



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 2

STANDARDS

CHAPTER 7

FUNCTIONS UNDER THE CARE STANDARDS ACT 2000

Functions of CHAI and CSCI

102 Transfer of functions to CHAI and CSCI

- (1) The functions of the National Care Standards Commission under Part 2 of the Care Standards Act 2000 (c. 14) (registration and standards) are transferred in accordance with subsections (2) and (3).
- (2) Its functions under that Part are transferred to the CHAI insofar as they relate to—
 - (a) independent hospitals;
 - (b) independent clinics; and
 - (c) independent medical agencies.
- (3) Its functions under that Part are transferred to the CSCI insofar as they relate to—
 - (a) children's homes;
 - (b) care homes;
 - (c) residential family centres;
 - (d) domiciliary care agencies;
 - (e) nurses agencies;
 - (f) fostering agencies;

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- (g) voluntary adoption agencies; and
 - (h) adoption support agencies.
- (4) In relation to any period after the coming into force of this subsection but before the coming into force of sections 80 and 81, the functions of the National Care Standards Commission under Part 3 of that Act are transferred to the CSCI.

Commencement Information

II S. 102 in force at 1.4.2004 by S.I. 2004/759, art. 5(2)(a)

103 General functions of CHAI

In the Care Standards Act 2000 (c. 14), after section 5 insert—

“5A General duties of Commission for Healthcare Audit and Inspection

- (1) The Commission for Healthcare Audit and Inspection (referred to in this Act as “the CHAI”) shall have the general duty of keeping the Secretary of State informed about—
 - (a) the provision in England of independent health services; and
 - (b) in particular, the availability and quality of the services.
- (2) The CHAI shall have the general duty of encouraging improvement in the quality of independent health services provided in England.
- (3) The CHAI shall make information about independent health services provided in England available to the public.
- (4) When asked to do so by the Secretary of State, the CHAI shall give him advice or information on such matters relating to the provision in England of independent health services as may be specified in his request.
- (5) The CHAI may at any time give advice to the Secretary of State on—
 - (a) any changes which the CHAI thinks should be made, for the purpose of securing improvement in the quality of independent health services provided in England, in the standards set out in statements under section 23;
 - (b) any other matter connected with the provision in England of such services.
- (6) In the exercise of its functions under this Act the CHAI must have particular regard to the need to safeguard and promote the rights and welfare of children.
- (7) The Secretary of State may by regulations confer additional functions on the CHAI in relation to the provision in England of independent health services.
- (8) In this section “independent health services” means services of the kind provided by persons for whom the CHAI is the registration authority.”

Commencement Information

I2 S. 103 partly in force; s. 103 in force at Royal Assent for certain purposes, see s. 199(1)(4)

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I3 S. 103 in force at 1.4.2004 by S.I. 2004/759, art. 3(1)

104 General functions of CSCI

In the Care Standards Act 2000, after section 5A (inserted by section 103 above) insert—

“5B General duties of Commission for Social Care Inspection

- (1) The Commission for Social Care Inspection (referred to in this Act as “the CSCI”) shall have the general duty of keeping the Secretary of State informed about—
 - (a) the provision in England of registered social care services; and
 - (b) in particular, the availability and quality of the services.
- (2) The CSCI shall have the general duty of encouraging improvement in the quality of registered social care services provided in England.
- (3) The CSCI shall make information about registered social care services provided in England available to the public.
- (4) When asked to do so by the Secretary of State, the CSCI shall give him advice or information on such matters relating to the provision in England of registered social care services as may be specified in his request.
- (5) The CSCI may at any time give advice to the Secretary of State on—
 - (a) any changes which the CSCI thinks should be made, for the purpose of securing improvement in the quality of registered social care services provided in England, in the standards set out in statements under section 23;
 - (b) any other matter connected with the provision in England of registered social care services.
- (6) In the exercise of its functions under this Act the CSCI must have particular regard to the need to safeguard and promote the rights and welfare of children.
- (7) The Secretary of State may by regulations confer additional functions on the CSCI in relation to the provision in England of registered social care services.
- (8) In this section, “registered social care services” means services of the kind provided by persons for whom the CSCI is the registration authority.”

Commencement Information

I4 S. 104 partly in force; s. 104 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I5 S. 104 in force at 1.4.2004 for E. by S.I. 2004/759, art. 4(2)(a)

105 Fees

- (1) The Care Standards Act 2000 (c. 14) is amended as follows.
- (2) After section 113 insert—

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“113A Fees payable under Part 2

- (1) The CHAI and the CSCI may each from time to time make and publish provision determining the amount of any fee payable to it under Part 2.
 - (2) Provision under subsection (1) may include provision—
 - (a) for different amounts to be payable in different cases, or classes of case;
 - (b) for different amounts to be payable by persons of different descriptions.
 - (3) Before the CHAI or the CSCI makes any provision under subsection (1) it must consult such bodies as appear to it to be representative of the persons liable to pay the fee.
 - (4) No provision may be made under subsection (1) without the consent of the Secretary of State.
 - (5) If the Secretary of State considers it necessary or desirable to do so, he may by regulations make provision determining the amount of a fee payable to the CHAI or the CSCI under Part 2 instead of the amount for which provision is made under subsection (1).
 - (6) Before making any regulations under subsection (5) in respect of fees payable to the CHAI or the CSCI, the Secretary of State shall consult that body and such other persons as appear to him to be appropriate.”
- (3) In section 12 (applications for registration), in subsection (2), for “a fee of the prescribed amount” substitute “ a fee of the amount determined under section 113A, where the registration authority is the CHAI or the CSCI, or of the prescribed amount, where the registration authority is the Assembly. ”
 - (4) In section 15 (other applications), in subsection (3) for “a fee of such amount as may be prescribed” substitute “a fee of—
 - (a) the amount determined under section 113A, where the registration authority is the CHAI or the CSCI; or
 - (b) the prescribed amount, where the registration authority is the Assembly.”
 - (5) In that section, in subsection (5)—
 - (a) for “subsection (3)” substitute “ subsection (3)(b) ”; and
 - (b) for “the registration authority” substitute “ the Assembly ”.
 - (6) In section 16 (regulations about registration), for subsection (3) substitute—

“(3) Persons registered under this Part must also pay to the registration authority, at such time as may be prescribed, an annual fee—

 - (a) of such amount as may be determined under section 113A, where the registration authority is the CHAI or the CSCI; and
 - (b) of such amount as may be prescribed, where the registration authority is the Assembly.”

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- (7) In section 22(7)(i) (fees in respect of notification of variation of corporate ownership etc), for the words from “of a fee” to the end substitute “, in respect of any notification required to be made by virtue of paragraph (h), of a fee of—
- (i) such amount as may be determined under section 113A, where notification is made to the CHAI or the CSCI; or
 - (ii) the prescribed amount, where notification is made to the Assembly”.

Commencement Information

I6 S. 105 partly in force; s. 105 in force at Royal Assent for certain purposes, see s. 199(1)(4)

Miscellaneous

106 Meaning of “independent medical agency”

In section 2(5) of the Care Standards Act 2000 (c. 14) (an “independent medical agency” does not include an independent clinic), after “clinic” insert “ or an independent hospital ”.

Commencement Information

I7 S. 106 in force at 1.4.2004 by S.I. 2004/759, art. 3(1)

I8 S. 106 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

VALID FROM 01/04/2006

107 Children’s homes providing secure accommodation

- (1) In section 4 of the Care Standards Act 2000 (c. 14) (basic definitions), in subsection (8)(a) (references to a description of establishment), after “children’s home” insert “ , a children’s home providing accommodation for the purpose of restricting liberty, ”.
- (2) In section 22 of that Act (regulations), in subsection (8) (regulations relating to children’s homes)—
 - (a) omit paragraph (a), and
 - (b) in paragraph (b), for “mentioned in paragraph (a)” substitute “ of restricting liberty ”.

108 Information and inspection

- (1) Section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority) is amended as follows.
- (2) After subsection (1), insert—

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“(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.”

(3) In subsection (3)—

- (a) in paragraph (b), for “(other than medical records)” substitute “ (including medical and other personal records) ”; and
- (b) in paragraph (d), for “employed” substitute “ working ”.

(4) In subsection (6), omit “and inspect any medical records relating to his treatment in the establishment”.

Commencement Information

I9 S. 108 in force at 1.4.2004 for W. by S.I. 2004/873, art. 2(e)

I10 S. 108 in force at 1.4.2004 by S.I. 2004/759, art. 5(2)(a)

109 Assembly: duties relating to children

In section 8 of the Care Standards Act 2000 (general functions of the Assembly), at the end insert—

“(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 section 5(b) and subsections (1) to (3) of this section; and
- (b) any other functions exercisable by the Assembly corresponding to functions exercisable by the CSCI in relation to England.”

Commencement Information

I11 S. 109 in force at 1.4.2004 by S.I. 2004/873, art. 2(d)

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Changes to legislation:

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