



Care Standards Act 2000

2000 CHAPTER 14

PART I

INTRODUCTORY

Preliminary

1 Children's homes

- (1) Subsections (2) to (6) have effect for the purposes of this Act.
- (2) An establishment 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.
- (4) An establishment is not a children's home if it is—
 - (a) a health service hospital;
 - (b) an independent hospital or an independent clinic; or
 - (c) 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.

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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.

2 Independent hospitals etc

- (1) Subsections (2) to (6) apply for the purposes of this Act.
- (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 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 National Health Service Act 1977 is not an independent clinic.
- (5) “Independent medical agency” means an undertaking (not being an independent clinic) which consists of or includes the provision of services by medical practitioners.
- But if any of the services are provided for the purposes of an independent clinic, or by medical practitioners in pursuance of the National Health Service Act 1977, it is not an independent medical agency.
- (6) References to a person liable to be detained under the 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).

3 Care homes

- (1) For the purposes of this Act, an establishment 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.
- (3) But an establishment is not a care home if it is—
 - (a) a hospital;
 - (b) an independent clinic; or
 - (c) a children’s home,or if it is of a description excepted by regulations.

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 at which—
 - (a) accommodation is provided for children and their parents;
 - (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 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 in connection with the placing of children with foster parents; or
 - (b) a voluntary organisation which places children with foster parents under section 59(1) of the 1989 Act.
- (5) “Nurses agency” means, subject to subsection (6), an employment agency or employment business, being (in either case) a business which consists of or includes supplying, or providing services for the purpose of supplying, registered nurses, registered midwives or registered health visitors.

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- (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 Adoption Act 1976 which is a voluntary organisation within the meaning of that Act.
- (8) Below in this Act—
- (a) any reference to a description of establishment is a reference to a children’s home, an independent hospital, an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983, an independent clinic, a care home or a residential family centre;
 - (b) a reference to any establishment is a reference to an establishment of any of those descriptions.
- (9) Below in this Act—
- (a) any reference to a description of agency is a reference to an independent medical agency, a domiciliary care agency, a nurses agency, a fostering agency or a voluntary adoption agency;
 - (b) a reference to any agency is a reference to an agency of any of those descriptions.

Registration authorities

5 Registration authorities

For the purposes of this Act—

- (a) the registration authority in relation to England is the National Care Standards Commission;
- (b) the registration authority in relation to Wales is the National Assembly for Wales (referred to in this Act as “the Assembly”).

6 National Care Standards Commission

- (1) There shall be a body corporate, to be known as the National Care Standards Commission (referred to in this Act as “the Commission”), which shall exercise in relation to England the functions conferred on it by or under this Act or any other enactment.
- (2) The Commission shall, in the exercise of its functions, act—
 - (a) in accordance with any directions in writing given to it by the Secretary of State; and
 - (b) under the general guidance of the Secretary of State.
- (3) Schedule 1 shall have effect with respect to the Commission.
- (4) The powers of the Secretary of State under this Part to give directions include power to give directions as to matters connected with the structure and organisation of the Commission, for example—
 - (a) directions about the establishment of offices for specified areas or regions;
 - (b) directions as to the organisation of staff into divisions.

7 General duties of the Commission

- (1) The Commission shall have the general duty of keeping the Secretary of State informed about the provision in England of Part II services and, in particular, about—
 - (a) the availability of the provision; and
 - (b) the quality of the services.
- (2) The Commission shall have the general duty of encouraging improvement in the quality of Part II services provided in England.
- (3) The Commission shall make information about Part II services provided in England available to the public.
- (4) When asked to do so by the Secretary of State, the Commission shall give the Secretary of State advice or information on such matters relating to the provision in England of Part II services as may be specified in the Secretary of State’s request.
- (5) The Commission may at any time give advice to the Secretary of State on—
 - (a) any changes which the Commission thinks should be made, for the purpose of securing improvement in the quality of Part II services provided in England, in the standards set out in statements under section 23; and
 - (b) any other matter connected with the provision in England of Part II services.
- (6) The Secretary of State may by regulations confer additional functions on the Commission in relation to Part II services provided in England.
- (7) In this section and section 8, “Part II services” means services of the kind provided by persons registered under Part II, other than the provision of—
 - (a) medical or psychiatric treatment, or
 - (b) listed services (as defined in section 2).

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.
- (3) In relation to Part II services 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 7, is exercisable by the Commission in relation to Part II services provided in England.
- (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.

9 Co-operative working

- (1) The Commission for Health Improvement (“CHI”) and the National Care Standards Commission (“NCSC”) may, if authorised to do so by regulations, arrange—

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- (a) for prescribed functions of the NCSC to be exercised by CHI on behalf of the NCSC;
 - (b) for prescribed functions of CHI, so far as exercisable in relation to England, to be exercised by the NCSC on behalf of CHI,
- and accordingly CHI and the NCSC each have power to exercise functions of the other in accordance with arrangements under this subsection.
- (2) The Assembly and CHI may arrange for any functions of the Assembly mentioned in section 10(6) to be exercised by CHI on behalf of the Assembly; and accordingly CHI has power to exercise functions of the Assembly in accordance with arrangements under this subsection.
 - (3) The Assembly and CHI may, if authorised to do so by regulations, arrange for prescribed functions of CHI, so far as exercisable in relation to Wales, to be exercised by the Assembly on behalf of CHI; and accordingly the Assembly has power to exercise functions of CHI in accordance with arrangements under this subsection.
 - (4) References in this section to exercising functions include a reference to assisting with their exercise.
 - (5) Regulations under this section shall be made by the Secretary of State; but the Secretary of State may not make regulations under subsection (3) without the agreement of the Assembly.

10 Inquiries

- (1) The Secretary of State may cause an inquiry to be held into any matter connected with the exercise by the Commission of its functions.
- (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 Local Government Act 1972 (powers in relation to local inquiries) shall apply in relation to an inquiry under this section as they 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) Subsections (3) and (4) apply in relation to an inquiry under section 35 of the Government of Wales Act 1998 into any matter relevant to the exercise of—
 - (a) any functions exercisable by the Assembly by virtue of section 5(b) or 8(3); or
 - (b) any other functions exercisable by the Assembly corresponding to functions exercisable by the Commission in relation to England,
 as they apply in relation to an inquiry under this section.
- (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.