



Care Standards Act 2000

2000 CHAPTER 14

PART II

ESTABLISHMENTS AND AGENCIES

Miscellaneous and supplemental

VALID FROM 01/09/2009

[^{F1}30A Notification of matters relating to persons carrying on or managing certain establishments or agencies

- (1) This section applies where a person (“P”) is carrying on or managing an establishment or agency mentioned in subsection (6).
- (2) If the registration authority—
 - (a) has decided to adopt a proposal under section 17(4)(a) to cancel the registration of P in respect of the establishment or agency,
 - [^{F2}(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,^{F3} . . .
 - (c) has served a notice on P under section 22B,^{[F4} or
 - (d) has given P a penalty notice under section 30ZA in respect of an offence which it alleges P committed in relation to the establishment or agency and P has paid the penalty in accordance with the notice,]

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

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

Textual Amendments

- F1** 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](#)
- F2** 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](#))
- F3** 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](#))

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F4 S. 30A(2)(d) and preceding word 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(4)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

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.

[^{F5}(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;
- (b) inspect and take copies of any documents or records [^{F6}(including medical and other personal records)] required to be kept in accordance with regulations under this Part, [^{F7}section 9 of the Adoption and Children Act 2002], section 23(2)(a) or 59(2) of the 1989 Act or section 1(3) of the ^{MI}Adoption (Intercountry Aspects) Act 1999;
- (c) interview in private the manager or the person carrying on the establishment or agency;
- (d) interview in private any person [^{F8}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.

(6) The person so authorised may, with the consent of the person mentioned in subsection (5)(b), examine him in private ^{F9}. . . .

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The [^{F10}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 [^{F11}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

- F5** 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](#)
- F6** Words in s. 31(3)(b) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 108\(3\)\(a\)](#), 199; [S.I. 2004/759](#), [art. 5\(2\)](#); [S.I. 2004/873](#), [art. 2](#)
- F7** Words in s. 31(3)(b) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 139](#), 148, [Sch. 3 para. 111](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), {art. 3}; [S.I. 2005/3112](#), [art. 2](#)
- F8** 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](#)
- F9** 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](#)
- F10** 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\(2\)\(b\)](#)
- F11** 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)

- C1** 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

Commencement Information

- II** 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.](#)

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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

Marginal Citations

M1 1999 c. 18.

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.
- (8) ^{F12}

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Textual Amendments

- F12** 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](#)

Commencement Information

- I2** 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)

- C2** 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](#)

Commencement Information

- I3** 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. 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.

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- (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)

- C3** 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

Commencement Information

- I4** 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—
- (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)

- C4** 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

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Commencement Information

- I5** 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.

Modifications etc. (not altering text)

- C5** 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

Commencement Information

- I6** 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](#)

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[^{F13}36A Voluntary adoption agencies: distribution of functions

- (1) This section applies to functions relating to voluntary adoption agencies conferred on the registration authority by or under this Part or under Chapter 2 of Part 1 of the Adoption and Children Act 2002.
- (2) Subject to the following provisions, functions to which this section applies are exercisable—
 - (a) where the principal office of an agency is in England, by [^{F14}the CIECSS],
 - (b) where the principal office of an agency is in Wales, by the Assembly.
- (3) So far as those functions relate to the imposition, variation or removal of conditions of registration, they may only be exercised after consultation with the Assembly or (as the case may be) [^{F14}the CIECSS].
- (4) But—
 - (a) where such a function as is mentioned in subsection (3) is exercisable by the [^{F14}the CIECSS] in relation to an agency which has a branch in Wales, it is exercisable only with the agreement of the Assembly,
 - (b) where such a function as is mentioned in subsection (3) is exercisable by the Assembly in relation to an agency which has a branch in England, it is exercisable only with the agreement of [^{F14}the CIECSS].
- (5) The functions conferred on the registration authority by sections 31 and 32 of this Act in respect of any premises of a voluntary adoption agency are exercisable—
 - (a) where the premises are in England, by [^{F14}the CIECSS]
 - (b) where the premises are in Wales, by the Assembly.
- (6) In spite of subsections (2) to (5), regulations may provide for any function to which this section applies to be exercisable by [^{F14}the CIECSS] instead of the Assembly, or by the Assembly instead of [^{F14}the CIECSS], or by one concurrently with the other, or by both jointly or by either with the agreement of or after consultation with the other.
- (7) In this section, “regulations” means regulations relating to England and Wales.]

Textual Amendments

- F13** S. 36A inserted (1.2.2003 for W., 25.2.2003 for E. for certain purposes, 30.4.2003 for E. for certain further purposes and 30.12.2005 for E. otherwise) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 16, 148](#) (with [Sch. 4 paras. 1, 6-8](#)); [S.I. 2003/181](#), [art. 2](#); [S.I. 2003/366](#), [art. 2\(1\)\(4\)](#); [S.I. 2005/2213](#), [art. 3](#)
- F14** Words in s. 36A substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 157, 188](#), [Sch. 14 para. 49](#); [S.I. 2007/935](#), [art. 5](#)

Modifications etc. (not altering text)

- C6** S. 36A amended (temp.) (25.2.2003) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 139, 148](#), [Sch. 4 para. 4\(2\)](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/366](#), {art. 2}

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

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- (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 ^{M2}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.
- (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 ^{M3}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.

Commencement Information

I7 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

M2 1978 c. 30.
M3 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.

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Commencement Information

- I8** 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, 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 ^{M4}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 ^{M5}National Health Service Act 1977; or
 - (ii) under an agreement made in accordance with Part I of the ^{M6}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

- I9** 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

- M4** 1984 c. 23.
M5 1977 c. 49.
M6 1997 c. 46.

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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 ”.

Commencement Information

I10 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

I11 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) [^{F15}, (2A)] or (3) applies.

[^{F16}(2) This subsection applies to—

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- (a) Welsh local authorities providing services in the exercise of their social services functions, and
 - (b) persons who provide services which are similar to services which—
 - (i) may or must be so provided by Welsh local authorities, or
 - (ii) 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
 - (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) [^{F17}or (2A)].
- [^{F18}(5) [^{F19}Regulations under subsection (1) made by the Secretary of State may in particular specify whether, for the purposes of the application of this Part to any person, the registration authority is to be the CHAI^{F20}, the CSCI or the CIECSS].]
- [^{F21}(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,
 - “Welsh local authorities” means local authorities in Wales, and
 - “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

- F15** 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)
- F16** S. 42(2)(2A) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) for s. 42(2) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 28\(3\)](#); S.I. 2010/807, [art. 2\(2\)](#), [Sch. 1 Pt. 2](#) (with arts. 3-22)

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- F17** 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)
- F18** S. 42(5) 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. 25](#); S.I. 2004/759, [art. 5\(2\)](#)
- F19** 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)
- F20** Words in s. 42(5) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 50](#); S.I. 2007/935, [art. 5](#)
- F21** 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)

Commencement Information

- I12** 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\(3\)](#)

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