

2001 No. 4150 (C. 134)

**SOCIAL CARE, ENGLAND
CHILDREN AND YOUNG PERSONS, ENGLAND
PUBLIC HEALTH, ENGLAND**

**The Care Standards Act 2000 (Commencement No. 10
(England) and Transitional, Savings and Amendment
Provisions) Order 2001**

Made - - - - - 21st December 2001

The Secretary of State, in exercise of the powers conferred upon him by sections 118(5) to (7) and 122 of the Care Standards Act 2000(a), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and extent

1.—(1) This Order may be cited as the Care Standards Act 2000 (Commencement No. 10 (England) and Transitional, Savings and Amendment Provisions) Order 2001.

(2) This Order extends to England only.

Interpretation

2.—(1) In this Order—

“the Act” means the Care Standards Act 2000;

“the 1957 Act” means the Nurses Agencies Act 1957(b);

“the 1984 Act” means the Registered Homes Act 1984(c);

“the 1989 Act” means the Children Act 1989(d);

“the No. 9 Order” means the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001(e);

“mental nursing home” has the meaning given to it in section 22 of the 1984 Act;

“nursing home” has the meaning given to it in section 21 of the 1984 Act;

“residential care home” shall be construed in accordance with section 1(1) of the 1984 Act.

(2) In this Order, a reference—

(a) to a numbered article is to the article in this Order bearing that number;

(b) in an article to a numbered paragraph is to the paragraph in that article bearing that number.

(a) 2000 c. 14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State.

(b) 1957 c. 16.

(c) 1984 c. 23.

(d) 1989 c. 41.

(e) S.I. 2001/3852.

Appointed days

3.—(1) In this article, any reference to a section is a reference to a section of the Act, and any reference to a Schedule is a reference to a Schedule to the Act.

(2) This article shall have effect subject to article 4.

(3) 1st April 2002 is the day appointed for the coming into force of—

- (a) section 116 and Schedule 4, in so far as they relate to paragraphs 1 to 4, 5(1), (3) and (8), 8 to 11, 14(3), (7) to (9), (10)(a), (11), (12), (16)(a) and (c), (17) to (21), (23)(a)(i) to (iii), (vi) and (vii) and (24) to (28), 15 to 18, 20, 23, 24(1) and (2) and 28 to 30 of that Schedule;
- (b) section 116 and Schedule 4, in so far as they relate to paragraph 21 of that Schedule, except for the words “and vulnerable adults” in that paragraph;
- (c) section 117 and Schedule 6, in so far as they relate to—
 - (i) the National Assistance Act 1948(a);
 - (ii) the London Government Act 1963(b);
 - (iii) the Local Authority Social Services Act 1970(c);
 - (iv) the Greater London Council (General Powers) Act 1981(d);
 - (v) the Mental Health Act 1983(e);
 - (vi) the Public Health (Control of Disease) Act 1984(f);
 - (vii) the Greater London Council (General Powers) Act 1984(g);
 - (viii) the provisions of the 1989 Act, except for the definition of “child minder”, specified in the right-hand column of Schedule 6, in so far as the repeal of those provisions is not already in force;
 - (ix) the National Health Service and Community Care Act 1990(h);
 - (x) the Registered Homes (Amendment) Act 1991(i);
 - (xi) the Arbitration Act 1996(j);
 - (xii) the Education Act 1996(k);
 - (xiii) the Nurses, Midwives and Health Visitors Act 1997(l).

(4) 1st July 2002 is the day appointed for the coming into force of section 117 and Schedule 6, in so far as they relate to the Local Government Act 1972(m) and the Nurses, Midwives and Health Visitors Act 1979(n).

Transitional provisions

4.—(1) This paragraph applies to any undertaking which for the time being—

- (a) is a residential care home, nursing home or mental nursing home in respect of which—
 - (i) a person is registered under Part I or II of the 1984 Act; and
 - (ii) the registration of that person under that Act continues in force after 1st April 2002 in accordance with Schedule 1 to the No. 9 Order; or
- (b) is a home which is registered—
 - (i) in a register kept for the purposes of section 60 of the 1989 Act; or
 - (ii) under Part VIII of the 1989 Act, and

the registration in respect of which under that Act continues in force on or after 1st April 2002 in accordance with Schedule 1 to the No. 9 Order.

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- (a) 1948 c. 29.
 - (b) 1963 c. 33.
 - (c) 1970 c. 42.
 - (d) 1981 c. xvii.
 - (e) 1983 c. 20.
 - (f) 1984 c. 22.
 - (g) 1984 c. xxvii.
 - (h) 1990 c. 19.
 - (i) 1991 c. 20.
 - (j) 1996 c. 23.
 - (k) 1996 c. 56.
 - (l) 1997 c. 24.
 - (m) 1972 c. 70.
 - (n) 1979 c. 36.

- (2) This Paragraph applies to any undertaking which for the time being is an agency for the supply of nurses within the meaning of the 1957 Act—
- (a) which a person is authorised to carry on by a licence which has been granted to him by a local authority under section 2 of that Act; and
 - (b) in respect of which the licence so granted continues in force on or after 1st July 2002 in accordance with Schedule 1 to the No. 9 Order.
- (3) This paragraph applies to any community home—
- (a) in relation to which a person has applied in accordance with paragraph 15 of Schedule 1 to the No. 9 Order for registration under Part II of the Act as a person who carries on or manages a children’s home;
 - (b) in respect of which, in accordance with paragraph 15 of that Schedule, section 11(1) to (3), (5) and (6) of the Act does not apply to that person.
- (4) An enactment which is amended by virtue of any provision in Schedule 4 to the Act brought into force under article 3(3)(a) shall, in so far as the enactment relates to—
- (a) any undertaking to which paragraph (1) applies; or
 - (b) any community home to which paragraph (3) applies,
- have effect in relation to that undertaking or community home, as the case may be, as if the amendment had not been made.
- (5) Any enactment which is repealed to any extent by virtue of any entry in Schedule 6 to the Act brought into force under article 3(3)(c) or (4) shall, in so far as it relates to—
- (a) any undertaking to which paragraph (1) or (2) applies; or
 - (b) any community home to which paragraph (3) applies,
- have effect in relation to that undertaking or community home, as the case may be, as if the enactment had not been repealed.

Amendment of the No. 9 Order

5.—(1) The No. 9 Order shall be amended in accordance with the following paragraphs of this article.

(2) In article 3 of the No. 9 Order, in paragraph (7)(i), after the words “Protection of Children Act” on the first and third occasions on which they occur, there shall be added “1999”.

(3) In Schedule 1 to the No. 9 Order—

- (a) in paragraph 6(1), after the words “sub-paragraph (2)” there shall be added the words “or (2A)”;
- (b) in paragraph 6, after sub-paragraph (2) there shall be inserted the following sub-paragraphs—
 - “(2A) This sub-paragraph applies where—
 - (a) the existing provider is an individual; and
 - (b) in the period commencing on 1st April 2001 and ending on 31st March 2002—
 - (i) the existing provider applied to be registered under Part I or II of the 1984 Act in respect of the existing undertaking, and his application for registration was granted; and
 - (ii) the authority received a police check in relation to the existing provider.

(2B) In sub-paragraph (2A)—

“police check” means a report, sent to the authority by, or by a person on behalf of, the chief officer of police or other member of a police force within the meaning of the Police Act 1996(a), which indicates that—

- (a) in relation to the information provided about the existing provider, no record has been found of any police record relating to England or Wales; or
 - (b) the information provided about the existing provider appears identical with the person whose record is attached to the report.”;
- (c) in paragraph 6(2)(a)(i), after the words “specified in” there shall be added the word “section”;

(a) 1996 c. 16.

- (d) in paragraph 6(3)(c)(i)(bb), the words “issued to the person” shall be omitted;
 - (e) in paragraph 11(3)(a), after the words “registered person” there shall be added the words “in writing before 13th November 2001”;
 - (f) in paragraph 14(9)(b), the words “(except for the purpose of making subordinate legislation)” shall be omitted;
 - (g) in paragraph 15(1)(a)(ii), the words “a children’s home, other than” shall be omitted.
- (4) At the end of the Schedule 1 to the No. 9 Order, the following paragraph shall be added—
“Registered Homes Tribunal
16. Part III of the 1984 Act shall continue to have effect after 1st April 2002 in relation to any appeal to the Registered Homes Tribunal which—
 (a) is commenced before 1st April 2002; or
 (b) in accordance with this Schedule may be brought on or after 1st April 2002.”.
- (5) In Schedule 2 to the No. 9 Order, in paragraph 2(b), after the word “categories” the word “of” shall be omitted.

Signed by authority of the Secretary of State for Health

21st December 2001

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, in relation to England only, certain provisions of the Care Standards Act 2000 which amend or repeal other statutory provisions. It also makes transitional provision and amends the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001 (“the No. 9 Order”).

Under the Care Standards Act 2000, the National Care Standards Commission is to be responsible for the regulation and registration of children’s homes, care homes, nurses agencies and certain other establishments and agencies. Voluntary and private children’s homes are currently registered under sections 60 and 63 of the Children Act 1989. Residential care homes, nursing homes and mental nursing homes are currently registered under the Registered Homes Act 1984, and nurses agencies are licensed under the Nurses Agencies Act 1957. The amendments and repeals are in general consequential on the replacement of the current systems of registration.

Article 3 of the Order brings into force certain minor and consequential amendments and repeals on 1st April 2002, and the repeals specified in article 3(4) on 1st July 2002. The transitional provisions in article 4 provide for the amendments or repeals not to have effect in a case where the registration under the current legislation continues in force, or in the case of a community home in relation to which a person has applied for registration under the Act and the application has not been determined.

Article 5 of the Order amends the No. 9 Order. Article 5(3)(b) applies to persons who are registered in respect of a home under the Registered Homes Act 1984. In order to become registered under the Care Standards Act 2000, it is necessary for them to apply for criminal record certificates under the Police Act 1997. Under the amendment, if they have become registered within the year ending on 31st March 2002 and the registration authority has received a police check in respect of them, it will not be necessary for them to apply for the certificates.

Under the No. 9 Order, persons who are registered in respect of a home under the Registered Homes Act 1984 will be subject to a condition in relation to the use of private rooms for the accommodation of service users which the registration authority previously notified were of insufficient size. The condition is amended by article 5(3)(e) so that the notification must have been given in writing before 13th November 2001.

The amendment made by article 5(4) provides for Part III of the Registered Homes Act 1984, which makes provision for appeals to the Registered Homes Tribunal, to continue to have effect in relation to appeals to the Tribunal which are commenced before 1st April 2002 or are subsequently brought in accordance with Schedule 1 to the No. 9 Order.

Article 5 also makes minor corrections to the No. 9 Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Care Standards Act 2000 have been brought into force—

- (a) in relation to England (as well as Wales) by the Care Standards Act 2000 (Commencement No. 1) Order 2000 (S.I. 2000/2544) (C. 72); and
- (b) in relation to England by—
 - the Care Standards Act 2000 (Commencement No. 1 (England) and Transitional Provisions) Order 2000 (S.I. 2000/2795) (C. 79);
 - the Care Standards Act 2000 (Commencement No. 2 (England) and Transitional Provisions) Order 2001 (S.I. 2001/290) (C. 17);
 - the Care Standards Act 2000 (Commencement No. 3) (England) Order 2001 (S.I. 2001/731) (C. 26);
 - the Care Standards Act 2000 (Commencement No. 4) (England) Order 2001 (S.I. 2001/1193) (C. 39);
 - the Care Standards Act 2000 (Commencement No. 5) (England) Order 2001 (S.I. 2001/1210) (C. 41);
 - the Care Standards Act 2000 (Commencement No.6) (England) Order 2001 (S.I. 2001/1536) (C. 55);
 - the Care Standards Act 2000 (Commencement No. 7 (England) and Transitional, Transitory and Savings Provisions) Order 2001 (S.I. 2001/2041) (C. 68);
 - the Care Standards Act 2000 (Commencement No. 8) (England) Order 2001 (S.I. 2001/3331) (C. 109); and
 - the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001 (S.I. 2001/3852) (C. 125).

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 3 (partially)	20th November 2001	2001/3852
Sections 1 to 3 (partially)	1st January 2002	2001/3852
Sections 1 to 3 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 4 (partially)	20th November 2001	2001/3852
Section 4 (partially)	1st January 2002	2001/3852
Section 4 (partially)	1st April 2002	2001/3852
Section 4 (partially)	1st July 2002	2001/3852
Section 5 (partially)	1st April 2002	2001/3852
Section 6(3) and Schedule 1 (partially)	16th March 2001	2001/952
Section 6 and Schedule 1 (partially)	9th April 2001	2001/952
Section 7	1st April 2002	2001/3852
Section 10 (partially)	1st April 2002	2001/3852
Section 11 (partially)	20th November 2001	2001/3852
Section 11 (in so far as not already in force)	1st April 2002	2001/3852
Section 12 (partially)	20th November 2001	2001/3852
Sections 12 and 13 (partially)	1st January 2002	2001/3852
Sections 12 and 13 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 14 to 16 (partially)	20th November 2001	2001/3852
Sections 14 to 16 (partially)	1st January 2002	2001/3852

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 14 to 16 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 17 to 20	1st April 2002	2001/3852
Section 21 (partially)	20th November 2001	2001/3852
Section 21 (in so far as not already in force)	1st April 2002	2001/3852
Section 22	20th November 2001	2001/3852
Section 23(1) to (3)	2nd March 2001	2001/731
Section 23(4) (partially)	1st January 2002	2001/3852
Section 23 (in so far as not already in force)	1st April 2002	2001/3852
Section 24	1st April 2002	2001/3852
Section 25 (partially)	20th November 2001	2001/3852
Section 25 (in so far as not already in force)	1st April 2002	2001/3852
Section 26	1st April 2002	2001/3852
Section 27 (partially)	1st January 2002	2001/3852
Section 27 (in so far as not already in force)	1st April 2002	2001/3852
Sections 28 to 30	1st April 2002	2001/3852
Section 31 (partially)	20th November 2001	2001/3852
Sections 31 and 32 (partially)	1st January 2002	2001/3852
Sections 31 and 32 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 33 to 36 (partially)	20th November 2001	2001/3852
Sections 33 to 36 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 37	1st April 2002	2001/3852
Section 38	20th November 2001	2001/3852
Section 39 (partially)	19th February 2001	2001/290
Section 39 (in so far as not already in force)	19th March 2001	2001/290
Section 40 (partially)	15th October 2000	2000/2795
Section 40 (in so far as not already in force)	1st January 2001	2000/2795
Section 41	1st January 2001	2000/2795
Sections 43, 45(4), 48, 49, 50, 51 and 52 (partially)	20th November 2001	2001/3852
Sections 43(1), (2), (3)(b), 44, 45, 46(1) to (6), (7)(a) and (b) and (8), and 47 to 53 (partially)	1st April 2002	2001/3852

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 54 and Schedule 1 (partially)	10th April 2001	2001/1536
Section 54 and Schedule 1 (partially)	7th May 2001	2001/1536
Section 55 (partially)	7th May 2001	2001/1536
Section 59 (partially)	7th May 2001	2001/1536
Section 60 (partially)	7th May 2001	2001/1536
Section 62 (partially)	7th May 2001	2001/1536
Section 63 (partially)	7th May 2001	2001/1536
Section 65 (partially)	7th May 2001	2001/1536
Section 66 (partially)	7th May 2001	2001/1536
Section 71 (partially)	7th May 2001	2001/1536
Section 79 and Schedule 3 (partially)	16th March 2001	2001/1210
Section 79 (partially) and Schedule 3 (in so far as not already in force)	2nd July 2001	2001/2041
Section 79(1) (partially)	2nd September 2002	2001/2041
Section 80(8) (partially)	2nd October 2000	2000/2544
Section 94	2nd October 2000	2000/2544
Section 96 (partially)	15th September 2000	2000/2544
Section 96 (in so far as not already in force)	2nd October 2000	2000/2544
Section 98	1st April 2001	2001/952
Section 99	15th September 2000	2000/2544
Section 100	2nd October 2000	2000/2544
Section 101	2nd October 2000	2000/2544
Section 103	2nd October 2000	2000/2544
Sections 105(1) to (4), 107 and 108 (partially)	20th November 2001	2001/3852
Sections 105 to 110 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 111 (partially)	1st July 2002	2001/3852
Section 112	4th October 2001	2001/3331
Section 113 and 114	16th March 2001	2001/1210
Section 116 and Schedule 4 (partially)	2nd October 2000	2000/2544
Section 116 and Schedule 4 (partially)	1st January 2001	2000/2795
Section 116 and Schedule 4 (partially)	2nd July 2001	2001/2041
Section 116 and Schedule 4 (partially)	1st April 2002	2001/3852
Section 117(2) and Schedule 6 (partially)	2nd October 2000	2000/2544

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 117(2) and Schedule 6 (partially)	4th October 2001	2001/3331
Section 117(2) and Schedule 6 (partially)	1st April 2002	2001/3852
Section 117(2) and Schedule 6 (partially)	1st July 2002	2001/3852

Certain provisions of the Act have been brought into force in relation to Wales only, by the following statutory instruments—

S.I. 2000/2992 (W. 192) (C. 93)

S.I. 2001/139 (W. 5) (C. 7)

S.I. 2001/2190 (W. 152) (C. 70)

S.I. 2001/2354 (W. 192) (C. 80)

S.I. 2001/2504 (W. 205) (C. 82)

S.I. 2001/2538 (W. 213) (C. 83)

S.I. 2001/2782 (W. 235) (C. 92).

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The Care Standards Act 2000 (Commencement No. 10
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