



Care Standards Act 2000

2000 CHAPTER 14

PART II

ESTABLISHMENTS AND AGENCIES

Registration

11 Requirement to register

- (1) Any person who carries on or manages an establishment or agency of any description without being registered under this Part in respect of it (as an establishment or, as the case may be, agency of that description) shall be guilty of an offence.
- (2) Where the activities of an agency are carried on from two or more branches, each of those branches shall be treated as a separate agency for the purposes of this Part.
- (3) The reference in subsection (1) to an agency does not include a reference to a voluntary adoption agency.
- (4) The Secretary of State may by regulations make provision about the keeping of registers by the Commission for the purposes of this Part.
- (5) A person guilty of an offence under this section shall be liable on summary conviction—
 - (a) if subsection (6) does not apply, to a fine not exceeding level 5 on the standard scale;
 - (b) if subsection (6) applies, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (6) This subsection applies if—
 - (a) the person was registered in respect of the establishment or agency at a time before the commission of the offence but the registration was cancelled before the offence was committed; or

- (b) the conviction is a second or subsequent conviction of the offence and the earlier conviction, or one of the earlier convictions, was of an offence in relation to an establishment or agency of the same description.

12 Applications for registration

- (1) A person seeking to be registered under this Part shall make an application to the registration authority.
- (2) The application—
 - (a) must give the prescribed information about prescribed matters;
 - (b) must give any other information which the registration authority reasonably requires the applicant to give,and must be accompanied by a fee of the prescribed amount.
- (3) A person who applies for registration as the manager of an establishment or agency must be an individual.
- (4) A person who carries on or manages, or wishes to carry on or manage, more than one establishment or agency must make a separate application in respect of each of them.

13 Grant or refusal of registration

- (1) Subsections (2) to (4) apply where an application under section 12 has been made with respect to an establishment or agency in accordance with the provisions of this Part.
- (2) If the registration authority is satisfied that—
 - (a) the requirements of regulations under section 22; and
 - (b) the requirements of any other enactment which appears to the registration authority to be relevant,are being and will continue to be complied with (so far as applicable) in relation to the establishment or agency, it shall grant the application; otherwise it shall refuse it.
- (3) The application may be granted either unconditionally or subject to such conditions as the registration authority thinks fit.
- (4) On granting the application, the registration authority shall issue a certificate of registration to the applicant.
- (5) The registration authority may at any time—
 - (a) vary or remove any condition for the time being in force in relation to a person's registration; or
 - (b) impose an additional condition.

14 Cancellation of registration

- (1) The registration authority may at any time cancel the registration of a person in respect of an establishment or agency—
 - (a) on the ground that that person has been convicted of a relevant offence;
 - (b) on the ground that any other person has been convicted of such an offence in relation to the establishment or agency;

- (c) on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements;
 - (d) on any ground specified by regulations.
- (2) For the purposes of this section the following are relevant offences—
- (a) an offence under this Part or regulations made under it;
 - (b) an offence under the Registered Homes Act 1984 or regulations made under it;
 - (c) an offence under the 1989 Act or regulations made under it;
 - (d) in relation to a voluntary adoption agency, an offence under regulations under section 9(2) of the Adoption Act 1976 or section 1(3) of the Adoption (Intercountry Aspects) Act 1999.
- (3) In this section “relevant requirements” means—
- (a) any requirements or conditions imposed by or under this Part; and
 - (b) the requirements of any other enactment which appear to the registration authority to be relevant.

15 Applications by registered persons

- (1) A person registered under this Part may apply to the registration authority—
- (a) for the variation or removal of any condition for the time being in force in relation to the registration; or
 - (b) for the cancellation of the registration.
- (2) But a person may not make an application under subsection (1)(b)—
- (a) if the registration authority has given him notice under section 17(4)(a) of a proposal to cancel the registration, unless the registration authority has decided not to take that step; or
 - (b) if the registration authority has given him notice under section 19(3) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.
- (3) An application under subsection (1) shall be made in such manner and state such particulars as may be prescribed and, if made under paragraph (a) of that subsection, shall be accompanied by a fee of such amount as may be prescribed.
- (4) If the registration authority decides to grant an application under subsection (1)(a) it shall serve notice in writing of its decision on the applicant (stating, where applicable, the condition as varied) and issue a new certificate of registration.
- (5) If different amounts are prescribed under subsection (3), the regulations may provide for the registration authority to determine which amount is payable in a particular case.

16 Regulations about registration

- (1) Regulations may make provision about the registration of persons under this Part in respect of establishments or agencies, and in particular about—
- (a) the making of applications for registration;
 - (b) the contents of certificates of registration.

Status: This is the original version (as it was originally enacted).

- (2) Regulations may provide that no application for registration under this Part may be made in respect of a fostering agency, or a voluntary adoption agency, which is an unincorporated body.
- (3) Regulations may also require persons registered under this Part to pay to the registration authority an annual fee of such amount, and at such a time, as may be prescribed.
- (4) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Registration procedure

17 Notice of proposals

- (1) Subsections (2) and (3) apply where a person applies for registration in respect of an establishment or agency.
- (2) If the registration authority proposes to grant the application subject to any conditions which have not been agreed in writing between it and the applicant, it shall give the applicant written notice of its proposal and of the conditions subject to which it proposes to grant his application.
- (3) The registration authority shall give the applicant notice of a proposal to refuse the application.
- (4) Except where it makes an application under section 20, the registration authority shall give any person registered in respect of an establishment or agency notice of a proposal—
 - (a) to cancel the registration (otherwise than in accordance with an application under section 15(1)(b));
 - (b) to vary or remove (otherwise than in accordance with an application under section 15(1)(a)) any condition for the time being in force in relation to the registration; or
 - (c) to impose any additional condition in relation to the registration.
- (5) The registration authority shall give the applicant notice of a proposal to refuse an application under section 15(1)(a).
- (6) A notice under this section shall give the registration authority's reasons for its proposal.

18 Right to make representations

- (1) A notice under section 17 shall state that within 28 days of service of the notice any person on whom it is served may make written representations to the registration authority concerning any matter which that person wishes to dispute.
- (2) Where a notice has been served under section 17, the registration authority shall not determine any matter to which the notice relates until either—
 - (a) any person on whom the notice was served has made written representations to it concerning the matter;

- (b) any such person has notified the registration authority in writing that he does not intend to make representations; or
- (c) the period during which any such person could have made representations has elapsed.

19 Notice of decisions

- (1) If the registration authority decides to grant an application for registration in respect of an establishment or agency unconditionally, or subject only to conditions which have been agreed in writing between it and the applicant, it shall give the applicant written notice of its decision.
- (2) A notice under subsection (1) shall state the agreed conditions.
- (3) If the registration authority decides to adopt a proposal under section 17, it shall serve notice in writing of its decision on any person on whom it was required to serve notice of the proposal.
- (4) A notice under subsection (3) shall—
 - (a) explain the right of appeal conferred by section 21;
 - (b) in the case of a decision to adopt a proposal under section 17(2), state the conditions subject to which the application is granted; and
 - (c) in the case of a decision to adopt a proposal under section 17(4)(b) or (c), state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.
- (5) Subject to subsection (6), a decision of the registration authority to adopt a proposal under section 17(2) or (4) shall not take effect—
 - (a) if no appeal is brought, until the expiration of the period of 28 days referred to in section 21(2); and
 - (b) if an appeal is brought, until it is determined or abandoned.
- (6) Where, in the case of a decision to adopt a proposal under section 17(2), the applicant notifies the registration authority in writing before the expiration of the period mentioned in subsection (5)(a) that he does not intend to appeal, the decision shall take effect when the notice is served.

20 Urgent procedure for cancellation etc

- (1) If—
 - (a) the registration authority applies to a justice of the peace for an order—
 - (i) cancelling the registration of a person in respect of an establishment or agency;
 - (ii) varying or removing any condition for the time being in force by virtue of this Part; or
 - (iii) imposing an additional condition; and
 - (b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,the justice may make the order, and the cancellation, variation, removal or imposition shall have effect from the time when the order is made.

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- (2) An application under subsection (1) may, if the justice thinks fit, be made without notice.
- (3) As soon as practicable after the making of an application under this section, the registration authority shall notify the appropriate authorities of the making of the application.
- (4) An order under subsection (1) shall be in writing.
- (5) Where such an order is made, the registration authority shall, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—
 - (a) a copy of the order; and
 - (b) notice of the right of appeal conferred by section 21.
- (6) For the purposes of this section the appropriate authorities are—
 - (a) the local authority in whose area the establishment or agency is situated;
 - (b) the Health Authority in whose area the establishment or agency is situated; and
 - (c) any statutory authority not falling within paragraph (a) or (b) whom the registration authority thinks it appropriate to notify.
- (7) In this section “statutory authority” means a body established by or under an Act of Parliament.

21 Appeals to the Tribunal

- (1) An appeal against—
 - (a) a decision of the registration authority under this Part; or
 - (b) an order made by a justice of the peace under section 20,shall lie to the Tribunal.
- (2) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.
- (3) On an appeal against a decision of the registration authority the Tribunal may confirm the decision or direct that it shall not have effect.
- (4) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.
- (5) The Tribunal shall also have power on an appeal against a decision or order—
 - (a) to vary any condition for the time being in force in respect of the establishment or agency to which the appeal relates;
 - (b) to direct that any such condition shall cease to have effect; or
 - (c) to direct that any such condition as it thinks fit shall have effect in respect of the establishment or agency.

Regulations and standards

22 Regulation of establishments and agencies

- (1) Regulations may impose in relation to establishments and agencies any requirements which the appropriate Minister thinks fit for the purposes of this Part and may in particular make any provision such as is mentioned in subsection (2), (7) or (8).
- (2) Regulations may—
 - (a) make provision as to the persons who are fit to carry on or manage an establishment or agency;
 - (b) make provision as to the persons who are fit to work at an establishment or for the purposes of an agency;
 - (c) make provision as to the fitness of premises to be used as an establishment or for the purposes of an agency;
 - (d) make provision for securing the welfare of persons accommodated in an establishment or provided with services by an establishment, an independent medical agency or a domiciliary care agency;
 - (e) make provision for securing the welfare of children placed, under section 23(2)(a) of the 1989 Act, by a fostering agency;
 - (f) make provision as to the management and control of the operations of an establishment or agency;
 - (g) make provision as to the numbers of persons, or persons of any particular type, working at an establishment or for the purposes of an agency;
 - (h) make provision as to the management and training of such persons;
 - (i) impose requirements as to the financial position of an establishment or agency;
 - (j) make provision requiring the person carrying on an establishment or agency to appoint a manager in prescribed circumstances.
- (3) Regulations under subsection (2)(a) may, in particular, make provision for prohibiting persons from managing an establishment or agency unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1).
- (4) Regulations under subsection (2)(b) may, in particular, make provision for prohibiting persons from working in such positions as may be prescribed at an establishment, or for the purposes of an agency, unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1).
- (5) Regulations under paragraph (d) of subsection (2) may, in particular, make provision—
 - (a) as to the promotion and protection of the health of persons such as are mentioned in that paragraph;
 - (b) as to the control and restraint of adults accommodated in, or provided with services by, an establishment;
 - (c) as to the control, restraint and discipline of children accommodated in, or provided with services by, an establishment.
- (6) Regulations under paragraph (e) of subsection (2) may, in particular, make provision—
 - (a) as to the promotion and protection of the health of children such as are mentioned in that paragraph;
 - (b) as to the control, restraint and discipline of such children.

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- (7) Regulations may make provision as to the conduct of establishments and agencies, and such regulations may in particular—
- (a) make provision as to the facilities and services to be provided in establishments and by agencies;
 - (b) make provision as to the keeping of accounts;
 - (c) make provision as to the keeping of documents and records;
 - (d) make provision as to the notification of events occurring in establishments or in premises used for the purposes of agencies;
 - (e) make provision as to the giving of notice by the person carrying on an establishment or agency of periods during which he or (if he does not manage it himself) the manager proposes to be absent from the establishment or agency, and specify the information to be supplied in such a notice;
 - (f) provide for the making of adequate arrangements for the running of an establishment or agency during a period when the manager is absent from it;
 - (g) make provision as to the giving of notice by a person registered in respect of an establishment or agency of any intended change in the identity of the manager or the person carrying it on;
 - (h) make provision as to the giving of notice by a person registered in respect of an establishment or agency which is carried on by a body corporate of changes in the ownership of the body or the identity of its officers;
 - (i) make provision requiring the payment of a fee of such amount as may be prescribed in respect of any notification required to be made by virtue of paragraph (h);
 - (j) make provision requiring arrangements to be made by the person who carries on, or manages, an establishment or agency for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided in the establishment or by the agency and requiring that person to take steps for publicising the arrangements;
 - (k) make provision requiring arrangements to be made by the person who carries on, or manages, an independent hospital, independent clinic or independent medical agency for securing that any medical or psychiatric treatment, or listed services, provided in or for the purposes of the establishment or (as the case may be) for the purposes of the agency are of appropriate quality and meet appropriate standards;
 - (l) make provision requiring arrangements to be made by the person who carries on, or manages, a care home for securing that any nursing provided by the home is of appropriate quality and meets appropriate standards.
- (8) Regulations may make provision—
- (a) requiring the approval of the appropriate Minister for the provision and use of accommodation for the purpose of restricting the liberty of children in children's homes;
 - (b) imposing other requirements (in addition to those imposed by section 25 of the 1989 Act (use of accommodation for restricting liberty)) as to the placing of a child in accommodation provided for the purpose mentioned in paragraph (a), including a requirement to obtain the permission of any local authority who are looking after the child;
 - (c) as to the facilities which are to be provided for giving religious instruction to children in children's homes.

- (9) Before making regulations under this section, except regulations which amend other regulations made under this section and do not, in the opinion of the appropriate Minister, effect any substantial change in the provision made by those regulations, the appropriate Minister shall consult any persons he considers appropriate.
- (10) References in this section to agencies do not include references to voluntary adoption agencies.
- (11) In subsection (7)(k), “listed services” has the same meaning as in section 2.

23 National minimum standards

- (1) The appropriate Minister may prepare and publish statements of national minimum standards applicable to establishments or agencies.
- (2) The appropriate Minister 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 appropriate Minister effects a substantial change in the standards, the appropriate Minister shall consult any persons he considers appropriate.
- (4) The standards shall be taken into account—
 - (a) in the making of any decision by the registration authority under this Part;
 - (b) in any proceedings for the making of an order under section 20;
 - (c) in any proceedings on an appeal against such a decision or order; and
 - (d) in any proceedings for an offence under regulations under this Part.

Offences

24 Failure to comply with conditions

If a person registered in respect of an establishment or agency fails, without reasonable excuse, to comply with any condition for the time being in force by virtue of this Part in respect of the establishment or agency, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

25 Contravention of regulations

- (1) Regulations under this Part may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence.
- (2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

26 False descriptions of establishments and agencies

- (1) A person who, with intent to deceive any person—
 - (a) applies any name to premises in England or Wales; or
 - (b) in any way describes such premises or holds such premises out,

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so as to indicate, or reasonably be understood to indicate, that the premises are an establishment, or an agency, of a particular description shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale unless registration has been effected under this Part in respect of the premises as an establishment or agency of that description.

- (2) References to premises in subsection (1) shall be taken to include references to an undertaking or organisation.
- (3) No person shall, with intent to deceive any person, in any way describe or hold out an establishment or agency as able to provide any service or do any thing the provision or doing of which would contravene a condition for the time being in force by virtue of this Part in respect of the establishment or agency.
- (4) A person who contravenes subsection (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

27 False statements in applications

- (1) Any person who, in an application for registration under this Part or for the variation of any condition in force in relation to his registration, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

28 Failure to display certificate of registration

- (1) A certificate of registration issued under this Part in respect of any establishment or agency shall be kept affixed in a conspicuous place in the establishment or at the agency.
- (2) If default is made in complying with subsection (1), any person registered in respect of the establishment or agency shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

29 Proceedings for offences

- (1) Proceedings in respect of an offence under this Part or regulations made under it shall not, without the written consent of the Attorney General, be taken by any person other than—
 - (a) the Commission or, in relation to any functions of the Commission which the Secretary of State is by virtue of section 113 for the time being discharging, the Secretary of State; or
 - (b) the Assembly.
- (2) Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this subsection more than three years after the commission of the offence.

30 Offences by bodies corporate

- (1) This section applies where any offence under this Part or regulations made under it is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any director, manager, or secretary of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to a director, manager or secretary of a body corporate includes a reference—
 - (a) to any other similar officer of the body; and
 - (b) where the body is a local authority, to any officer or member of the authority.

Miscellaneous and supplemental

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.
- (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 (other than medical records) required to be kept in accordance with regulations under this Part, section 9(2) of the Adoption Act 1976, section 23(2)(a) or 59(2) of the 1989 Act or section 1(3) of the 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 employed 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.

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- (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 and inspect any medical records relating to his treatment in the establishment.
- The powers 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 require the Commission 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.

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

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- (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) Where the Secretary of State has specified regions in a direction made under paragraph 9 of Schedule 1, the reference in subsection (6) to offices is, in relation to premises in England which are used as an establishment or for the purposes of an agency, a reference to the Commission's offices for the region in which the premises are situated.

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.

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.
- (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.

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;

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- (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.

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.

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
 - (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 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 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.

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.

39 Temporary extension of meaning of “nursing home”

In section 21 of the 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 National Health Service Act 1977; or
 - (ii) under an agreement made in accordance with Part I of the 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.”

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”.

Status: This is the original version (as it was originally enacted).

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.”

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) or (3) applies.
- (2) This subsection applies to—
 - (a) 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 local authorities; or
 - (ii) may or must be provided by Health Authorities, Special Health Authorities, NHS trusts or Primary Care Trusts.
- (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).