



# Care Standards Act 2000

## 2000 CHAPTER 14

### 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.

*Status: Point in time view as at 01/04/2002.*

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- (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 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 <sup>M1</sup>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 <sup>M2</sup>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 <sup>M3</sup>Further and Higher Education Act 1992, or a school.”

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#### Commencement Information

- II** 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)

#### Marginal Citations

- M1** 1992 c. 13.  
**M2** 1996 c. 56.  
**M3** 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—
- that person already acts as an inspector for other purposes in relation to schools or colleges to which section 87(1) applies, and
  - 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—
- the relevant person enters into an agreement in writing with a person appointed under subsection (1),
  - 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
  - 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 notice under subsection (4) relating to the inspector, or
  - 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—

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- (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
  - (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

- 12** 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—

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**“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.
- (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**

**I3** 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.”

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#### Commencement Information

**I4** 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)

### 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 (1), 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 <sup>M4</sup>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 <sup>M5</sup>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 <sup>M6</sup>Further and Higher Education Act 1992.”

#### Commencement Information

**I5** 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

**M4** 1992 c. 13.

**M5** 1992 c. 13.

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**M6** 1992 c. 13.

**Status:**

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**Changes to legislation:**

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