

(a) he, and every other person looking after children on any premises on which he is or is likely to be child minding, is suitable to look after children under the age of eight;

(b) every person living or employed on the premises in question is suitable to be in regular contact with children under the age of eight;

(c) the premises in question are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and

(d) he is complying with regulations under section 79C and with any conditions imposed by the registration authority.

(4) A person is qualified for registration for providing day care on particular premises if—

(a) every person looking after children on the premises is suitable to look after children under the age of eight;

(b) every person living or working on the premises is suitable to be in regular contact with children under the age of eight;

(c) the premises are suitable to be used for looking after children under the age of eight, having regard to their condition and the condition and appropriateness of any equipment on the premises and to any other factor connected with the situation, construction or size of the premises; and

(d) he is complying with regulations under section 79C and with any conditions imposed by the registration authority.

(5) For the purposes of subsection (4)(b) a person is not treated as working on the premises in question if—

(a) none of his work is done in the part of the premises in which children are looked after; or

(b) he does not work on the premises at times when children are looked after there.

(6) "Domestic premises" means any premises which are wholly or mainly used as a private dwelling and "premises" includes any area and any vehicle.

(7) "Regulations" means—

(a) in relation to England, regulations made by the Secretary of State;

(b) in relation to Wales, regulations made by the Assembly.

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(8) "Tribunal" means the Tribunal established by section 9 of the Protection of Children Act 1999.

(9) Schedule 9A (which supplements the provisions of this Part) shall have effect.

Regulations

79C **Regulations etc. governing child minders and day care providers.**

(1) The Secretary of State may, after consulting the Chief Inspector and any other person he considers appropriate, make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in England.

(2) The Assembly may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in Wales.

(3) The regulations under this section may deal with the following matters (among others)—
   (a) the welfare and development of the children concerned;
   (b) suitability to look after, or be in regular contact with, children under the age of eight;
   (c) qualifications and training;
   (d) the maximum number of children who may be looked after and the number of persons required to assist in looking after them;
   (e) the maintenance, safety and suitability of premises and equipment;
   (f) the keeping of records;
   (g) the provision of information.

(4) In relation to activities on premises in England, the power to make regulations under this section may be exercised so as to confer powers or impose duties on the Chief Inspector in the exercise of his functions under this Part.

(5) In particular they may be exercised so as to require or authorise the Chief Inspector, in exercising those functions, to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations.

(6) If the regulations require any person (other than the registration authority) to have regard to or meet factors, standards and other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account—
   (a) by the registration authority in the exercise of its functions under this Part, or
   (b) in any proceedings under this Part.

(7) Regulations may provide—
   (a) that a registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement of the regulations shall be guilty of an offence; and
   (b) that a person guilty of the offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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Registration

79D **Requirement to register.**

(1) No person shall—

(a) act as a child minder in England unless he is registered under this Part for child minding by the Chief Inspector; or

(b) act as a child minder in Wales unless he is registered under this Part for child minding by the Assembly.

(2) Where it appears to the registration authority that a person has contravened subsection (1), the authority may serve a notice ("an enforcement notice") on him.

(3) An enforcement notice shall have effect for a period of one year beginning with the date on which it is served.

(4) If a person in respect of whom an enforcement notice has effect contravenes subsection (1) without reasonable excuse (whether the contravention occurs in England or Wales), he shall be guilty of an offence.

(5) No person shall provide day care on any premises unless he is registered under this Part for providing day care on those premises by the registration authority.

(6) If any person contravenes subsection (5) without reasonable excuse, he shall be guilty of an offence.

(7) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

79E **Applications for registration.**

(1) A person who wishes to be registered under this Part shall make an application to the registration authority.

(2) The application shall—

(a) give prescribed information about prescribed matters;

(b) give any other information which the registration authority reasonably requires the applicant to give.

(3) Where a person provides, or proposes to provide, day care on different premises, he shall make a separate application in respect of each of them.

(4) Where the registration authority has sent the applicant notice under section 79L(1) of its intention to refuse an application under this section, the application may not be withdrawn without the consent of the authority.

(5) A person who, in an application under this section, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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79F **Grant or refusal of registration.**

(1) If, on an application by a person for registration for child minding—
  (a) the registration authority is of the opinion that the applicant is, and will continue to be, qualified for registration for child minding (so far as the conditions of section 79B(3) are applicable); and
  (b) the applicant pays the prescribed fee,

the authority shall grant the application; otherwise, it shall refuse it.

(2) If, on an application by any person for registration for providing day care on any premises—
  (a) the registration authority is of the opinion that the applicant is, and will continue to be, qualified for registration for providing day care on those premises (so far as the conditions of section 79B(4) are applicable); and
  (b) the applicant pays the prescribed fee,

the authority shall grant the application; otherwise, it shall refuse it.

(3) An application may, as well as being granted subject to any conditions the authority thinks necessary or expedient for the purpose of giving effect to regulations under section 79C, be granted subject to any other conditions the authority thinks fit to impose.

(4) The registration authority may as it thinks fit vary or remove any condition to which the registration is subject or impose a new condition.

(5) Any register kept by a registration authority of persons who act as child minders or provide day care shall be open to inspection by any person at all reasonable times.

(6) A registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any condition imposed on his registration shall be guilty of an offence.

(7) A person guilty of an offence under subsection (6) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

79G **Cancellation of registration.**

(1) The registration authority may cancel the registration of any person if—
  (a) in the case of a person registered for child minding, the authority is of the opinion that the person has ceased or will cease to be qualified for registration for child minding;
  (b) in the case of a person registered for providing day care on any premises, the authority is of the opinion that the person has ceased or will cease to be qualified for registration for providing day care on those premises,

or if an annual fee which is due from the person has not been paid.

(2) Where a requirement to make any changes or additions to any services, equipment or premises has been imposed on a registered person under

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section 79F(3), his registration shall not be cancelled on the ground of any defect or insufficiency in the services, equipment or premises if—

(a) the time set for complying with the requirements has not expired; and

(b) it is shown that the defect or insufficiency is due to the changes or additions not having been made.

(3) Any cancellation under this section must be in writing.

79H Suspension of registration.

(1) Regulations may provide for the registration of any person for acting as a child minder or providing day care to be suspended for a prescribed period by the registration authority in prescribed circumstances.

(2) Any regulations made under this section shall include provision conferring on the person concerned a right of appeal to the Tribunal against suspension.

79J Resignation of registration.

(1) A person who is registered for acting as a child minder or providing day care may by notice in writing to the registration authority resign his registration.

(2) But a person may not give a notice under subsection (1)—

(a) if the registration authority has sent him a notice under section 79L(1) of its intention to cancel the registration, unless the authority has decided not to take that step; or

(b) if the registration authority has sent him a notice under section 79L(5) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

79K Protection of children in an emergency.

(1) If, in the case of any person registered for acting as a child minder or providing day care—

(a) the registration authority applies to a justice of the peace for an order—

(i) cancelling the registration;

(ii) varying or removing any condition to which the registration is subject; or

(iii) imposing a new condition; and

(b) it appears to the justice that a child who is being, or may be, looked after by that person, or (as the case may be) in accordance with the provision for day care made by that person, is suffering, or is likely to suffer, significant harm,

the justice may make the order.

(2) The cancellation, variation, removal or imposition shall have effect from the time when the order is made.

(3) An application under subsection (1) may be made without notice.

(4) An order under subsection (1) shall be made in writing.

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(5) Where an order is made under this section, the registration authority shall serve on the registered person, as soon as is reasonably practicable after the making of the order—
  (a) a copy of the order;
  (b) a copy of any written statement of the authority's reasons for making the application for the order which supported that application; and
  (c) notice of any right of appeal conferred by section 79M.

(6) Where an order has been so made, the registration authority shall, as soon as is reasonably practicable after the making of the order, notify the local authority in whose area the person concerned acts or acted as a child minder, or provides or provided day care, of the making of the order.

79L **Notice of intention to take steps.**

(1) Not less than 14 days before—
  (a) refusing an application for registration;
  (b) cancelling a registration;
  (c) removing or varying any condition to which a registration is subject or imposing a new condition; or
  (d) refusing to grant an application for the removal or variation of any condition to which a registration is subject,

  the registration authority shall send to the applicant, or (as the case may be) registered person, notice in writing of its intention to take the step in question.

(2) Every such notice shall—
  (a) give the authority's reasons for proposing to take the step; and
  (b) inform the person concerned of his rights under this section.

(3) Where the recipient of such a notice informs the authority in writing of his desire to object to the step being taken, the authority shall afford him an opportunity to do so.

(4) Any objection made under subsection (3) may be made orally or in writing, by the recipient of the notice or a representative.

(5) If the authority, after giving the person concerned an opportunity to object to the step being taken, decides nevertheless to take it, it shall send him written notice of its decision.

(6) A step of a kind mentioned in subsection (1)(b) or (c) shall not take effect until the expiry of the time within which an appeal may be brought under section 79M or, where such an appeal is brought, before its determination.

(7) Subsection (6) does not prevent a step from taking effect before the expiry of the time within which an appeal may be brought under section 79M if the person concerned notifies the registration authority in writing that he does not intend to appeal.

79M **Appeals.**

(1) An appeal against—

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(a) the taking of any step mentioned in section 79L(1); or
(b) an order under section 79K,

shall lie to the Tribunal.

(2) On an appeal, the Tribunal may—
(a) confirm the taking of the step or the making of the order or direct that it shall not have, or shall cease to have, effect; and
(b) impose, vary or cancel any condition.

Inspection: England

79N **General functions of the Chief Inspector.**

(1) The Chief Inspector has the general duty of keeping the Secretary of State informed about the quality and standards of child minding and day care provided by registered persons in England.

(2) When asked to do so by the Secretary of State, the Chief Inspector shall give advice or information to the Secretary of State about such matters relating to the provision of child minding or day care by registered persons in England as may be specified in the Secretary of State's request.

(3) The Chief Inspector may at any time give advice to the Secretary of State, either generally or in relation to provision by particular persons or on particular premises, on any matter connected with the provision of child minding or day care by registered persons in England.

(4) The Chief Inspector may secure the provision of training for persons who provide or assist in providing child minding or day care, or intend to do so.

(5) Regulations may confer further functions on the Chief Inspector relating to child minding and day care provided in England.

(6) The annual reports of the Chief Inspector required by subsection (7)(a) of section 2 of the School Inspections Act 1996 to be made to the Secretary of State shall include an account of the exercise of the Chief Inspector's functions under this Part, and the power conferred by subsection (7)(b) of that section to make other reports to the Secretary of State includes a power to make reports with respect to matters which fall within the scope of his functions by virtue of this Part.

79P **Early years child care inspectorate.**

(1) The Chief Inspector shall establish and maintain a register of early years child care inspectors for England.

(2) The register may be combined with the register maintained for England under paragraph 8(1) of Schedule 26 to the School Standards and Framework Act 1998 (register of nursery education inspectors).

(3) Paragraphs 8(2) to (9), 9(1) to (4), 10 and 11 of that Schedule shall apply in relation to the register of early years child care inspectors as they apply in relation to the register maintained for England under paragraph 8(1) of that Schedule, but with the modifications set out in subsection (4).

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(4) In the provisions concerned—

(a) references to registered nursery education inspectors shall be read as references to registered early years child care inspectors;

(b) references to inspections under paragraph 6 of that Schedule shall be read as references to inspections under section 79Q (and references to the functions of a registered nursery education inspector under paragraph 6 shall be interpreted accordingly);

(c) references to the registration of a person under paragraph 6 of that Schedule shall be read as references to the registration of a person under subsection (1) (and references to applications made under paragraph 6 shall be interpreted accordingly); and

(d) in paragraph 10(2), for the words from "to a tribunal" to the end there shall be substituted "to the Tribunal established under section 9 of the Protection of Children Act 1999."

(5) Registered early years child care inspectors are referred to below in this Part as registered inspectors.

79Q **Inspection of provision of child minding and day care in England.**

(1) The Chief Inspector may at any time require any registered person to provide him with any information connected with the person's activities as a child minder, or provision of day care, which the Chief Inspector considers it necessary to have for the purposes of his functions under this Part.

(2) The Chief Inspector shall secure that any child minding provided in England by a registered person is inspected by a registered inspector at prescribed intervals.

(3) The Chief Inspector shall secure that any day care provided by a registered person on any premises in England is inspected by a registered inspector at prescribed intervals.

(4) The Chief Inspector may comply with subsection (2) or (3) either by organising inspections or by making arrangements with others for them to organise inspections.

(5) In prescribing the intervals mentioned in subsection (2) or (3) the Secretary of State may make provision as to the period within which the first inspection of child minding or day care provided by any person or at any premises is to take place.

(6) A person conducting an inspection under this section shall report on the quality and standards of the child minding or day care provided.

(7) The Chief Inspector may arrange for an inspection conducted by a registered inspector under this section to be monitored by another registered inspector.

79R **Reports of inspections.**

(1) A person who has conducted an inspection under section 79Q shall report in writing on the matters inspected to the Chief Inspector within the prescribed period.

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(2) The period mentioned in subsection (1) may, if the Chief Inspector considers it necessary, be extended by up to three months.

(3) Once the report of an inspection has been made to the Chief Inspector under subsection (1) he—

(a) may send a copy of it to the Secretary of State, and shall do so without delay if the Secretary of State requests a copy;

(b) shall send a copy of it, or of such parts of it as he considers appropriate, to any prescribed authorities or persons; and

(c) may arrange for the report (or parts of it) to be further published in any manner he considers appropriate.

(4) Subsections (2) to (4) of section 42A of the School Inspections Act 1996 shall apply in relation to the publication of any report under subsection (3) as they apply in relation to the publication of a report under any of the provisions mentioned in subsection (2) of section 42A.

Inspection: Wales

79S **General functions of the Assembly.**

(1) The Assembly may secure the provision of training for persons who provide or assist in providing child minding or day care, or intend to do so.

(2) In relation to child minding and day care provided in Wales, the Assembly shall have any additional function specified in regulations made by the Assembly; but the regulations may only specify a function corresponding to a function which, by virtue of section 79N(5), is exercisable by the Chief Inspector in relation to child minding and day care provided in England.

79T **Inspection: Wales.**

(1) The Assembly may at any time require any registered person to provide it with any information connected with the person's activities as a child minder or provision of day care which the Assembly considers it necessary to have for the purposes of its functions under this Part.

(2) The Assembly may by regulations make provision—

(a) for the inspection of the quality and standards of child minding provided in Wales by registered persons and of day care provided by registered persons on premises in Wales;

(b) for the publication of reports of the inspections in such manner as the Assembly considers appropriate.

(3) The regulations may provide for the inspections to be organised by—

(a) the Assembly; or

(b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Assembly.

(4) The regulations may provide for subsections (2) to (4) of section 42A of the School Inspections Act 1996 to apply with modifications in relation to the publication of reports under the regulations.

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Supplementary

79U **Rights of entry etc.**

(1) An authorised inspector may at any reasonable time enter any premises in England or Wales on which child minding or day care is at any time provided.

(2) Where an authorised inspector has reasonable cause to believe that a child is being looked after on any premises in contravention of this Part, he may enter those premises at any reasonable time.

(3) An inspector entering premises under this section may—

(a) inspect the premises;

(b) inspect, and take copies of—

(i) any records kept by the person providing the child minding or day care; and

(ii) any other documents containing information relating to its provision;

(c) seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part;

(d) require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under this section;

(e) take measurements and photographs or make recordings;

(f) inspect any children being looked after there, and the arrangements made for their welfare;

(g) interview in private the person providing the child minding or day care; and

(h) interview in private any person looking after children, or living or working, there who consents to be interviewed.

(4) Section 42 of the School Inspections Act 1996 (inspection of computer records for purposes of Part I of that Act) shall apply for the purposes of subsection (3) as it applies for the purposes of Part I of that Act.

(5) The registration authority may, in any case where it appears to the authority appropriate to do so, authorise a person who is not an authorised inspector to exercise any of the powers conferred by this section.

(6) A person exercising any power conferred by this section shall, if so required, produce some duly authenticated document showing his authority to do so.

(7) It shall be an offence wilfully to obstruct a person exercising any such power.

(8) Any person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(9) In this section—

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"authorised inspector" means a registered inspector or a person authorised by the Assembly or by any person with whom the Assembly has made arrangements under section 79T(3);

"documents" and "records" each include information recorded in any form.

79V **Function of local authorities.**

Each local authority shall, in accordance with regulations, secure the provision—

(a) of information and advice about child minding and day care; and

(b) of training for persons who provide or assist in providing child minding or day care.

Checks on suitability of persons working with children over the age of seven

79W **Requirement for certificate of suitability.**

(1) This section applies to any person not required to register under this Part who looks after, or provides care for, children and meets the following conditions.

References in this section to children are to those under the age of 15 or (in the case of disabled children) 17.

(2) The first condition is that the period, or the total of the periods, in any week which he spends looking after children or (as the case may be) during which the children are looked after exceeds five hours.

(3) The second condition is that he would be required to register under this Part (or, as the case may be, this Part if it were subject to prescribed modifications) if the children were under the age of eight.

(4) Regulations may require a person to whom this section applies to hold a certificate issued by the registration authority as to his suitability, and the suitability of each prescribed person, to look after children.

(5) The regulations may make provision about—

(a) applications for certificates;

(b) the matters to be taken into account by the registration authority in determining whether to issue certificates;

(c) the information to be contained in certificates;

(d) the period of their validity.

(6) The regulations may provide that a person to whom this section applies shall be guilty of an offence—

(a) if he does not hold a certificate as required by the regulations; or

(b) if, being a person who holds such a certificate, he fails to produce it when reasonably required to do so by a prescribed person.

(7) The regulations may provide that a person who, for the purpose of obtaining such a certificate, knowingly makes a statement which is false or misleading in a material particular shall be guilty of an offence.

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(8) The regulations may provide that a person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Time limit for proceedings

79X **Time limit for proceedings.**

Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than three years after the commission of the offence."

(2) Schedule 3 (which inserts a new Schedule 9A in the 1989 Act) shall have effect.

[F278](3) . . . . . .

(4) In subsection (3)—

"eligible employee" means a person who is employed under a contract of employment with an old employer on work which would have continued but for the provisions of this section;

"new employer" means the registration authority (within the meaning of Part XA of the 1989 Act) and, in relation to Wales, includes Her Majesty's Chief Inspector of Education and Training in Wales;

"old employer" means a local authority.

(5) Part X of, and Schedule 9 to, the 1989 Act shall cease to extend to England and Wales.

Textual Amendments

F278 S. 79(3) repealed (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 16**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

Commencement Information

I60 S. 79 partly in force; s. 79 not in force at Royal Assent see s. 122; s. 79(1)(2) in force for E. for certain purposes at 16.3.2001, s. 79(3)(4) in force for E. at 16.3.2001 by S.I. 2001/1210, arts. 1(3), 2(a)-(c); s. 79(1)(2) in force for E. in so far as not already in force, s. 79(5) in force for E. at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1) (subject to art. 2(2)(3)) (with transitional, transitory and savings provisions in art. 3, Sch.); s. 79(1) in force for E. for certain purposes at 2.9.2002 by S.I. 2001/2041, arts. 1(4), 2(2) (with transitional, transitory and savings provisions in art. 3); s. 79(1)(2) in force for W. for certain purposes, s. 79(3)(4) in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 79(1) in force for E. for certain purposes at 1.4.2002 by S.I. 2002/839, arts. 1(2), **2**; s. 79(1)(2)(5) in force for W. in so far as not already in force at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 79(1) in force for E. for certain purposes at 2.9.2002 by S.I. 2002/2215, arts. 1(2), **2**

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PART VII

PROTECTION OF CHILDREN AND VULNERABLE ADULTS

Protection of vulnerable adults

80 Basic definitions.

F279 . . . . . .

Textual Amendments

F279 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

81 Duty of Secretary of State to keep list.

F280 . . . . . .

Textual Amendments

F280 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

82 Persons who provide care for vulnerable adults: duty to refer.

F281 . . . . . .

Textual Amendments

F281 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

83 Employment agencies and businesses: duty to refer.

F282 . . . . . .

Textual Amendments

F282 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

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84 Power of registration authority to refer.

F283 . . . . . .

Textual Amendments

F283 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

85 Individuals named in the findings of certain inquiries.

F284 . . . . . .

Textual Amendments

F284 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

86 Appeals against inclusion in list.

F285 . . . . . .

Textual Amendments

F285 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

87 Applications for removal from list.

F286 . . . . . .

Textual Amendments

F286 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

88 Conditions for application under section 87.

F287 . . . . . .

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Textual Amendments

F287 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

89 Effect of inclusion in list.

F288 . . . . . .

Textual Amendments

F288 Ss. 80-89 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

90 Searches of list under Part V of Police Act 1997.

F289 . . . . . .

Textual Amendments

F289 S. 90 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 7**

91 Access to list before commencement of section 90.

F290 . . . . . .

Textual Amendments

F290 Ss. 91-93 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

92 Persons referred for inclusion in list under Protection of Children Act 1999.

F291 . . . . . .

Textual Amendments

F291 Ss. 91-93 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

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93 Power to extend Part VII.

F292 . . . . . .

Textual Amendments

F292 Ss. 91-93 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, Sch. 9 para. 9, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

The list kept under section 1 of the 1999 Act

94 Employment agencies and businesses.

F293 . . . . . .

Textual Amendments

F293 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

95 Inclusion in 1999 Act list on reference by certain authorities.

F294 . . . . . .

Textual Amendments

F294 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

96 Inclusion in 1999 Act list of individuals named in findings of certain inquiries.

F295 . . . . . .

Textual Amendments

F295 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

97 Inclusion in 1999 Act list on reference under this Part.

F296 . . . . . .

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Textual Amendments

F296 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

98 Individuals providing care funded by direct payments.

F297 . . . . . .

Textual Amendments

F297 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

99 Transfer from Consultancy Service Index of individuals named in past inquiries.

F298 . . . . . .

Textual Amendments

F298 Ss. 94-99 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

Restrictions on working with children in independent schools

100 Additional ground of complaint.

F299 . . . . . .

Textual Amendments

F299 S. 100 repealed (1.9.2003 for E. and 1.1.2004 for W.) by Education Act 2002 (c. 32), ss. 215(2), 216, **Sch. 22 Pt. 3** (with s. 210(8), 214(4); S.I. 2003/1667, **art. 4**; S.I. 2003/2961, **art. 6**, Sch. Pt. 3

101 Effect of inclusion in 1996 Act list.

F300 . . . . . .

Textual Amendments

F300 S. 101 repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

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102 Searches of 1996 Act list.

F301 . . . . . .

Textual Amendments

F301 S. 102 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 7**

General

103 Temporary provision for access to lists.

(1) Any person seeking to ascertain whether a relevant individual is included in—

(a) the list kept under section 1 of the 1999 Act;

(b) the list kept for the purposes of regulations made under section 218(6) of the [M12]Education Reform Act 1988; or

(c) any list kept by the Secretary of State or the Assembly of persons disqualified under section 470 or 471 of the [M13]Education Act 1996,

shall be entitled to that information on making, before the relevant commencement, an application for the purpose to the Secretary of State.

(2) In this section "relevant individual" means—

(a) in relation to a person who carries on an employment agency, an individual with whom he proposes to do business or an individual of any other prescribed description;

(b) in relation to any other person, an individual to whom he proposes to offer, or whom he proposes to supply for employment in, a child care position or an individual of any other prescribed description.

(3) The relevant commencement is—

(a) for applications relating to the list mentioned in subsection (1)(a) or (b), the commencement of section 8 of the 1999 Act; and

(b) for applications relating to the list mentioned in subsection (1)(c), the commencement of section 102.

(4) Paragraphs (b) and (c) of subsection (1) are without prejudice to any right conferred otherwise than by virtue of those provisions.

Modifications etc. (not altering text)

C90 S. 103(2)(b) extended (9.10.2000) by S.I. 2000/2537, **reg. 2**

Marginal Citations

M12 1988 c. 40.

M13 1996 c. 56.

104 Suitability to adopt a child: searches of lists.

F302 . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F302 S. 104 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 7**

PART VIII

MISCELLANEOUS

Boarding schools and colleges

105 Welfare of children in boarding schools and colleges.

(1) Section 87 of the 1989 Act (welfare of children accommodated in independent schools) shall be amended in accordance with subsections (2) to (4).

(2) For subsections (1) to (5) there shall be substituted—

"(1) Where a school or college provides accommodation for any child, it shall be the duty of the relevant person to safeguard and promote the child's welfare.

(2) Subsection (1) does not apply in relation to a school or college which is a children's home or care home.

(3) Where accommodation is provided for a child by any school or college the appropriate authority shall take such steps as are reasonably practicable to enable them to determine whether the child's welfare is adequately safeguarded and promoted while he is accommodated by the school or college.

(4) Where the Commission are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college, they shall—

(a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, notify that authority;

(c) in any other case, notify the Secretary of State.

(4A) Where the National Assembly for Wales are of the opinion that there has been a failure to comply with subsection (1) in relation to a child provided with accommodation by a school or college, they shall—

(a) in the case of a school other than an independent school or a special school, notify the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, notify that authority.

(5) Where accommodation is, or is to be, provided for a child by any school or college, a person authorised by the appropriate authority may, for the purpose

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of enabling that authority to discharge its duty under this section, enter at any time premises which are, or are to be, premises of the school or college."

(3) In subsection (6), for "entering an independent school in exercise of" there shall be substituted " exercising ".

(4) For subsection (10) there shall be substituted—

"(10) In this section and sections 87A to 87D—

"the 1992 Act" means the [M14]Further and Higher Education Act 1992;

"appropriate authority" means—

(a) in relation to England, the National Care Standards Commission;

(b) in relation to Wales, the National Assembly for Wales;

"college" means an institution within the further education sector as defined in section 91 of the 1992 Act;

"the Commission" means the National Care Standards Commission;

"further education corporation" has the same meaning as in the 1992 Act;

"local education authority" and "proprietor" have the same meanings as in the [M15]Education Act 1996

(11) In this section and sections 87A and 87D "relevant person" means—

(a) in relation to an independent school, the proprietor of the school;

(b) in relation to any other school, or an institution designated under section 28 of the 1992 Act, the governing body of the school or institution;

(c) in relation to an institution conducted by a further education corporation, the corporation.

(12) Where a person other than the proprietor of an independent school is responsible for conducting the school, references in this section to the relevant person include references to the person so responsible."

(5) In section 62 of the 1989 Act (duties of local authorities in relation to children provided with accommodation by voluntary organisations), at the end there shall be inserted—

"(10) This section does not apply in relation to any voluntary organisation which is an institution within the further education sector, as defined in section 91 of the [M16]Further and Higher Education Act 1992, or a school."

Commencement Information

I61 S. 105 wholly in force; s. 105 not in force at Royal Assent see s. 122; s. 105(1)-(4) in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(iii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 105 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 105 in force for W. at 1.2.2003 by S.I. 2003/152, **art. 2(2)**

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Marginal Citations

M14 1992 c. 13.
M15 1996 c. 56.
M16 1992 c. 13.

106 Suspension of duty under section 87(3) of the 1989 Act.

(1) For section 87A of the 1989 Act (suspension of duty under section 87(3)) there shall be substituted—

"87A Suspension of duty under section 87(3).

(1) The Secretary of State may appoint a person to be an inspector for the purposes of this section if—
  (a) that person already acts as an inspector for other purposes in relation to schools or colleges to which section 87(1) applies, and
  (b) the Secretary of State is satisfied that the person is an appropriate person to determine whether the welfare of children provided with accommodation by such schools or colleges is adequately safeguarded and promoted while they are accommodated by them.

(2) Where—
  (a) the relevant person enters into an agreement in writing with a person appointed under subsection (1),
  (b) the agreement provides for the person so appointed to have in relation to the school or college the function of determining whether section 87(1) is being complied with, and
  (c) the appropriate authority receive from the person mentioned in paragraph (b) ("the inspector") notice in writing that the agreement has come into effect,

  the appropriate authority's duty under section 87(3) in relation to the school or college shall be suspended.

(3) Where the appropriate authority's duty under section 87(3) in relation to any school or college is suspended under this section, it shall cease to be so suspended if the appropriate authority receive—
  (a) a notice under subsection (4) relating to the inspector, or
  (b) a notice under subsection (5) relating to the relevant agreement.

(4) The Secretary of State shall terminate a person's appointment under subsection (1) if—
  (a) that person so requests, or
  (b) the Secretary of State ceases, in relation to that person, to be satisfied that he is such a person as is mentioned in paragraph (b) of that subsection,

  and shall give notice of the termination of that person's appointment to the appropriate authority.

(5) Where—
  (a) the appropriate authority's duty under section 87(3) in relation to any school or college is suspended under this section, and

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(b) the relevant agreement ceases to have effect,

the inspector shall give to the appropriate authority notice in writing of the fact that it has ceased to have effect.

(6) In this section references to the relevant agreement, in relation to the suspension of the appropriate authority's duty under section 87(3) as regards any school or college, are to the agreement by virtue of which the appropriate authority's duty under that provision as regards that school or college is suspended."

(2) In section 87B of that Act (duties of inspectors under section 87A)—

(a) in subsections (2) and (3), after "school", in each place where it occurs, there shall be inserted " or college ";

(b) in subsection (2), for "to the Secretary of State" there shall be substituted—

"(a) in the case of a school other than an independent school or a special school, to the local education authority for the area in which the school is situated;

(b) in the case of a special school which is maintained by a local education authority, to that authority;

(c) in any other case, to the Secretary of State";

and

(c) for subsection (4) there shall be substituted the following subsection—

"(4) In this section "substitution agreement" means an agreement by virtue of which the duty of the appropriate authority under section 87(3) in relation to a school or college is suspended."

Commencement Information

I62 S. 106 partly in force; s. 106 not in force at Royal Assent see s. 122; s. 106 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 106 in force for W. at 1.2.2003 by S.I. 2003/152, **art. 2(2)**

107 Boarding schools: national minimum standards.

After section 87B of the 1989 Act there shall be inserted—

"87C Boarding schools: national minimum standards.

(1) The Secretary of State may prepare and publish statements of national minimum standards for safeguarding and promoting the welfare of children for whom accommodation is provided in a school or college.

(2) The Secretary of State shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.

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(3) Before issuing a statement, or an amended statement which in the opinion of the Secretary of State effects a substantial change in the standards, the Secretary of State shall consult any persons he considers appropriate.

(4) The standards shall be taken into account—

(a) in the making by the appropriate authority of any determination under section 87(4) or (4A);

(b) in the making by a person appointed under section 87A(1) of any determination under section 87B(2); and

(c) in any proceedings under any other enactment in which it is alleged that the person has failed to comply with section 87(1).”

Commencement Information

I63 S. 107 wholly in force at 1.4.2002; s. 107 not in force at Royal Assent see s. 122; s. 107 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 107 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(d)(ii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 107 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

108 Annual fee for boarding school inspections.

After section 87C of the 1989 Act (inserted by section 107) there shall be inserted—

“87D Annual fee for boarding school inspections.

(1) Regulations under subsection (2) may be made in relation to any school or college in respect of which the appropriate authority is required to take steps under section 87(3).

(2) The Secretary of State may by regulations require the relevant person to pay the appropriate authority an annual fee of such amount, and within such time, as the regulations may specify.

(3) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.”

Commencement Information

I64 S. 108 wholly in force at 1.4.2002; s. 108 not in force at Royal Assent see s. 122; s. 108 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.**; s. 108 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(3)(a)(iii) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 108 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

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109 Inspection of schools etc. by persons authorised by Secretary of State.

(1) Section 80 of the 1989 Act (inspection of children's homes etc. by persons authorised by Secretary of State) shall be amended as follows.

(2) In subsection (1), in paragraph (l), for "independent school" there shall be substituted " school or college ".

(3) In subsection (5)—

(a) in paragraph (d), at the end there shall be inserted " or governing body of any other school ";

(b) after that paragraph there shall be inserted—

"(da) governing body of an institution designated under section 28 of the [M17]Further and Higher Education Act 1992;

(db) further education corporation;"

and

(c) after paragraph (i) there shall be inserted—

"(j) person carrying on a fostering agency."

(4) After subsection (12) there shall be inserted—

"(13) In this section—

"college" means an institution within the further education sector as defined in section 91 of the [M18]Further and Higher Education Act 1992;

"fostering agency" has the same meaning as in the Care Standards Act 2000;

"further education corporation" has the same meaning as in the [M19]Further and Higher Education Act 1992."

Commencement Information

I65 S. 109 partly in force; s. 109 not in force at Royal Assent see s. 122; s. 109 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, **arts. 1(4)**, 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Marginal Citations

M17 1992 c. 13.
M18 1992 c. 13.
M19 1992 c. 13.

Fostering

110 Extension of Part IX to school children during holidays.

In paragraph 9(1) of Schedule 8 to the 1989 Act (extension of Part IX to certain school children during holidays), "which is not maintained by a local education authority" shall be omitted.

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Commencement Information

I66 S. 110 wholly in force at 1.4.2002; s. 110 not in force at Royal Assent see s. 122; s. 110 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(h) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 110 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3)

Employment agencies

111 Nurses Agencies.

(1) The [M20]Nurses Agencies Act 1957 shall cease to have effect.

(2) In section 13 of the [M21]Employment Agencies Act 1973 (interpretation), for subsection (8) there shall be substituted—

"(8) This Act, in its application to Scotland, does not apply to—

(a) any agency for the supply of nurses as defined in section 32 of the [M22]Nurses (Scotland) Act 1951 (but excluding any other business carried on in conjunction with such an agency);

(b) the business carried on by any county or district nursing association or other similar organisation, being an association or organisation within paragraph (a) or (b) of that definition.",

and paragraphs (b) and (c) of, and the proviso to, subsection (7) shall be omitted.

Commencement Information

I67 S. 111 partly in force; s. 111 not in force at Royal Assent see s. 122; s. 111(1) in force for E. and s. 111(2) in force for E. for certain purposes at 1.4.2003 by S.I. 2001/3852, arts. 1(4), 3(2)(8)(b) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 111(1) fully in force for W. and s. 111(2) in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2(b)**

Marginal Citations

M20 1957 c. 16.
M21 1973 c. 35.
M22 1951 c. 55.

Charges for local authority welfare services

112 Charges for local authority welfare services.

In Schedule 1 to the [M23]Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee), there shall be inserted at the appropriate place—

"Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	Charges for local authority welfare services".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Section 17, so far as relating to services provided under the enactments mentioned in subsection (2)(a) to (c)

Commencement Information

I68 S. 112 wholly in force at 4.10.2001; s. 112 not in force at Royal Assent see s. 122; s. 112 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table; s. 112 in force for E. at 4.10.2001 by S.I. 2001/3331, **arts. 1(3)**, 2(a)

Marginal Citations

M23 1970 c. 42.

PART IX

GENERAL AND SUPPLEMENTAL

CHAPTER I

GENERAL

[F303]113 Default powers of appropriate Minister.

. . . . . .

Textual Amendments

F303 S. 113 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(c)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

[[F304]113A Fees payable under Part 2

[F305]. . . . . .]

Textual Amendments

F304 S. 113A inserted (20.11.2003 for certain purposes, 30.10.2005 for E. for certain further purposes, otherwise prosp.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **s. 105(2)**, 199; S.I. 2005/2925, **arts. 2(1)**, 3 (as amended by S.I. 2006/836, art. 3) (and see transitional provisions in S.I. 2006/1680, art. 4)

F305 S. 113A repealed (6.4.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 31, **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(1)**, Sch. 1 (with arts. 3-22)

114 Schemes for the transfer of staff.

(1) This section and the next apply to a scheme made under section 38[F306]... or 79(3) for transferring eligible employees.

Status: *This version of this Act contains provisions that are prospective.*
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(2) Subject to those provisions, such a scheme may apply to all, or any description of, employees or to any individual employee.

(3) Such a scheme may be made by the appropriate Minister, and a recommendation may be made to Her Majesty in Council to make an Order containing such a scheme, only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

Textual Amendments

F306 Word in s. 114(1) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 21**; S.I. 2012/1319, art. 2(4)

Commencement Information

I69 S. 114 wholly in force at 1.7.2001; s. 114 not in force at Royal Assent see s. 122; s. 114 in force for E. at 16.3.2001 by S.I. 2001/1210, **arts. 1(3)**, 2(d); s. 114 in force for W. at 1.4.2001 for certain purposes by S.I. 2000/2992, art. 2(2), **Sch. 2**; s. 114 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table

115 Effect of schemes.

(1) The contract of employment of an employee transferred under the scheme—

(a) is not terminated by the transfer; and

(b) has effect from the date of transfer as if originally made between the employee and the transferee.

(2) Where an employee is transferred under the scheme—

(a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer; and

(b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).

(3) Subsections (1) and (2) do not transfer an employee's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old employer or the transferee that he objects to the transfer.

(4) Where an employee objects as mentioned in subsection (3), his contract of employment with the old employer is terminated immediately before the date of transfer; but he is not to be treated, for any purpose, as having been dismissed by that employer.

(5) This section does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.

But no such right arises by reason only that, by virtue of this section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this section—

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"date of transfer" means the date of transfer determined under the scheme in relation to the employee;

"transferee" means the new employer to whom the employee is or would be transferred under the scheme;

and expressions used in this section and in the provision under which the scheme is made have the same meaning as in that provision.

Commencement Information

I70 S. 115 wholly in force at 1.7.2001; s. 115 not in force at Royal Assent see s. 122; s. 115 in force for E. at 16.3.2001 by S.I. 2001/1210, **arts. 1(3)**, 2(d); s. 115 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table

116 Minor and consequential amendments.

Schedule 4 (which makes minor amendments and amendments consequential on the provisions of this Act) shall have effect.

Commencement Information

I71 S. 116 partly in force; s. 116 not in force at Royal Assent see s. 122; s. 116 in force for certain purposes at 2.10.2000 by S.I. 2000/2544, art. 2(2)(g) (with art. 3); s. 116 in force for E. for certain purposes at 1.1.2001 by S.I. 2000/2795, art. 2(2)(b) (with art. 3); s. 116 in force for W. for certain purposes at 28.2.2001 by S.I. 2001/139, arts. 1(3), 2(2)(b) (with transitional provisions in art. 3); s. 116 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 116 in force for E. for certain purposes at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(d) (subject to art. 2(2)(3) and with transitional, transitory and savings provisions in art. 3, Sch.); s. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a)(b) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); s. 116 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); s. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2002/1493, arts. 1(2), **3(2)** (subject to transitional provisions in art. 4); s. 116 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2(1)**; s. 116 in force for E. for certain purposes at 24.2.2003, 30.4.2003 and 1.6.2003 by S.I. 2003/365, art. 3(2)(5)(6) (subject to Sch.); s. 116 in force for W. for certain purposes at 5.3.2003 and 30.4.2003 by S.I. 2003/501, art. 2(1)(3)(a); s. 116 in force for E. for certain purposes at 7.3.2003 by S.I. 2003/933, art. 2(1)(c); s. 116 in force for certain purposes at 26.7.2004 by S.I. 2004/1757, art. 2(c)

117 Transitional provisions, savings and repeals.

(1) Schedule 5 (which makes transitional and saving provision) shall have effect; but nothing in that Schedule shall be taken to prejudice the operation of sections 16 and 17 of the [M24]Interpretation Act 1978 (which relate to the effect of repeals).

(2) The enactments mentioned in Schedule 6 to this Act are repealed to the extent specified in that Schedule.

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Commencement Information

I72 S. 117 partly in force; s. 117 not in force at Royal Assent see s. 122; s. 117(2) in force for certain purposes at 2.10.2000 by S.I. 2000/2544, art. 2(2)(h); s. 117(1) in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 117(1) in force for W. at 26.8.2001 by S.I. 2001/2782, art. 2(1)(l); s. 117(2) in force for E. for certain purposes at 4.10.2001 by S.I. 2001/3331, arts. 1(3), 2(b); s. 117 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(j) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 117 in force for E. for certain purposes at 1.4.2003 by S.I. 2001/3852, arts. 1(4), 3(2)(8)(c) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001); s. 117 in force for E. for certain purposes at 1.4.2002 and in force for E. for certain further purposes at 1.4.2003 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(c)(4) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 117 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); s. 117 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2(1)**; s 117(2) in force for W. for certain purposes at 30.4.2003 by S.I. 2003/501, **art. 2(3)**; s. 117(2) in force for E. for certain purposes at 30.4.2003 and 1.6.2003 by S.I. 2003/365, art. 3(5)(6) (subject to Sch.); s. 117(2) in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**

Marginal Citations

M24 1978 c. 30.

CHAPTER II

SUPPLEMENTAL

118 Orders and regulations.

(1) Any power conferred on the Secretary of State, the Assembly or the appropriate Minister to make regulations or an order under this Act except an order under section 38 or 79(3) shall be exercised by statutory instrument.

(2) An order making any provision by virtue of section 119(2) which adds to, replaces or omits any part of the text of an Act shall not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

(3) Subject to subsection (2), an instrument containing regulations or an order made by the Secretary of State, except an instrument containing an order under section 122, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

In subsection (2) and this subsection, references to the Secretary of State include the Secretary of State and the Assembly acting jointly.

(4) Subsections (5) to (7) apply to any power of the Secretary of State, the Assembly or the appropriate Minister to make regulations or an order under this Act[F307]...

(5) The power may be exercised either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case.

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(6) The power may be exercised so as to make, as respects the cases in relation to which it is exercised—

(a) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes;

(b) any such provision either unconditionally or subject to any specified condition.

(7) The power may be exercised so as to make—

(a) any supplementary, incidental or consequential provision,

(b) any transitory, transitional or saving provision,

which the person exercising the power considers necessary or expedient.

(8) The provision which, by virtue of subsection (7), may be made by regulations **[**[F308]or an order**]**under the Part of this Act which relates to the Children's Commissioner for Wales includes provision amending or repealing any enactment or instrument.

Textual Amendments

F307 Words in s. 118(4) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 22**; S.I. 2012/1319, art. 2(4)

F308 Words in s. 118(8) inserted (26.8.2001 for W.) by 2001 c. 18, **s. 7**; S.I. 2001/2783, **art. 2(2)(h)**

[[F309]**118A Regulations: Wales**

(1) This section has effect where a power to make regulations under this Act is conferred on the Welsh Ministers other than by or by virtue of the Government of Wales Act 2006.

(2) Subsections (1) and (5) to (7) of section 118 apply to the exercise of that power as they apply to the exercise of a power conferred on the Welsh Ministers by or by virtue of that Act.

(3) A statutory instrument containing regulations made in the exercise of that power is subject to annulment in pursuance of a resolution of the Assembly.**]**

Textual Amendments

F309 S. 118A inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 32**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35

119 Supplementary and consequential provision etc.

(1) The appropriate Minister may by order make—

(a) any supplementary, incidental or consequential provision,

(b) any transitory, transitional or saving provision,

which he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.

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(2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment or instrument.

120 Wales.

(1) [F310] . . . . . .

(2) The reference to the 1989 Act in Schedule 1 to the [M25]National Assembly for Wales (Transfer of Functions) Order 1999 is to be treated as referring to that Act as amended by or under this Act.

(3) Subsection (2) does not affect the power to make further Orders varying or omitting that reference.

Textual Amendments

F310 S. 120(1) repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 33, **Sch. 15 Pt. 1**; S.I. 2009/162, **art. 2**, Sch. 1 paras. 35, 36

Marginal Citations

M25 S.I. 1999/672.

121 General interpretation etc.

(1) In this Act—

"adult" means a person who is not a child;

"appropriate Minister" means—

(a) in relation to England, Scotland or Northern Ireland, the Secretary of State;

(b) in relation to Wales, the Assembly;

and in relation to England and Wales means the Secretary of State and the Assembly acting jointly;

"child" means a person under the age of 18;

"community home" has the same meaning as in the 1989 Act;

"employment agency" and "employment business" have the same meanings as in the [M26]Employment Agencies Act 1973; but no business which is an employment business shall be taken to be an employment agency;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the [M27]Interpretation Act 1978);

"to foster a child privately" has the same meaning as in the 1989 Act;

"harm"—

(a) in relation to an adult who is not mentally impaired, means ill-treatment or the impairment of health;

(b) in relation to an adult who is mentally impaired, or a child, means ill-treatment or the impairment of health or development;

"health service hospital" **[**[F311]means a health service hospital within the meaning given by the National Health Service Act 2006 or the National Health Service (Wales) Act 2006**]**;

"illness" includes any injury;

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"independent school" has the same meaning as in the [M28]Education Act 1996;

"local authority" has the same meaning as in the 1989 Act;

"local authority foster parent" has the same meaning as in **[**[F312]section 105(1) of**]** the 1989 Act;

"medical" includes surgical;

[[F313]"mental disorder" has the same meaning as in the Mental Health Act 1983;**]**

"National Health Service body" means a National Health Service trust, **[**[F314]an NHS foundation trust,**]**[F315]... a Health Authority, a Special Health Authority [F316]**[**[F317]... or a Local Health Board**]**;

"parent", in relation to a child, includes any person who is not a parent of his but who has parental responsibility for him;

"parental responsibility" has the same meaning as in the 1989 Act;

"prescribed" means prescribed by regulations;

"proprietor", in relation to a school, has the same meaning as in the Education Act 1996;

"regulations" (except where provision is made for them to be made by the Secretary of State or the Assembly) means regulations made by the appropriate Minister;

"relative" has the same meaning as in the 1989 Act;

"school" has the same meaning as in the [M29]Education Act 1996;

"social services functions" means functions which are social services functions for the purposes of the [M30]Local Authority Social Services Act 1970 **[**[F318]or the Social Services and Well-being (Wales) Act 2014**]** ;

"treatment" includes diagnosis;

"the Tribunal" means the **[**[F319]First-tier Tribunal**]**;

"undertaking" includes any business or profession and—

(a) in relation to a public or local authority, includes the exercise of any functions of that authority; and

(b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body;

"voluntary organisation" has the same meaning as in **[**[F320]the Adoption and Children Act 2002**]**.

(2) For the purposes of this Act—

(a) a person is disabled if—

(i) his sight, hearing or speech is substantially impaired;

(ii) he has a mental disorder; or

(iii) he is physically substantially disabled by any illness, any impairment present since birth, or otherwise;

(b) an adult is mentally impaired if he is in a state of arrested or incomplete development of mind (including a significant impairment of intelligence and social functioning).

(3) In this Act, the expression "personal care" does not include any prescribed activity.

(4) For the purposes of this Act, the person who carries on a fostering agency falling within section 4(4)(b), or a voluntary adoption agency, is the voluntary organisation itself.

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[F321](4A) . . . . . .

(5) References in this Act to a person who carries on an establishment or agency include references to a person who carries it on otherwise than for profit.

(6) For the purposes of this Act, a community home which is provided by a voluntary organisation shall be taken to be carried on by—
  (a) the person who equips and maintains it; and
  (b) if the appropriate Minister determines that the body of managers for the home, or a specified member of that body, is also to be treated as carrying on the home, that body or member.

(7) Where a community home is provided by a voluntary organisation, the appropriate Minister may determine that for the purposes of this Act the home is to be taken to be managed solely by—
  (a) any specified member of the body of managers for the home; or
  (b) any other specified person on whom functions are conferred under the home's instrument of management.

(8) A determination under subsection (6) or (7) may be made either generally or in relation to a particular home or class of homes.

(9) An establishment is not a care home for the purposes of this Act unless the care which it provides includes assistance with bodily functions where such assistance is required.

[[F322](10) References in this Act to a child being looked after by a local authority shall be construed—
  (a) in relation to a local authority in England, in accordance with section 22 of the 1989 Act,
  (b) in relation to a local authority in Wales, in accordance with section 74 of the Social Services and Well-being (Wales) Act 2014.**]**

(11) For the purposes of this Act an individual is made redundant if—
  (a) he is dismissed; and
  (b) for the purposes of the [M31]Employment Rights Act 1996 the dismissal is by reason of redundancy.

(12) Any register kept for the purposes of this Act may be kept by means of a computer.

(13) In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

Expression	***Provision of this Act***
1989 Act	[M32] Children Act 1989
1999 Act	[M33] Protection of Children Act 1999
[[F323]Adoption support agency	Section 4**]**
Assembly	Section 5
Care home	Section 3

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F324	**F324**
. . .	. . .
[F325the CIECSS	Section 5.**]**
F326	**F326**
. . .	. . .
Children's home	Section 1
F327	**F327**
. . .	. . .
Commissioner	Section 72
F328	**F328**
. . .	. . .
F329	**F329**
. . .	. . .
Domiciliary care agency	Section 4
Fostering agency	Section 4
Hospital and independent hospital	Section 2
Independent clinic and independent medical agency	Section 2
Registration authority	Section 5
Residential family centre	Section 4
Voluntar**[**F330y adoption agency	Section 4**]**
F331	**F331**
. . .	. . .

Textual Amendments

F311 S. 121: words in definition of "health service hospital" substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 200** (with Sch. 3 Pt. 1)

F312 Words in s. 121(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **175(a)(i)**

F313 S. 121(1): definition of "mental disorder" substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 1, 56, **Sch. 1 para. 22**; S.I. 2008/1900, **art. 2**

F314 S. 121(1): words in definition of "National Health Service body" inserted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 112**; S.I. 2004/759, **art. 2**

F315 Words in s. 121(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 95(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F316 Words in s. 121(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 95(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

F317 S. 121(1): words in definition of "National Health Service body" substituted (10.10.2002 for W. and otherwise in force immediately before the National Health Service Act 2006 (which Act came into force on 1.3.2007 in accordance with s. 277(1) (subject to s. 277(2)-(5)) of that Act)) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 6(2), **Sch. 5 para. 46**; S.I. 2002/2532, arts. 1(3), **2**, Sch.; S.I. 2006/1407, arts. 1(1), 2, **Sch. 1 Pt. 2 para. 12(c)**

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F318 Words in s. 121(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **175(a)(ii)**

F319 S. 121(1): words in definition of "the Tribunal" substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 9(1), **Sch. 3 para. 187**

F320 S. 121(1): words in definition of "voluntary organisation" substituted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 116(a)** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2**

F321 S. 121(4A) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 93(2)(a)(iii)**, 115(7); S.I. 2015/994, art. 6(q)

F322 S. 121(10) substituted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **175(b)**

F323 S. 121(13): entry in Table inserted (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139, 148, **Sch. 3 para. 116(b)**; S.I. 2005/2213, **art. 2**

F324 Words in s. 121(13) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 23(a)**; S.I. 2012/1319, art. 2(4)

F325 S. 121(13): entry in Table inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 54**; S.I. 2007/935, **art. 5**

F326 S. 121(13): entry in Table repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 34, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

F327 S. 121(13): entry in Table repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 14), ss. 196, 199, **Sch. 14 Pt.2**; S.I. 2004/759, **art. 13**

F328 Words in s. 121(13) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 23(b)**; S.I. 2012/1319, art. 2(4)

F329 S. 121(13): entry in Table repealed (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(3), Sch. 5 para. 34, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, Sch. 1 paras. 35, 36

F330 Words in s. 121(13) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 23(c)**; S.I. 2012/1319, art. 2(4)

F331 Words in s. 121(13) repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(d)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

Marginal Citations

M26 1973 c. 35.
M27 1978 c. 30.
M28 1996 c. 56.
M29 1996 c. 56.
M30 1970 c. 42.
M31 1996 c. 18.
M32 1989 c. 41.
M33 1999 c. 14.

122 Commencement.

This Act, except [F332]... this Chapter, shall come into force on such day as the appropriate Minister may by order appoint, and different days may be appointed for different purposes.

Subordinate Legislation Made

P1 S. 122 power partly exercised (14.9.2000): different dates appointed for specified provisions and purposes by S.I. 2000/2544, **art. 2**
S. 122 power partly exercised (9.10.2000): different dates appointed (E.) for specified provisions and purposes by S.I. 2000/2795, **art. 2** (with art. 3)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

S. 122 power partly exercised (7.11.2000): different dates appointed (W.) for specified provisions and purposes by S.I. 2000/2992, art. 2(2), **Sch. 2**
S. 122 power partly exercised: different dates appointed (W.) for specified provisions by S.I. 2001/139, **arts. 1(3)**, 2 (with transitional provisions in art. 3)
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2001/290, **arts. 1(3)**, 2 (with transitional provisions in art. 3)
S. 122 power partly exercised: 2.3.2001 appointed (E.) for specified provision by S.I. 2001/731, **art. 2**
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2001/1193, **arts. 1(3)**, 2
S. 122 power partly exercised: 16.3.2001 appointed (E.) for specified provision by S.I. 2001/1210, **arts. 1(3)**, 2
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2001/1536, **arts. 1(3)**, 2
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2001/2041, **arts. 1(4)**, 2 (with transitional, transitory and savings provisions in art. 3, Sch.)
S. 122 power partly exercised: 1.7.2001 appointed (W.) for specified provisions by S.I. 2001/2190, art. 2, **Sch.** Table
S. 122 power partly exercised: 1.7.2001 appointed (W.) for specified provision by S.I. 2001/2354, **art. 2**
S. 122 power partly exercised: different dates appointed (W.) for specified provision by S.I. 2001/2504, **art. 2** (with transitional provisions in art. 3)
S. 122 power partly exercised: different dates appointed (W) for specified provisions by S.I. 2001/2538, **art. 2**
S. 122 power partly exercised: 26.8.2001 appointed (W.) for specified provisions by S.I. 2001/2782, **art. 2**
S. 122 power partly exercised: 4.10.2001 appointed (E.) for specified provisions by S.I. 2001/3331, **arts. 1(3)**, 2
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2001/3852, **arts. 1(4)**, 3 (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210, 2005/3397)
S. 122 power partly exercised: different dates appointed (E.) for specified purposes by S.I. 2001/4150, **arts. 1(2)**, 3 (subject to transitional provisions in art. 4 and in S.I. 2002/1493, **art. 4**) (as amended by S.I. 2002/1493, 2002/1790, 2002/2001, 2002/3210)
S. 122 power partly exercised: different dates appointed (E.W.) for specified provisions by S.I. 2002/629
S. 122 power partly exercised: 1.4.2002 appointed (E.) for specified provision by S.I. 2002/839
S. 122 power partly exercised: 1.4.2002 appointed (W.) for specified provisions by S.I. 2002/920
S. 122 power partly exercised: 30.4.2002 appointed (W.) for specified provisions by S.I. 2002/1175
S. 122 power partly exercised: different dates appointed (E.) for specified provisions by S.I. 2002/1245
S. 122 power partly exercised: 1.4.2002 appointed (E.) for specified provisions by S.I. 2002/1493
S. 122 power partly exercised: 31.5.2002 appointed (E.) for specified provisions by S.I. 2002/1790
S. 122 power partly exercised: 29.7.2002 appointed (E.) for specified provisions by S.I. 2002/2001
S. 122 power partly exercised: 2.9.2002 appointed (E.) for specified provision by S.I. 2002/2215
S. 122 power partly exercised: 19.12.2002 appointed (E.) for specified provisions by S.I. {2002/3210}
S. 122 power partly exercised: different dates appointed (W.) for specified provisions and purposes by S.I. 2003/152, **art. 2**
S. 122 power partly exercised: different dates appointed (E.) for specified provisions and purposes by S.I. 2003/365, **art. 3**
S. 122 power partly exercised: different dates appointed (W.) for specified provisions and purposes by S.I. 2003/501, **art. 2**
S. 122 power partly exercised: different dates appointed (W.) for specified provisions and purposes by S.I. 2003/933, **art. 2**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

S. 122 power partly exercised: 2.10.2003 appointed (W.) for specified provisions and purposes by S.I. 2003/2528, **art. 2**
S. 122 power partly exercised: 1.3.2004 appointed (E.) for specified provisions and purposes by S.I. 2004/484, **art. 2**
S. 122 power partly exercised: 1.4.2004 appointed (W.) for specified provisions and purposes by S.I. 2004/1015, **art. 2**
S. 122 power partly exercised: 7.7.2004 appointed (W.) for specified provisions and purposes by S.I. 2004/1730, **art. 2**
S. 122 power partly exercised: 26.7.2004 appointed for specified provisions and purposes by S.I. 2004/1757, **art. 2**
S. 122 power partly exercised: different dates appointed for specified provisions and purposes by S.I. 2005/375, **art. 2**

Textual Amendments

F332 Words in s. 122 omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 24**; S.I. 2012/1319, art. 2(4)

123 Short title and extent.

(1) This Act may be cited as the Care Standards Act 2000.

(2) Subject to subsections (3) and (4), this Act extends to England and Wales only.

F333(3) . . . . . .

(4) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.

Textual Amendments

F333 S. 123(3) omitted (1.8.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 25**; S.I. 2012/1319, art. 2(4)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

[F334]SCHEDULE 1

Sections 6, 54 and 66.

. . . . . .

Textual Amendments

F334 Sch. 1 repealed (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 41(e)**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

SCHEDULE 2

Section 72.

THE CHILDREN'S COMMISSIONER FOR WALES

Status

1 (1) The Commissioner is to be a corporation sole.

(2) The Commissioner is not to be regarded as the servant or agent or the Crown or as enjoying any status, immunity or privilege of the Crown; and the Commissioner's property is not to be regarded as property of, or property held on behalf of, the Crown.

Commencement Information

I73 Sch. 2 para. 1 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Appointment and tenure of office

2 Regulations may make provision—

(a) as to the appointment of the Commissioner (including any conditions to be fulfilled for appointment);

(b) as to the filling of vacancies in the office of Commissioner;

(c) as to the tenure of office of the Commissioner (including the circumstances in which he ceases to hold office or may be removed or suspended from office).

Commencement Information

I74 Sch. 2 para. 2 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Remuneration

3 The **[**[F335]Welsh Ministers**]** shall—

(a) pay the Commissioner such remuneration and allowances; and

(b) pay, or make provision for the payment of, such pension or gratuities to or in respect of him,

as may be provided for under the terms of his appointment.

Textual Amendments

F335 Words in Sch. 2 para. 3 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(2)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I75 Sch. 2 para. 3 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Staff

4 (1) The Commissioner may appoint any staff he considers necessary for assisting him in the exercise of his functions, one of whom shall be appointed as deputy Commissioner.

(2) During any vacancy in the office of Commissioner or at any time when the Commissioner is for any reason unable to act, the deputy Commissioner shall exercise his functions (and any property or rights vested in the Commissioner may accordingly be dealt with by the deputy as if vested in him).

(3) Without prejudice to sub-paragraph (2), any member of the Commissioner's staff may, so far as authorised by him, exercise any of his functions.

Commencement Information

I76 Sch. 2 para. 4 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

General powers

5 (1) Subject to any directions given by the **[**[F336]Welsh Ministers**]**, the Commissioner may do anything which appears to him to be necessary or expedient for the purpose of, or in connection with, the exercise of his functions.

(2) That includes, in particular—

(a) co-operating with other public authorities in the United Kingdom;

(b) acquiring and disposing of land and other property; and

(c) entering into contracts.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F336 Words in Sch. 2 para. 5 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(3)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I77 Sch. 2 para. 5 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Estimates

[F337]6 . . . . . .

Textual Amendments

F337 Sch. 2 para. 6 repealed (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 2 Pt. 3**

Commencement Information

I78 Sch. 2 para. 6 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Accounts

7 (1) The Commissioner shall keep proper accounting records.

(2) The Commissioner shall prepare accounts for each financial year in such form as the **[**[F338]Welsh Ministers**]** may with the consent of the Treasury determine.

Textual Amendments

F338 Words in Sch. 2 para. 7 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(5)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I79 Sch. 2 para. 7 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Reports

8 Regulations may provide for the Commissioner to make periodic or other reports to the **[**[F339]Welsh Ministers**]** relating to the exercise of his functions and may require the reports to be published in the manner required by the regulations.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F339 Words in Sch. 2 para. 8 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(6)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I80 Sch. 2 para. 8 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Audit

9 (1) The accounts prepared by the Commissioner for any financial year shall be submitted by him to the Auditor General for Wales not more than five months after the end of that year.

(2) The Auditor General for Wales shall—

(a) examine and certify any accounts submitted to him under this paragraph; and

(b) no later than four months after the accounts are submitted to him, lay before the Assembly a copy of them as certified by him together with his report on them.

(3) In examining any accounts submitted to him under this paragraph, the Auditor General for Wales shall, in particular, satisfy himself that the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it.

Commencement Information

I81 Sch. 2 para. 9 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Accounting officer

10 (1) The accounting officer for the Commissioner's Office shall be the Commissioner.

(2) The accounting officer for the Commissioner shall have, in relation to the accounts of the Commissioner and the finances of the Commissioner's Office, the responsibilities which are from time to time specified by the Treasury.

(3) In this paragraph references to responsibilities include in particular—

(a) responsibilities in relation to the signing of accounts;

(b) responsibilities for the propriety and regularity of the finances of the Commissioner's Office; and

(c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Commissioner's Office are used.

(4) The responsibilities which may be specified under this paragraph include responsibilities owed to—

(a) the Assembly, the **[**[F340]Welsh Ministers**]** or the Audit Committee; or

(b) the House of Commons or its Committee of Public Accounts.

Status: *This version of this Act contains provisions that are prospective.*
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(5) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may—

(a) on behalf of the Committee of Public Accounts take evidence from the accounting officer for the Commissioner's Office; and

(b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

(6) In this paragraph and paragraphs 11 and 12 "the Commissioner's Office" means the Commissioner and the members of his staff.

Textual Amendments

F340 Words in Sch. 2 para. 10(4)(a) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(7)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I82 Sch. 2 para. 10 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Examinations into use of resources

11 (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Commissioner has used the resources of the Commissioner's Office in discharging his functions.

(2) Sub-paragraph (1) shall not be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Commissioner.

(3) In determining how to exercise his functions under this paragraph, the Auditor General for Wales shall take into account the views of the Audit Committee as to the examinations which he should carry out under this paragraph.

(4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by him under this paragraph.

(5) The Auditor General for Wales and the Comptroller and Auditor General may co-operate with, and give assistance to, each other in connection with the carrying out of examinations in respect of the Commissioner under this paragraph or section 7 of the [M34]National Audit Act 1983 (economy etc. examinations).

Commencement Information

I83 Sch. 2 para. 11 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Marginal Citations

M34 1983 c. 44.

Status: *This version of this Act contains provisions that are prospective.*
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Examinations by the Comptroller and Auditor General

[F341]12 . . . . . .

Textual Amendments

F341 Sch. 2 para. 12 omitted (1.4.2018) by virtue of Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 56** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

Evidence

13 A document purporting to be duly executed under the seal of the Commissioner or to be signed by him or on his behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Commencement Information

I84 Sch. 2 para. 13 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Payments

14 The **[**[F342]Welsh Ministers**]** may make payments to the Commissioner of such amounts, at such times and on such conditions (if any) as it considers appropriate.

Textual Amendments

F342 Words in Sch. 2 para. 14 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(8)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information

I85 Sch. 2 para. 14 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

General

15 In the [M35]House of Commons Disqualification Act 1975, in Part III of Schedule 1 (certain disqualifying offices), the following entries are inserted at the appropriate places—

"Children's Commissioner for Wales."

"Member of the staff of the Children's Commissioner for Wales."

Commencement Information

I86 Sch. 2 para. 15 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Status: *This version of this Act contains provisions that are prospective.*
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Marginal Citations
M35 1975 c. 24.

16 In the [M36]Northern Ireland Assembly Disqualification Act 1975, the same entries as are set out in paragraph 15 are inserted at the appropriate places in Part III of Schedule 1.

Commencement Information
I87 Sch. 2 para. 16 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Marginal Citations
M36 1975 c. 25.

17 (1) Regulations may provide that the office of Children's Commissioner for Wales shall be added to the list of " Offices " in Schedule 1 to the [M37]Superannuation Act 1972 (offices etc. to which section 1 of that Act applies).

(2) The **[**[F343]Welsh Ministers**]** shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to provision made under sub-paragraph (1) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Textual Amendments
F343 Words in Sch. 2 para. 17(2) substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 74(9)**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

Commencement Information
I88 Sch. 2 para. 17 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Marginal Citations
M37 1972 c.11.

18 In section 144 of the [M38]Government of Wales Act 1998 (accounts etc.), in subsection (8)(a), after "the Welsh Administration Ombudsman" there shall be inserted " the Children's Commissioner for Wales ".

Commencement Information
I89 Sch. 2 para. 18 in force for W. at 13.11.2000 by S.I. 2000/2992, art. 2(1), **Sch. 1**

Marginal Citations
M38 1998 c. 38.

Status: *This version of this Act contains provisions that are prospective.*
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[F344SCHEDULE 2A

PERSONS SUBJECT TO REVIEW BY THE COMMISSIONER UNDER SECTION 72B.

Textual Amendments

F344 Sch. 2A inserted (26.8.2001 for W.) by 2001 c. 18, s. 3(2), **Sch. Pt. 1**; S.I. 2001/2783, **art. 2(2)(c)**

Commencement Information

I90 Sch. 2A in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(2)(j)**

1 Any county council, county borough council or community council in Wales.

2 Any Health Authority for an area in, or consisting of, Wales.

[F345 2A Any Local Health Board for an area in, or consisting of, Wales.]

Textual Amendments

F345 Sch. 2A para. 2A inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 30(5)**

3 Any National Health Service trust all or most of whose hospitals, establishments and facilities are situated in Wales.

4 F346 . . . . . .

Textual Amendments

F346 Sch. 2A para. 4 omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 46** (with transitional provfisions in art. 7)

5 Any further education corporation within the meaning of section 17(1) of the Further and Higher Education Act 1992 (c. 13) which conducts an institution in Wales.

6 Any higher education corporation within the meaning of section 90(1) of the Further and Higher Education Act 1992 which conducts an institution in Wales.

7 Any institution in Wales falling within section 91(5)(a) of the Further and Higher Education Act 1992.

8 Any institution in Wales in relation to which a designation under section 28 of the Further and Higher Education Act 1992 has effect, which on the date the designation took effect was an institution falling within subsection (2)(a) of that section.

9 Any governing body of a school in Wales which is a maintained school within the meaning of section 20(7) of the School Standards and Framework Act 1998 (c. 31).

10 Her Majesty's Chief Inspector of Education and Training in Wales.

[F347 10A Qualifications Wales.]

Status: *This version of this Act contains provisions that are prospective.*
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Textual Amendments

F347 Sch. 2A para. 10A inserted (21.9.2015) by Qualifications Wales Act 2015 (anaw 5), s. 60(2), **Sch. 1 para. 36**; S.I. 2015/1687, art. 2 (with arts. 3-12)

11 Any agricultural wages committee for an area wholly in, or consisting of, Wales.

12 A National Park authority for a National Park in Wales.

13 The Arts Council of Wales.

14 **[**[F348]Social Care Wales**]** .

Textual Amendments

F348 Words in Sch. 2A para. 14 substituted (3.4.2017) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 44**; S.I. 2017/309, art. 2(j) (with arts. 3, 4, Sch.)

15 **[**[F349]The Natural Resources Body for Wales**]**.

Textual Amendments

F349 Words in Sch. 2A para. 15 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 397** (with Sch. 7)

16 The National Library of Wales.

17 The National Museums and Galleries of Wales.

18 [F350] . . . . . .

Textual Amendments

F350 Sch. 2A para. 18 omitted (1.4.2006) by virtue of The Qualifications, Curriculum and Assessment Authority for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3239), art. 9, **Sch. 1 para. 29** (with art. 7)

19 The Royal Commission on the Ancient and Historical Monuments of Wales.

20 The Sports Council for Wales.

21 [F351] . . . . . .

Textual Amendments

F351 Sch. 2A para. 21 omitted (23.11.2005) by virtue of The Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3225), art. 6(2), **Sch. 2 Pt. 1 para. 4** (with art. 3)

22 [F352] . . . . . .

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F352 Sch. 2A para. 22 omitted (23.11.2005) by virtue of The Welsh Development Agency (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3226), art. 7(1), **Sch. 2 Pt. 1 para. 12** (with art. 3)

[F353 23 Comisiynydd y Gymraeg (The Welsh Language Commissioner).]

Textual Amendments

F353 Words in Sch. 2A para. 23 substituted (1.4.2012) by The Welsh Language (Wales) Measure 2011 (Transfer of functions, Transitional and Consequential Provisions) Order 2012 (S.I. 2012/990), arts. 1(2), **7**

24 F354 . . . . . .]

Textual Amendments

F354 Sch. 2A para. 24 omitted (1.8.2004) by virtue of The Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004 (S.I. 2004/1771), art. 3, **Sch. para. 2(b)**

[F355 SCHEDULE 2B

PERSONS WHOSE ARRANGEMENTS ARE SUBJECT TO REVIEW BY THE COMMISSIONER UNDER SECTION 73.

Textual Amendments

F355 Sch. 2B inserted (26.8.2001 for W.) by 2001 c. 18, s. 4(10), **Sch. Pt. 2**; S.I. 2001/2783, **art. 2(2)(d)**

Commencement Information

I91 Sch. 2B in force for W. at 26.8.2001 by S.I. 2001/2782, **art. 2(2)(k)**

1 [F356 The Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government].

Textual Amendments

F356 Words in Sch. 2B para. 1 substituted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), art. 3, **Sch. 1 para. 75**, the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2) of the amending S.I. and see ss. 46, 161(5) of Government of Wales Act 2006 (c. 32)

2 Any county council or county borough council in Wales.

3 Any Health Authority for an area in, or consisting of, Wales.

Status: *This version of this Act contains provisions that are prospective.*
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[[F357]3A Any Local Health Board for an area in, or consisting of Wales**]**

Textual Amendments

F357 Sch. 2B para. 3A inserted (1.4.2007) by The References to Health Authorities Order 2007, art. 3, {Sch. para. 30(6)}

Textual Amendments

F357 Sch. 2B para. 3A inserted (1.4.2007) by The References to Health Authorities Order 2007, art. 3, {Sch. para. 30(6)}

4 Any National Health Service trust all or most of whose hospitals, establishments and facilities are situated in Wales.

5 [F358] . . . . . .

Textual Amendments

F358 Sch. 2B para. 5 omitted (1.4.2006) by virtue of The National Council for Education and Training for Wales (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005 (S.I. 2005/3238), art. 9(1), **Sch. 1 para. 47** (with transitional provfisions in art. 7)

6 Any further education corporation within the meaning of section 17(1) of the Further and Higher Education Act 1992 (c. 13) which conducts an institution in Wales.

7 Any higher education corporation within the meaning of section 90(1) of the Further and Higher Education Act 1992 which conducts an institution in Wales.

8 Any institution in Wales falling within section 91(5)(a) of the Further and Higher Education Act 1992.

9 Any institution in Wales in relation to which a designation under section 28 of the Further and Higher Education Act 1992 has effect, which on the date the designation took effect was an institution falling within subsection (2)(a) of that section.

10 Any governing body of a school in Wales which is a maintained school within the meaning of section 20(7) of the School Standards and Framework Act 1998 (c. 31).**]**

SCHEDULE 3

Section 79.

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN

Commencement Information

I92 Sch. 3 wholly in force at 1.4.2002; Sch. 3 not in force at Royal Assent see s. 122; Sch. 3 in force for E. at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(b) (subject to art. 2(2)(3)) (with transitional, transitory and savings provisions in art. 3, Sch.); Sch. 3 in force for W. for certain purposes at 1.7.2001 by S.I.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

2001/2190, art. 2, Sch. Table; Sch. 3 in force for W. in so far as not already in force at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3)

The following Schedule shall be inserted in the 1989 Act after Schedule 9—

"SCHEDULE 9A

CHILD MINDING AND DAY CARE FOR YOUNG CHILDREN

Exemption of certain schools

1 (1) Except in prescribed circumstances, Part XA does not apply to provision of day care within sub-paragraph (2) for any child looked after in—
(a) a maintained school;
(b) a school assisted by a local education authority;
(c) a school in respect of which payments are made by the Secretary of State or the Assembly under section 485 of the [M39]Education Act 1996;
(d) an independent school.

(2) The provision mentioned in sub-paragraph (1) is provision of day care made by—
(a) the person carrying on the establishment in question as part of the establishment's activities; or
(b) a person employed to work at that establishment and authorised to make that provision as part of the establishment's activities.

(3) In sub-paragraph (1)—
"assisted" has the same meaning as in the [M40]Education Act 1996;
"maintained school" has the meaning given by section 20(7) of the [M41]School Standards and Framework Act 1998.

Exemption for other establishments

2 (1) Part XA does not apply to provision of day care within sub-paragraph (2) for any child looked after—
(a) in an appropriate children's home;
(b) in a care home;
(c) as a patient in a hospital (within the meaning of the Care Standards Act 2000);
(d) in a residential family centre.

(2) The provision mentioned in sub-paragraph (1) is provision of day care made by—
(a) the department, authority or other person carrying on the establishment in question as part of the establishment's activities; or
(b) a person employed to work at that establishment and authorised to make that provision as part of the establishment's activities.

Exemption for occasional facilities

3 (1) Where day care is provided on particular premises on less than six days in any year, that provision shall be disregarded for the purposes of Part XA if the person making it has notified the registration authority in writing before the first occasion on which the premises concerned are so used in that year.

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(2) In sub-paragraph (1) "year" means the year beginning with the day (after the commencement of paragraph 5 of Schedule 9) on which the day care in question was or is first provided on the premises concerned and any subsequent year.

Disqualification for registration

4 (1) Regulations may provide for a person to be disqualified for registration for child minding or providing day care.

(2) The regulations may, in particular, provide for a person to be disqualified where—

(a) he is included in the list kept under section 1 of the [M42]Protection of Children Act 1999;

(b) he is included on the grounds mentioned in subsection (6ZA)(c) of section 218 of the [M43]Education Reform Act 1988 in the list kept for the purposes of regulations made under subsection (6) of that section;

(c) an order of a prescribed kind has been made at any time with respect to him;

(d) an order of a prescribed kind has been made at any time with respect to any child who has been in his care;

(e) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;

(f) he has at any time been refused registration under Part X or Part XA or any prescribed enactment or had any such registration cancelled;

(g) he has been convicted of any offence of a prescribed kind, or has been placed on probation or discharged absolutely or conditionally for any such offence;

(h) he has at any time been disqualified from fostering a child privately;

(j) a prohibition has been imposed on him at any time under section 69, section 10 of the [M44]Foster Children (Scotland) Act 1984 or any prescribed enactment;

(k) his rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.

(3) Regulations may provide for a person who lives—

(a) in the same household as a person who is himself disqualified for registration for child minding or providing day care; or

(b) in a household at which any such person is employed,

to be disqualified for registration for child minding or providing day care.

(4) A person who is disqualified for registration for providing day care shall not provide day care, or be concerned in the management of, or have any financial interest in, any provision of day care.

(5) No person shall employ, in connection with the provision of day care, a person who is disqualified for registration for providing day care.

(6) In this paragraph "enactment" means any enactment having effect, at any time, in any part of the United Kingdom.

5 (1) If any person—

(a) acts as a child minder at any time when he is disqualified for registration for child minding; or

(b) contravenes any of sub-paragraphs (3) to (5) of paragraph 4,

he shall be guilty of an offence.

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(2) Where a person contravenes sub-paragraph (3) of paragraph 4, he shall not be guilty of an offence under this paragraph if he proves that he did not know, and had no reasonable grounds for believing, that the person in question was living or employed in the household.

(3) Where a person contravenes sub-paragraph (5) of paragraph 4, he shall not be guilty of an offence under this paragraph if he proves that he did not know, and had no reasonable grounds for believing, that the person whom he was employing was disqualified.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

Certificates of registration

6 (1) If an application for registration is granted, the registration authority shall give the applicant a certificate of registration.

(2) A certificate of registration shall give prescribed information about prescribed matters.

(3) Where, due to a change of circumstances, any part of the certificate requires to be amended, the registration authority shall issue an amended certificate.

(4) Where the registration authority is satisfied that the certificate has been lost or destroyed, the authority shall issue a copy, on payment by the registered person of any prescribed fee.

(5) For the purposes of Part XA, a person is—

(a) registered for providing child minding (in England or in Wales); or

(b) registered for providing day care on any premises,

if a certificate of registration to that effect is in force in respect of him.

Annual fees

7 Regulations may require registered persons to pay to the registration authority at prescribed times an annual fee of a prescribed amount.

Co-operation between authorities

8 (1) Where it appears to the Chief Inspector that any local authority in England could, by taking any specified action, help in the exercise of any of his functions under Part XA, he may request the help of that authority specifying the action in question.

(2) Where it appears to the Assembly that any local authority in Wales could, by taking any specified action, help in the exercise of any of its functions under Part XA, the Assembly may request the help of that authority specifying the action in question.

(3) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions."

Marginal Citations

M39 1996 c. 56.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Care Standards Act 2000 is up to date with all changes known to be in force on or before 26 March 2021. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

M40 1996 c. 56.
M41 1998 c. 31.
M42 1999 c. 14.
M43 1988 c. 40.
M44 1984 c. 56.

Marginal Citations

M39 1996 c. 56.
M40 1996 c. 56.
M41 1998 c. 31.
M42 1999 c. 14.
M43 1988 c. 40.
M44 1984 c. 56.

SCHEDULE 4

Section 116.

MINOR AND CONSEQUENTIAL AMENDMENTS

National Assistance Act 1948 (c.29)

1 (1) Section 26 of the National Assistance Act 1948 (provision of accommodation in premises maintained by voluntary organisations) shall be amended as follows.

(2) In subsection (1), for "(1B)" there shall be substituted " (1C) ".

(3) For subsections (1A) and (1B) there shall be substituted—

"(1A) Arrangements must not be made by virtue of this section for the provision of accommodation together with nursing or personal care for persons such as are mentioned in section 3(2) of the Care Standards Act 2000 (care homes) unless—

(a) the accommodation is to be provided, under the arrangements, in a care home (within the meaning of that Act) which is managed by the organisation or person in question; and

(b) that organisation or person is registered under Part II of that Act in respect of the home."

(4) In subsection (1C), for the words from "no" to "person" there shall be substituted " no arrangements may be made by virtue of this section for the provision of accommodation together with nursing ".

Commencement Information

I93 Sch. 4 para. 1 wholly in force at 1.4.2002; Sch. 4 para. 1 not in force at Royal Assent see s. 122; Sch. 4 para. 1 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 1 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Status: *This version of this Act contains provisions that are prospective.*
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Mental Health Act 1959 (c.72)

2 F359 . . . . . .

Textual Amendments

F359 Sch. 4 para. 2 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 140, 141, **Sch. 7**; S.I. 2004/874, **art. 2**

Children and Young Persons Act 1969 (c.54)

F360 3 . . . . . .

Textual Amendments

F360 Sch. 4 para. 3 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 45**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Local Authority Social Services Act 1970 (c.42)

4 In Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring functions assigned to social services committee), in the entry relating to the 1989 Act, for "registered" there shall be substituted " private " and for "residential care, nursing or mental nursing homes or in independent schools" there shall be substituted " care homes, independent hospitals or schools ".

Commencement Information

I94 Sch. 4 para. 4 wholly in force at 1.4.2002; Sch. 4 para. 4 not in force at Royal Assent see s. 122; Sch. 4 para. 4 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 4 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Adoption Act 1976 (c.36)

5 F361 . . . . . .

Textual Amendments

F361 Sch. 4 para. 5 repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(3), 148, **Sch. 5** (with Sch. 4 paras. 6-8); S.I. 2005/2897, **art. 2(b)**

Adoption (Scotland) Act 1978 (c.28)

6 F362 . . . . . .

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Textual Amendments

F362 Sch. 4 para. 6 repealed (28.9.2009) by Adoption and Children (Scotland) Act 2007 (asp 4), ss. 120(2), 121(2), **sch. 3**; S.S.I. 2009/267, arts. 1(2), 2

Magistrates' Court Act 1980 (c. 43)

7 F363 . . . . . .

Textual Amendments

F363 Sch. 4 para. 7 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110, **Sch. 10**; S.I. 2005/910, art. 3(aa)

Limitation Act 1980 (c.58)

8 F364 . . . . . .

Textual Amendments

F364 Sch. 4 para. 8 repealed (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(2), 68(1)-(3), **Sch. 7**; S.I. 2007/1897, **art. 2(1)**

Mental Health Act 1983 (c.20)

9 (1) The Mental Health Act 1983 shall be amended as follows.

(2) In sections 12(3), 23(3), 24(3), 46(1), 64(1), 119(2), 120(1) and (4), 131(1), 132(1), (2) and (4) and 133(1), for "mental nursing home" and "mental nursing homes" in each place where they occur, there shall be substituted, respectively, " registered establishment " and " registered establishments ".

F365(3) . . . . . .

(4) In section 34—

(a) in subsection (1), after the definition of "the nominated medical attendant" there shall be inserted—

""registered establishment" means an establishment—

(a) which would not, apart from subsection (2) below, be a hospital for the purposes of this Part; and

(b) in respect of which a person is registered under Part II of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under this Act;"

and

(b) in subsection (2), for the words from "a mental" to "1984" there shall be substituted " a registered establishment ".

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(5) In section 116(1) (welfare of certain hospital patients), for "or nursing home" there shall be substituted " , independent hospital or care home ".

(6) In section 118(1) (code of practice)—

(a) for the first "and mental nursing homes" there shall be substituted " , independent hospitals and care homes "; and

(b) for the second "and mental nursing homes" there is substituted " and registered establishments ".

(7) In section 121 (Mental Health Act Commission)—

(a) in subsection (4), for "and mental nursing homes" there shall be substituted " , independent hospitals and care homes "; and

(b) in subsection (5), in paragraphs (a) and (b), for "a mental nursing home" there shall be substituted " an independent hospital or a care home ".

(8) In section 127(1) (ill-treatment of patients), for "or mental nursing home" there shall be substituted " , independent hospital or care home ".

(9) In section 135(6) (warrant to search for and remove patients) for "a mental nursing home or residential home" there shall be substituted " an independent hospital or care home ".

(10) In section 145(1) (interpretation)—

(a) after the definition of "approved social worker" there shall be inserted—

""care home" has the same meaning as in the Care Standards Act 2000";

(b) after the definition of "hospital order" and "guardianship order" there shall be inserted—

""independent hospital" has the same meaning as in the Care Standards Act 2000;"

(c) in the definition of "the managers", for paragraph (c) there shall be substituted—

"(c) in relation to a registered establishment, the person or persons registered in respect of the establishment;"

and

(d) after the definition of "Primary Care Trust" there shall be inserted—

""registered establishment" has the meaning given in section 34 above;".

Textual Amendments

F365 Sch. 4 para. 9(3) omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 39(4)(c)**, 306(4); S.I. 2012/1319, art. 2(3)

Commencement Information

I95 Sch. 4 para. 9 wholly in force at 1.4.2002; Sch. 4 para. 9 not in force at Royal Assent see s. 122; Sch. 4 para. 9 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 9

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in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Public Health (Control of Disease) Act 1984 (c.22)

10 In section 7(4) of the Public Health (Control of Disease) Act 1984 (port health district and authority for Port of London), paragraphs (h) and (i) and the "and" following paragraph (i) shall be omitted.

Commencement Information

I96 Sch. 4 para. 10 partly in force; Sch. 4 para. 10 not in force at Royal Assent see s. 122; Sch. 4 para. 10 in force for E. at 1.4.2002 by S.I. 2001/4150, **arts. 1(2)**, 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, **art. 4**) (as amended by S.I. 2002/1493, **art. 6**)

Disabled Persons (Services, Consultation and Representation) Act 1986 (c.33)

11 In section 2(5)(d) of the Disabled Persons (Services, Consultation and Representation) Act 1986 (rights of authorised representatives of disabled persons), for "a residential care home within the meaning of Part I of the Registered Homes Act 1984" there shall be substituted " a care home within the meaning of the Care Standards Act 2000 ".

Commencement Information

I97 Sch. 4 para. 11 wholly in force at 1.4.2002; Sch. 4 para. 11 not in force at Royal Assent see s. 122; Sch. 4 para. 11 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 11 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

PROSPECTIVE

Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I.22))

12 In Article 11(2) of the Adoption (Northern Ireland) Order 1987 (restriction on arranging adoptions and placing children), for "approved as respects England and Wales under section 3 of the Adoption Act 1976 or as respects Scotland" there shall be substituted " in respect of which a person is registered under Part II of the Care Standards Act 2000 or [F366]... as respects Scotland ".

Textual Amendments

F366 Words in Sch. 4 para. 12 repealed (15.7.2011) by The Adoption and Children (Scotland) Act 2007 (Consequential Modifications) Order 2011 (S.I. 2011/1740), art. 1(2), **Sch. 1 Pt. 3**

Status: *This version of this Act contains provisions that are prospective.*
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Income and Corporation Taxes Act 1988 (c.40)

13 [F367] . . . . . .

Textual Amendments

F367 Sch. 4 para. 13 repealed (6.4.2003 with effect as mentioned in s. 723(1) (subject to Sch. 7) of the repealing Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 724, **Sch. 8 Pt. 1**

Children Act 1989 (c.41)

14 (1) The 1989 Act shall be amended as follows.

(2) In section 19 (review of provision of day care, child minding etc.)—

(a) in subsection (1)(c), for "section 71(1)(b)" there shall be substituted " Part XA "; and

(b) in subsection (5), for the definition of "relevant establishment" there shall be substituted—

""relevant establishment" means—

(a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and

(b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);".

(3) In section 23 (provision of accommodation and maintenance by local authority for children whom they are looking after)—

(a) in subsection (2), for paragraphs (b) to (e) there shall be substituted—

"(aa) maintaining him in an appropriate children's home;";

(b) after subsection (2) there shall be inserted—

"(2A) Where under subsection (2)(aa) a local authority maintains a child in a home provided, equipped and maintained by the Secretary of State under section 82(5), it shall do so on such terms as the Secretary of State may from time to time determine.";

and

(c) after subsection (9) there shall be inserted—

"(10) In this Act—

"appropriate children's home" means a children's home in respect of which a person is registered under Part II of the Care Standards Act 2000; and

"children's home" has the same meaning as in that Act."

[[F368](4) In section 24 (advice and assistance for certain children) [F369]. . .—

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(a) in subsections (2)(c) and (12)(a), for "registered" there shall be substituted " private "; and

(b) in subsections (2)(d)(ii) and (12)(c), for "residential care home, nursing home or mental nursing home" there shall be substituted " care home or independent hospital ".**]**

(5) . . . . . .

F370(6) . . . . . .

(7) In section 51(1) (refuges for children at risk), for "registered" there shall be substituted " private ".

(8) In section 59 (provision of accommodation by voluntary organisations)—

(a) in subsection (1), for paragraphs (b) to (e) there shall be substituted—

"(aa) maintaining him in an appropriate children's home;";

and

(b) after that subsection there shall be inserted—

"(1A) Where under subsection (1)(aa) a local authority maintains a child in a home provided, equipped and maintained by the Secretary of State under section 82(5), it shall do so on such terms as the Secretary of State may from time to time determine."

(9) In section 60 (registration and regulation of voluntary homes)—

(a) for the sidenote there shall be substituted " Voluntary homes. "; and

(b) for subsection (3) there shall be substituted—

"(3) In this Act "voluntary home" means a children's home which is carried on by a voluntary organisation but does not include a community home."

(10) In section 62 (duties of local authorities in relation to children provided with accommodation by voluntary organisations)—

(a) in subsection (6)(c), for "paragraph 7 of Schedule 5" there shall be substituted " section 22 of the Care Standards Act 2000 "; and

(b) after subsection (9) there shall be inserted—

"(10) This section does not apply in relation to any voluntary organisation which is a school."

(11) In section 63 (children not to be cared for and accommodated in unregistered children's homes)—

(a) for the sidenote there is substituted " Private children's homes etc. ";

(b) in subsection (11), after "to" there shall be inserted " private "; and

(c) in subsection (12), after "treated" there shall be inserted " , for the purposes of this Act and the Care Standards Act 2000, ".

(12) In section 64 (welfare of children in children's homes), in subsections (1) and (4), before "children's home" there shall be inserted " private ".

(13) In section 65 (persons disqualified from carrying on, or being employed in, children's homes)—

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(a) in subsections (1) and (2), for "the responsible authority" and "their" there shall be substituted " the appropriate authority " and " its " respectively;

(b) in subsection (3), for the words from "an" to "they" there shall be substituted " the appropriate authority refuses to give its consent under this section, it ";

(c) for subsection (3)(b) there shall be substituted—

"(b) the applicant's right to appeal under section 65A against the refusal to the Tribunal established under section 9 of the [M45]Protection of Children Act 1999";

and

(d) after subsection (5) there shall be inserted—

"(6) In this section and section 65A "appropriate authority" means—

(a) in relation to England, the National Care Standards Commission; and

(b) in relation to Wales, the National Assembly for Wales."

(14) After section 65 there is inserted—

"**65A Appeal against refusal of authority to give consent under section 65.**

"**65A "65A Appeal against refusal of authority to give consent under section 65.**

(1) An appeal against a decision of an appropriate authority under section 65 shall lie to the Tribunal established under section 9 of the [M46]Protection of Children Act 1999.

(2) On an appeal the Tribunal may confirm the authority's decision or direct it to give the consent in question."

(15) In section 66 (privately fostered children)—

(a) in subsection (1)(a) after "accommodation" there shall be inserted " in their own home "; and

(b) after subsection (4) there shall be inserted—

"(4A) The Secretary of State may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing him with accommodation in the person's own home."

(16) In section 80 (inspection of children's homes etc by persons authorised by Secretary of State)—

(a) in subsections (1)(a) and (5)(c), before "children's" there shall be inserted " private ";

(b) in subsection (1)(i), after "71(1)(b)" there shall be added " or with respect to which a person is registered for providing day care under Part XA ";

(c) for subsection (1)(j) there shall be substituted—

"(j) care home or independent hospital used to accommodate children;"

and

(d) in subsection (5), after paragraph (h) there shall be inserted—

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"(hh) person who is the occupier of any premises—

(i) in which any person required to be registered for child minding under Part XA acts as a child minder (within the meaning of that Part); or

(ii) with respect to which a person is required to be registered under that Part for providing day care;".

(17) In section 81(1) (inquiries)—

(a) in paragraph (d), after "a" there shall be inserted " private "; and

(b) in paragraph (e), for "a residential care home, nursing home or mental nursing home" there shall be substituted " a care home or independent hospital ".

(18) In section 82(6) (financial support by Secretary of State), in the definition of "child care training", for "residential care home, nursing home or mental nursing home" there shall be substituted " care home or independent hospital ".

(19) In section 83 (research and returns of information), in subsections (1)(c), (2)(c) and (3)(a)(ii), for "residential care home, nursing home or mental nursing home" there shall be substituted " care home or independent hospital ".

(20) In section 86—

(a) for the sidenote there shall be substituted " Children accommodated in care homes or independent hospitals. "; and

(b) in subsections (1) and (5), for "residential care home, nursing home or mental nursing home" there shall be substituted " care home or independent hospital ".

(21) For the sidenote to section 87 (welfare of children accommodated in independent schools) there shall be substituted " Welfare of children in boarding schools and colleges. ".

(22) In section 102(6)(a) (power of constable to assist in exercise of certain powers to search for children or inspect premises), after "76," there shall be inserted " 79U, ".

(23) In section 105 (interpretation)—

(a) in subsection (1)—

F371(i) . . . . . .

(ii) after the definition of "bank holiday" there shall be inserted—

""care home" has the same meaning as in the Care Standards Act 2000;"

F372(iii) . . . . . .

(iv) in the definition of "day care", after "care"" there shall be inserted " (except in Part XA) ";

(v) in the definition of "hospital", after "hospital" there shall be inserted " (except in Schedule 9A) ";

(vi) after the definition of "income-based jobseeker's allowance" there shall be inserted—

""independent hospital" has the same meaning as in the Care Standards Act 2000;"

and

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(vii) after the definition of "prescribed" there shall be inserted—

""private children's home" means a children's home in respect of which a person is registered under Part II of the Care Standards Act 2000 which is not a community home or a voluntary home;";

and

(b) after subsection (5) there shall be inserted—

"(5A) References in this Act to a child minder shall be construed—

(a) in relation to Scotland, in accordance with section 71;

(b) in relation to England and Wales, in accordance with section 79A.".

(24) In Schedule 3 (supervision orders), in paragraphs 4(2)(c)(ii) and 5(2)(c), for "or mental nursing home" there shall be substituted " , independent hospital or care home ".

(25) In Schedule 6 (registered children's homes)—

(a) in the heading, for "Registered Children's Homes" there shall be substituted " Private Children's Homes "; and

(b) in paragraph 10(1)(a), for "registered" there shall be substituted " private ".

(26) In paragraph 5(1) of Schedule 7 (foster parents: limit on number of foster children), after "treated" there shall be inserted " , for the purposes of this Act and the Care Standards Act 2000 ".

(27) In Schedule 8 (privately fostered children)—

(a) in paragraph 2, sub-paragraph (1)(b) shall cease to have effect, and in sub-paragraph (2), for "(1)(b)" there shall be substituted " (1)(c) "; and

(b) in paragraph 9(1), for "2(1)(d)" there shall be substituted " 2(1)(c) and (d) ", and at the end there shall be inserted—

"But this sub-paragraph does not apply to a school which is an appropriate children's home.".

(28) For paragraph 2(1)(f) of Schedule 8 (privately fostered children) there shall be substituted—

"(f) in any care home or independent hospital;".

(29) In paragraph 4(1) of Schedule 9 (child minding and day care for young children)—

(a) for paragraphs (a) to (c) there shall be substituted—

"(aa) an appropriate children's home;"

and

(b) for paragraph (d) there shall be substituted—

"(d) a care home;".

Textual Amendments

F368 Sch. 4 para. 14(4) repealed (E.) (1.10.2001) by 2000 c. 35, **s. 4(2)**; S.I. 2001/2878, **art. 2**

F369 Words in Sch. 4 para. 14(4) repealed (30.11.2000) by 2000 c. 35, **s. 7(5)(a)**

F370 Sch. 4 para. 14(5)(6) repealed (30.11.2000) by 2000 c. 35, **s. 7(5)(b)**

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F371 Sch. 4 para. 14(23)(a)(i) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **176(a)**

F372 Sch. 4 para. 14(23)(a)(iii) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **176(b)**

Commencement Information

I98 Sch. 4 para. 14 partly in force; Sch. 4 para. 14 not in force at Royal Assent see s. 122; Sch. 4 para. 14(15) in force for E. at 1.1.2001 by S.I. 2000/2795, art. 2(2)(b) (with art. 3); Sch. 4 para. 14(15) in force for W. at 28.2.2001 by S.I. 2001/139, arts. 1(3), 2(2)(b) (with transitional provisions in art. 3); Sch. 4 para. 14(1)(2)(16)(b)(d)(23)(a)(iv)(v)(b) in force for E. at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(d)(ii) (subject to art. 2(2)(3) and with transitional, transitory and savings provisions in art. 3, Sch.); Sch. 14 para. 14(3)(7)-(9)(10)(a)(11)(12)(16)(a)(c)(17)-(21)(23)(a)(i)-(iii)(vi)(vii)(24)-(28) in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 14(1)-(3)(7)-(9)(10)(a)(11)-(14)(16)-(20)(22)-(29) in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); Sch. 4 para. 14(13)(14) in force for E. at 1.4.2002 by S.I. 2002/1493, arts. 1(2), **3(2)** (subject to transitional provisions in art. 4)

Marginal Citations

M45 1999 c. 14.

M46 1999 c. 14.

National Health Service and Community Care Act 1990 (c.19)

15 In section 48(1) of the National Health Service and Community Care Act 1990 (inspection of premises used for the provision of community care), for "the Registered Homes Act 1984" there shall be substituted " Part II of the Care Standards Act 2000 ".

Commencement Information

I99 Sch. 4 para. 15 wholly in force at 1.4.2002; Sch. 4 para. 15 not in force at Royal Assent see s. 122; Sch. 4 para. 15 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 15 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c.25)

16 In paragraph 4(2)(a) of Schedule 2 to the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (supervision and treatment orders), for "hospital or mental nursing home" there shall be substituted " independent hospital or care home within the meaning of the Care Standards Act 2000 or in a hospital ".

Commencement Information

I100 Sch. 4 para. 16 wholly in force at 1.4.2002; Sch. 4 para. 16 not in force at Royal Assent see s. 122; Sch. 4 para. 16 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 16

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in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Criminal Justice Act 1991 (c.53)

[F373]17 . . . . . .

Textual Amendments

F373 Sch. 4 para. 17 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 45**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Water Industry Act 1991 (c.56)

18 In Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges), for paragraphs 8 and 9 there shall be substituted—

"8 (1) A care home or independent hospital.

(2) In this paragraph—

"care home" means—

(a) a care home within the meaning of the Care Standards Act 2000;

(b) a building or part of a building in which residential accommodation is provided under section 21 of the [M47]National Assistance Act 1948;

"independent hospital" means an independent hospital within the meaning of the Care Standards Act 2000.

9 A children's home within the meaning of the Care Standards Act 2000."

Commencement Information

I101 Sch. 4 para. 18 wholly in force at 1.4.2002; Sch. 4 para. 18 not in force at Royal Assent see s. 122; Sch. 4 para. 18 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 18 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Marginal Citations

M47 1948 c. 29.

19 In Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges), in paragraph 12 for "section 71(1)(b)" there shall be substituted " Part XA ".

Commencement Information

I102 Sch. 4 para. 19 wholly in force at 1.4.2002; Sch. 4 para. 19 not in force at Royal Assent see s. 122; Sch. 4 para. 19 in force for E. at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(d)(i) (subject to art. 2(2)(3)) (with

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transitional, transitory and savings provisions in art. 3, Sch.); Sch. 4 para. 19 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Local Government Finance Act 1992 (c.14)

20 In paragraph 7 of Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount)—

(a) in sub-paragraph (1)(a), for "residential care home, nursing home, mental nursing home" there shall be substituted " care home, independent hospital ";

(b) in sub-paragraph (1)(b), after "home" there shall be inserted " , hospital ";

(c) for sub-paragraph (2), there shall be substituted—

"(2) In this paragraph—

"care home" means—

(a) a care home within the meaning of the Care Standards Act 2000; or

(b) a building or part of a building in which residential accommodation is provided under section 21 of the [M48]National Assistance Act 1948;

"hostel" means anything which falls within any definition of hostel for the time being prescribed by order made by the Secretary of State under this sub-paragraph;

"independent hospital" has the same meaning as in the Care Standards Act 2000."

and

(d) in sub-paragraph (3), for " "mental nursing home", "nursing home" or "residential care home"" there shall be substituted " "care home" or "independent hospital" ".

Commencement Information

I103 Sch. 4 para. 20 wholly in force at 1.4.2002; Sch. 4 para. 20 not in force at Royal Assent see s. 122; Sch. 4 para. 20 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 20 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Marginal Citations

M48 1948 c. 29.

Tribunals and Inquiries Act 1992 (c.53)

21 [F374] . . . . . .

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Textual Amendments

F374 Sch. 4 para. 21 repealed (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 228(g)**

PROSPECTIVE

Criminal Justice and Public Order Act 1994 (c.33)

22 In section 2 of the Criminal Justice and Public Order Act 1994 (secure training orders: supplementary provisions as to detention)—

(a) in subsection (5), for "registered children's home" there shall be substituted " private children's home "; and

(b) in subsection (8), for "registered children's home" there shall be substituted " private children's home ".

Children (Scotland) Act 1995 (c.36)

23 In section 93 of the Children (Scotland) Act 1995 (interpretation of Part II)—

(a) in paragraph (b) of the definition of "residential establishment", for "registered" there shall be substituted " private "; and

(b) in the definition of "secure accommodation", for "paragraph 4(2)(i) of Schedule 4 to the Children Act 1989" there shall be substituted " section 22(8)(a) of the Care Standards Act 2000 ".

Commencement Information

I104 Sch. 4 para. 23 partly in force; Sch. 4 para. 23 not in force at Royal Assent see s. 122; Sch. 4 para. 23 in force for E. at 1.4.2002 by S.I. 2001/4150, **arts. 1(2)**, 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, **art. 4**) (as amended by S.I. 2002/1493, **art. 6**)

Education Act 1996 (c.56)

24 F375 . . . . . .

Textual Amendments

F375 Sch. 4 para. 24 repealed (1.9.2003 for E. and 1.1.2004 for W.) by Education Act 2002 (c. 32), ss. 215(2), 216, **Sch. 22 Pt. 3** (with s. 210(8), 214(4); S.I. 2003/1667, **art. 4**; S.I. 2003/2961, **art. 6**, Sch. Pt. 3

Police Act 1997 (c.50)

25 F376 . . . . . .

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Textual Amendments

F376 Sch. 4 para. 25 repealed (6.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 7**

Protection of Children Act 1999 (c.14)

26 (1) The Protection of Children Act 1999 shall be amended as follows.

(2) [F377] . . . . . .

(2) [F377] . . . . . .

(3) In section 9 (the Tribunal)—

(a) in subsection (2), for the words from "on an appeal" to the end there shall be substituted—

"(a) on an appeal or determination under section 4 above;

(b) on an appeal under regulations made under section 6 above;

(c) on an appeal under section 65A of the [M49]Children Act 1989 or under, or by virtue of, Part XA of that Act; or

(d) on an appeal or determination under section 21, 68, 86, 87 or 88 of the Care Standards Act 2000;";

and

(b) after subsection (3), there shall be inserted—

"(3A) The regulations may also include provision for enabling the Tribunal to make investigations for the purposes of a determination under section 87 or 88 of the Care Standards Act 2000; and the provision that may be made by virtue of subsection (3)(j) and (k) above includes provision in relation to such investigations.

(3B) Regulations under this section may make different provision for different cases or classes of case.

(3C) Before making in regulations under this section provision such as is mentioned in subsection (2)(c) or (d) above, the Secretary of State shall consult the National Assembly for Wales."

(4) [F377] . . . . . .

Textual Amendments

F377 Sch. 4 para. 26: both sub-paras. numbered (2) and sub-para. (4) repealed (12.10.2009) by Safeguarding Vulnerable Groups Act 2006 (c. 47), ss. 63, 65, **Sch. 10** (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2009/2611, **art. 2**, Sch. (with art. 6 as amended by S.I. 2010/1101)

Commencement Information

I105 Sch. 4 para. 26 wholly in force at 26.7.2004; Sch. 4 para. 26 not in force at Royal Assent see s. 122; Sch. 4 para. 26(1)(2)(4) in force at 2.10.2000 by S.I. 2000/2544, art. 2(2)(g) (with art. 3); Sch. 4 para. 26(3) in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150,

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2002/1493, 2002/1790, 2002/2001, 2002/3210); Sch. 4 para. 26(3) in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); Sch. 4 para. 26(1)(3) in force for W. for certain purposes at 5.3.2003 by S.I. 2003/501, **art. 2**; Sch. 4 para. 26(3) in force for E. for certain purposes at 7.3.2003 by S.I. 2003/933, **art. 2(1)**; Sch. 4 para. 26(3) in force so far as not already in force at 26.7.2004 by S.I. 2004/1757, **art. 2(c)**

Marginal Citations

M49 1989 c. 41.

Adoption (Intercountry Aspects) Act 1999 (c.18)

27 In section 2 of the Adoption (Intercountry Aspects) Act 1999 (central authorities and accredited bodies)—

(a) after subsection (2) there shall be inserted—

"(2A) A voluntary adoption agency in respect of which a person is registered under Part II of the Care Standards Act 2000 is an accredited body for the purposes of the Convention if, in accordance with the conditions of the registration, the agency may provide facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.";

and

(b) [F378] . . . . . .

Textual Amendments

F378 Sch. 4 para. 27(b) repealed (30.12.2005) by Adoption and Children Act 2002 (c. 38), ss. 139(1)(3), 148, **Sch. 3 para. 117**,{Sch. 5} (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**; S.I. 2005/2897, **art. 2(b)**

Commencement Information

I106 Sch. 4 para. 27 wholly in force at 1.6.2003; Sch. 4 para. 27 not in force at Royal Assent see s. 122; Sch. 4 para. 27 in force for W. at 30.4.2003 by S.I. 2003/501, **art. 2(3)(a)**; Sch. 4 para. 27 in force for E. at 1.6.2003 by S.I. 2003/365, **art. 3(6)(a)**

Powers of Criminal Courts (Sentencing) Act 2000 (c.6)

28 (1) The Powers of Criminal Courts (Sentencing) Act 2000 shall be amended as follows.

(2) In paragraph 5(3)(a) of Schedule 2 (additional requirements which may be included in probation orders), for "a hospital or mental nursing home" there shall be substituted " an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital ".

(3) [F379] . . . . . .

Textual Amendments

F379 Sch. 4 para. 28(3) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 149, 153, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2**

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Commencement Information

I107 Sch. 4 para. 28 wholly in force at 1.4.2002; Sch. 4 para. 28 not in force at Royal Assent see s. 122; Sch. 4 para. 28 in force for E. at 1.4.2002 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(a) (subject to transitional provisions in art. 4) (as amended by S.I. 2002/1493, art. 6); Sch. 4 para. 28 in force for W. at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3)

Amendments of local Acts

29 (1) Section 16 of the [M50]Greater London Council (General Powers) Act 1981 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

(2) For paragraph (g) there shall be substituted—

"(g) used as a care home, or an independent hospital, within the meaning of the Care Standards Act 2000;"

(3) For paragraphs (gg) and (h) there shall be substituted—

"(gg) used as a children's home within the meaning of the Care Standards Act 2000 which is a home in respect of which a person is registered under Part II of that Act;"

(4) Paragraph (j) shall be omitted.

Commencement Information

I108 Sch. 4 para. 29 partly in force; Sch. 4 para. 29 not in force at Royal Assent see s. 122; Sch. 4 para. 29 in force for E. at 1.4.2002 by S.I. 2001/4150, **arts. 1(2)**, 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, **art. 4**) (as amended by S.I. 2002/1493, **art. 6**)

Marginal Citations

M50 1981 c. xvii.

30 (1) Section 10(2) of the [M51]Greater London Council (General Powers) Act 1984 (exemption from provisions of Part IV of the Act of certain premises) shall be amended as follows.

(2) For paragraph (c) there shall be substituted—

"(c) used as a care home, or an independent hospital, within the meaning of the Care Standards Act 2000;"

(3) For paragraph (d) there shall be substituted—

"(d) used as a children's home within the meaning of the Care Standards Act 2000 which is a home in respect of which a person is registered under Part II of that Act;"

(4) Paragraphs (f) and (l) shall be omitted.

Commencement Information

I109 Sch. 4 para. 30 partly in force; Sch. 4 para. 30 not in force at Royal Assent see s. 122; Sch. 4 para. 30 in force for E. at 1.4.2002 by S.I. 2001/4150, **arts. 1(2)**, 3(2)(3)(a) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, **art. 4**) (as amended by S.I. 2002/1493, **art. 6**)

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Marginal Citations

M51 1984 c. xxvii.

SCHEDULE 5

Section 117(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Fostering agencies

1 The appropriate Minister may by regulations provide that, if prescribed requirements are satisfied, section 11 shall apply, during the prescribed period, to a person running a fostering agency who has made an application for registration under section 12(1) as if that person were unconditionally registered under Part II of this Act.

Commencement Information

I110 Sch. 5 para. 1 partly in force; Sch. 5 para. 1 not in force at Royal Assent see s. 122; Sch. 5 para. 1 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, **Sch.** Table

Voluntary adoption agencies

2 (1) Where an approval granted to a body, before the commencement of section 13, under section 3 of the [M52]Adoption Act 1976 (approval of adoption societies) is operative at that commencement, Part II of this Act shall, if prescribed requirements are satisfied, have effect after that commencement as if any person carrying on or managing the body were registered under that Part in respect of it, either—

(a) unconditionally; or

(b) subject to such conditions as may be prescribed.

(2) Any application made before the commencement of section 12 for approval under section 3 of the [M53]Adoption Act 1976 shall be treated after that commencement as an application made under section 12(1) to the registration authority for registration under Part II of this Act.

(3) The appropriate Minister may by order make such further transitional provision in relation to the repeal by this Act of provisions of the [M54]Adoption Act 1976 as he considers appropriate.

Commencement Information

I111 Sch. 5 para. 2 partly in force; Sch. 5 para. 2 not in force at Royal Assent see s. 122; Sch. 5 para. 2 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; Sch. 5 para. 2 otherwise in force for W. at 30.1.2003 by S.I. 2003/152, **art. 2(1)**

Marginal Citations

M52 1976 c. 36.

M53 1976 c. 36.

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M54 1976 c. 36.

Children's Commissioner for Wales

3 (1) The Part of this Act which relates to the Children's Commissioner for Wales has effect, in relation to times before the commencement of any other relevant provision of this Act, as if references—

(a) to regulated children's services in Wales; and

(b) to the provider of such services,

were or included references to services which would be regulated children's services in Wales, or (as the case may be) to the person who would be the provider, if that provision were in force.

(2) Sub-paragraph (1) has effect subject to any provision made under sections 118 or 119.

Commencement Information

I112 Sch. 5 para. 3 wholly in force; Sch. 5 para. 3 not in force at Royal Assent see s. 122; Sch. 5 para. 3 in force at 26.8.2001 by S.I. 2001/2782, **art. 2(2)(l)**

SCHEDULE 6

Section 117(2).

REPEALS

Commencement Information

I113 Sch. 6 partly in force; Sch. 6 not in force at Royal Assent see s. 122; Sch. 6 in force for certain purposes at 2.10.2000 by S.I. 2000/2544, art. 2(1)(h); Sch. 6 in force for E. for certain purposes at 4.10.2001 by S.I. 2001/3331, arts. 1(3), 2(b); Sch. 6 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(j) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); Sch. 6 in force for E. for certain purposes at 1.4.2003 by S.I. 2001/3852, arts. 1(4), 3(2)(8)(c) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); Sch. 6 in force for E. for certain purposes at 1.4.2002 and in force for E. for certain further purposes at 1.4.2003 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(c)(4) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, 2002/1790, 2002/2001, 2002/3210); Sch. 6 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), **3(3)** (subject to art. 3(4)-(10) and to transitional provisions in Schs. 1-3); Sch. 6 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, **art. 2(1)**; Sch. 6 in force for W. for certain purposes at 30.4.2003 by S.I. 2003/501, **art. 2(3)**; Sch. 6 in force for E. for certain purposes at 30.4.2003 and 1.6.2003 by S.I. 2003/365, art. 3(5)(6) (subject to Sch.); Sch. 6 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, **art. 2**

Chapter	Short title	Extent of repeal
1948 c. 29.	National Assistance Act 1948.	Section 26(1E).
1957 c. 16.	Nurses Agencies Act 1957.	The whole Act.

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1958 c. 51.	Public Records Act 1958.	In Schedule 1, in the Table at the end of paragraph 3, in Part II, the entry relating to the Care Council for Wales.
1963 c. 33.	London Government Act 1963.	Section 40(4)(i).
1970 c. 42.	Local Authority Social Services Act 1970.	In Schedule 1, in the entry relating to the Mental Health Act 1959, the words "and the Registered Homes Act 1984 so far as its provisions relate to mental nursing homes", and the entry relating to the Registered Homes Act 1984.
1970 c. 44.	Chronically Sick and Disabled Persons Act 1970.	Section 18.
1972 c. 70.	Local Government Act 1972.	In Schedule 29, paragraph 30.
1973 c. 35.	Employment Agencies Act 1973.	In section 13(7), paragraphs (b) and (c) and the proviso.
1976 c. 36.	Adoption Act 1976.	Section 3.
		Section 4(1) and (2).
		In section 4(3), the word "concerned".
		Section 5.
		Section 9(1).
1979 c. 36.	Nurses, Midwives and Health Visitors Act 1979.	In Schedule 7, paragraphs 8, 9 and 10.
1981 c. xvii.	Greater London Council (General Powers) Act 1981.	Section 16(j).
1983 c. 20.	Mental Health Act 1983.	In section 145(1), the definition of "mental nursing home".
1983 c. 41.	Health and Social Services and Social Security Adjudications Act 1983.	In Schedule 2, paragraph 29.
1984 c. 22.	Public Health (Control of Disease) Act 1984.	In section 7(4), paragraphs (h) and (i) and the "and" following paragraph (i).
1984 c. 23.	Registered Homes Act 1984.	The whole Act.
1984 c. xxvii.	Greater London Council (General Powers) Act 1984.	Section 10(2)(f) and (l).
1989 c. 41.	Children Act 1989.	Section 54.

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		In section 58(1), the word "54(2)".
		In section 60, subsections (1) and (2), and in subsection (3)(a), the words "(other than a small home)".
		Section 63(1) to (10).
		In section 80(4), the word "or" before paragraph (d).
		In section 104(1), the word "54(2)".
		In section 105(1), the definitions of "child minder", "mental nursing home", "nursing home", "registered children's home" and "residential care home".
		In Schedule 4, in paragraph 4, sub-paragraphs (1)(b) and (c), (2) and (3).
		In Schedule 5, paragraphs 1 to 6, in paragraph 7, sub-paragraphs (1)(b) and (c) and (2) to (4), and paragraph 8.
		In Schedule 6, paragraphs 1 to 9 and in paragraph 10, sub-paragraphs (1)(b) and (c), (2)(a) to (k), (3) and (4).
		In Schedule 8, paragraph 2(1)(b) and in paragraph 9(1), the words "which is not maintained by a local education authority".
		In Schedule 13, paragraph 49, in paragraph 73, sub-paragraphs (2) and (3) and in paragraph 74, sub-paragraphs (2) and (4).
1990 c. 19.	National Health Service and Community Care Act 1990.	In Schedule 9, paragraph 27.
1991 c. 20.	Registered Homes (Amendment) Act 1991.	The whole Act.
1992 c. 53.	Tribunals and Inquiries Act 1992.	In Schedule 1, the entry relating to the Registered Homes Tribunals constituted

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		under Part III of the Registered Homes Act 1984.
1993 c. 8.	Judicial Pensions and Retirement Act 1993.	In Schedule 5, the entry relating to a Chairman of a Registered Homes Tribunal constituted under the Registered Homes Act 1984. In Schedule 6, paragraph 55. In Schedule 7, paragraph 5(5)(xxxi).
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 9, paragraph 5.
1996 c. 23.	Arbitration Act 1996.	In Schedule 3, paragraph 41.
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraphs 58, 86, 88 and 89.
1997 c. 24.	Nurses, Midwives and Health Visitors Act 1997.	In Schedule 4, paragraph 3.
1999 c. 14.	Protection of Children Act 1999.	In section 2(9), the words “or an agency for the supply of nurses”. In section 7(2), the words “or an agency for the supply of nurses”. Section 10. In section 12(1), the definition of “agency for the supply of nurses”. Section 13(3) and (4).
1999 c. 18.	Adoption (Intercountry Aspects) Act 1999.	Section 10.

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Changes and effects yet to be applied to :

- s. 4(10) words inserted by 2016 anaw 2 Sch. 3 para. 4(i)
- s. 5(1A) word repealed by 2008 c. 23 Sch. 4
- s. 42(7) words omitted by 2012 c. 7 Sch. 14 para. 78
- Sch. 2A para. 3 words omitted by 2012 c. 7 Sch. 14 para. 79
- Sch. 2B para. 4 words omitted by 2012 c. 7 Sch. 14 para. 80
- Sch. 4 para. 16 repealed by 2004 c. 28 Sch. 11

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(1)(a)(iii) words substituted by 2008 c. 23 s. 4(2)(a)