



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

## 2003 CHAPTER 43

### PART 5

#### MISCELLANEOUS

##### *Welfare Food Schemes*

#### **185 Replacement of the Welfare Food Schemes: Great Britain**

- (1) In the Social Security Act 1988 (c. 7), for section 13 (schemes for the distribution etc of welfare foods), substitute—

**“13 Benefits under schemes for improving nutrition: pregnant women, mothers and children**

- (1) Regulations may establish one or more schemes to provide benefits for prescribed descriptions of—
- pregnant women,
  - mothers, and
  - children,
- with a view to helping and encouraging them to have access to, and to incorporate in their diets, food of a prescribed description.
- (2) Before establishing, or varying, a scheme the Secretary of State must consult the Scottish Ministers and the National Assembly for Wales (“the Assembly”).
- (3) A scheme may, in particular, specify requirements that must be satisfied—
- before a person may become entitled to a benefit;
  - for a beneficiary to remain entitled to a continuing benefit.
- (4) A scheme may also include provision—

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*Status: Point in time view as at 01/03/2007. This version of this part contains provisions that are prospective.*

**Changes to legislation:** There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 5. (See end of Document for details)

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- (a) for a benefit to consist of food of a prescribed description being provided by—
    - (i) a person who supplies, or arranges for the supply of, food of that description for beneficiaries under the scheme;
    - (ii) a person providing a service (such as day care) for the recipient of the benefit; or
    - (iii) a health service body;
  - (b) for the use of vouchers, or similar arrangements, in connection with the provision of benefits;
  - (c) that a person taking part in the scheme, otherwise than as a beneficiary, must be registered under the scheme;
  - (d) for the payment by the Secretary of State of sums to persons registered in accordance with a provision of a kind mentioned in paragraph (c), in respect of things provided or done by them in accordance with the scheme;
  - (e) for the making of payments to such persons entitled to receive benefits as may be determined by or under the scheme;
  - (f) for the delegation, in accordance with provisions of the scheme, of prescribed functions under the scheme;
  - (g) for the scheme, or prescribed provisions of the scheme, to be administered on behalf of the Secretary of State by such health service body, or other description of body, as may be prescribed;
  - (h) requiring prescribed categories of persons to take reasonable steps to provide—
    - (i) to a person authorised for the purpose in accordance with the scheme,
    - (ii) on production, if required, of evidence of his authority, such information or evidence as may be reasonably needed in connection with administering the scheme.
- (5) Provision of a kind mentioned in subsection (4)(h) may, in particular—
- (a) require information or evidence to be provided in a legible form;
  - (b) authorise the taking of copies or making of extracts;
  - (c) require an explanation by the information provider of anything which he has provided;
  - (d) require an information provider to state, to the best of his knowledge and belief, where information or evidence that he has failed to provide is held.
- (6) The power to prescribe descriptions of food (conferred by subsection (1)) is to be exercised, in relation to the operation of a scheme in Wales, by regulations made by the Assembly.
- (7) The Secretary of State may give such directions—
- (a) to a body administering a scheme (or part of a scheme),
  - (b) in relation to matters relating to the operation of the scheme (or that part of the scheme),
- as he considers appropriate.

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- (8) The Assembly may, with the agreement of the Secretary of State, give such directions—
- (a) to a body administering a scheme (or part of a scheme),
  - (b) in relation to matters relating to the operation of the scheme (or that part of the scheme) in Wales,
- as it considers appropriate.
- (9) A scheme may direct that prescribed enactments relating to the administration of benefit under the Social Security Administration Act 1992 (c. 5) (including enactments relating to offences and criminal proceedings) are to have effect for the purpose of administering the scheme subject to such modifications (if any) as may be prescribed.
- (10) The Secretary of State may not make a statutory instrument containing the first set of regulations made under subsection (1) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (11) In this section—
- “benefit”, in relation to a scheme, means a benefit under the scheme;
  - “children” has such meaning as may be prescribed;
  - “enactment” includes an Act of the Scottish Parliament and a provision made under an enactment;
  - “food” includes vitamins, minerals and other dietary supplements;
  - “health service body” has such meaning as may be prescribed;
  - “information provider” means the person who is required to provide information or, where that person is a body corporate, any person who is, or at any time has been, an officer or employee of the body corporate;
  - “pregnant” includes recently pregnant;
  - “prescribed” means prescribed by regulations;
  - “regulations”, except in subsection (6), means regulations made by the Secretary of State;
  - “scheme” means a scheme made under this section;
  - “women” includes persons under the age of 18.”
- (2) In section 15A of that Act—
- (a) in subsection (2), after the first “instrument” insert “ made by the Secretary of State ”; and
  - (b) omit subsection (3).

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#### Commencement Information

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| <b>I1</b> | S. 185 partly in force; s. 185 in force at Royal Assent for certain purposes, see s. 199(1)(4) |
| <b>I2</b> | S. 185 in force at 7.10.2005 for specified purposes by S.I. 2005/2278, art. 2(2)(a)            |
| <b>I3</b> | S. 185 in force at 27.10.2006 in so far as not already in force by S.I. 2006/2817, art. 2(a)   |
| <b>I4</b> | S. 185(1) in force at 12.8.2005 for specified purposes by S.I. 2005/2278, art. 2(1)            |

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**186 Replacement of the Welfare Food Schemes: Northern Ireland**

An Order in Council under paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) (legislation for Northern Ireland during suspension of devolved government) which contains a statement that it is made only for purposes corresponding to those of section 185 above—

- (a) is not subject to paragraph 2 of that Schedule (affirmative resolution of both Houses of Parliament), but
- (b) is subject to annulment in pursuance of a resolution of either House of Parliament.

*Appointments and employment*

**187 Appointments to certain health and social care bodies**

- <sup>F1</sup>(1) .....
- <sup>F1</sup>(2) .....
- <sup>F1</sup>(3) .....
- <sup>F1</sup>(4) .....
- <sup>F1</sup>(5) .....
- <sup>F1</sup>(6) .....
- <sup>F1</sup>(7) .....
- (8) Schedule 12 amends certain enactments which provide for appointments to be made to certain bodies by or on the advice of the Privy Council.
- <sup>F2</sup>(9) .....
- <sup>F3</sup>(10) .....

<b>Textual Amendments</b>	
<b>F1</b>	S. 187(1)-(7) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, <b>Sch. 9</b> ; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.
<b>F2</b>	S. 187(9) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, <b>Sch. 9</b> ; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.
<b>F3</b>	S. 187(10) repealed (1.10.2006) by Health Act 2006 (c. 28), s. 83(7), Sch. 8 para. 56, <b>Sch. 9</b> ; S.I. 2006/2603, art. 4(5)(c)(v)(e), Sch.
<b>Commencement Information</b>	
<b>I5</b>	S. 187 in force at 19.10.2004 by S.I. 2004/2626, <b>art. 2</b>

<sup>F4</sup>**188 Appointments to certain health and social care bodies: joint functions**

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*Status: Point in time view as at 01/03/2007. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 5. (See end of Document for details)*

#### Textual Amendments

**F4** S. 188 repealed (1.10.2006) by [Health Act 2006 \(c. 28\)](#), s. 83(7), Sch. 8 para. 57, [Sch. 9](#); [S.I. 2006/2603](#), art. 4(5)(c)(v)(e), Sch.

#### Commencement Information

**I6** S. 188 in force at 19.10.2004 by [S.I. 2004/2626](#), [art. 2](#)

### 189 Validity of clearance for employment in certain NHS posts

(1) In section 7 of the Protection of Children Act 1999 (c. 14) (effect of inclusion of person on lists relating to suitability for child care positions) after subsection (3) there are inserted the following subsections—

“(3A) This section does not apply in relation to an offer of relevant NHS employment if each of the following paragraphs applies in respect of the individual to whom the offer is made—

- (a) at the time the offer is made he is employed by an NHS body;
- (b) that NHS body has ascertained that he is not included in the list kept under section 1 above or (during the period that he is employed by that body) another NHS body or an employment agency or employment business has ascertained that he is not included in the list;
- (c) subsection (1A) (inserted by paragraph 26(2) of Schedule 4 to the Care Standards Act 2000) does not apply to him;
- (d) he accepts the offer and for so long as he is employed in the employment to which the offer relates paragraph (c) applies.

(3B) Relevant NHS employment is employment in a child care position with an NHS body.

(3C) Each of the following is an NHS body—

- (a) a National Health Service trust;
- (b) a Strategic Health Authority;
- (c) an NHS foundation trust;
- (d) a Health Authority;
- (e) a Local Health Board;
- (f) a Special Health Authority;
- (g) a Primary Care Trust.”

(2) In section 89 of the Care Standards Act 2000 (c. 14) (effect of inclusion of person on lists relating to suitability for care positions) after subsection (4) there are inserted the following subsections—

“(4A) This section does not apply in relation to an offer of relevant NHS employment if each of the following paragraphs applies in respect of the individual to whom the offer is made—

- (a) at the time the offer is made he is employed by an NHS body;
- (b) that NHS body has ascertained that he is not included in the list kept under section 81 above or (during the period that he is employed by that body) another NHS body or an employment agency or employment business has ascertained that he is not included in the list;

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- (c) subsection (2) does not apply to him;
- (d) he accepts the offer and for so long as he is employed in the employment to which the offer relates paragraph (c) applies.

(4B) Relevant NHS employment is employment in a care position with an NHS body.

(4C) Each of the following is an NHS body—

- (a) a National Health Service trust;
- (b) a Strategic Health Authority;
- (c) an NHS foundation trust;
- (d) a Health Authority;
- (e) a Local Health Board;
- (f) a Special Health Authority;
- (g) a Primary Care Trust.”

(3) Section 7(3A)(b) of the Protection of Children Act 1999 (c. 14) has effect until the coming into force of paragraph 121 of Schedule 21 to the Education Act 2002 (c. 32) as if for “the list kept under section 1 above” there is substituted “ any of the lists mentioned in subsection (1)(a) ”.

<sup>F5</sup>(4) .....

**Textual Amendments**

**F5** S. 189(4) repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), s. 33, [Sch.](#) (with [s. 30\(2\)-\(5\)](#))

**Commencement Information**

**I7** S. 189(1) in force at 1.4.2004 by [S.I. 2004/759](#), [art. 11](#)

*Public Health Laboratory Service Board*

**190 Abolition of Public Health Laboratory Service Board**

- (1) The Public Health Laboratory Service Board is abolished.
- (2) Schedule 13 has effect.
- (3) On the day this section is commenced by order under section 199 the property, rights and liabilities of the Board vest in the Secretary of State.

**Commencement Information**

**I8** [S. 190](#) in force at 1.4.2005 by [S.I. 2005/457](#), [art. 2\(a\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 5. (See end of Document for details)

*Other provisions*

PROSPECTIVE

**<sup>F6</sup>191 Loans by Secretary of State to NHS trusts**

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**Textual Amendments**

- F6** S. 191 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**<sup>F7</sup>192 Amendment of provision relating to reform of Welsh health authorities**

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**Textual Amendments**

- F7** S. 192 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

**Status:**

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**Changes to legislation:**

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