



# Care Standards Act 2000

## 2000 CHAPTER 14

### PART II

#### ESTABLISHMENTS AND AGENCIES

##### *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 [F122C] 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;

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- (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.
- (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 [<sup>F2</sup>, in respect of any notification required to be made by virtue of paragraph (h), of]<sup>F3</sup> a fee of the prescribed amount;]]
  - (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

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- 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) <sup>F4</sup> .....
- (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 [<sup>F5</sup>of restricting liberty], 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 [<sup>F6</sup>or adoption support agencies].
- (11) In subsection (7)(k), “listed services” has the same meaning as in section 2.

#### Textual Amendments

- F1** Words in s. 22(2)(e) substituted (1.4.2011 for E. and otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\), ss. 8\(2\), 44, Sch. 1 para. 11](#); S.I. 2010/2981, [art. 4](#)
- F2** Words in s. 22(7)(i) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 105\(7\), 199](#); S.I. 2006/1680, [art. 2\(2\)](#)
- F3** Words in s. 22(7)(i) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\), ss. 95, 170\(1\)\(b\)\(3\), Sch. 5 para. 21](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F4** S. 22(8)(a) repealed (1.4.2006 for W. and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 107\(2\)\(a\), 196, 199, Sch. 14 Pt. 2](#); S.I. 2005/3285, [art. 2\(2\)\(c\)](#)
- F5** Words in s. 22(8)(b) substituted (1.4.2006 for W. and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 107\(2\)\(b\), 199](#); S.I. 2005/3285, [art. 2](#)
- F6** Words in s. 22(10) inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\), ss. 139, 148, Sch. 3 para. 109](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, [art. 2](#)

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#### **Modifications etc. (not altering text)**

- C1** S. 22 applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(c\)](#), 3
- C2** S. 22 applied (with modifications) (4.3.2013) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Holiday Schemes for Disabled Children\) \(England\) Regulations 2013 \(S.I. 2013/253\)](#), [regs. 1\(1\)](#), [2\(1\)\(2\)\(f\)](#), [Sch.](#)
- C3** S. 22(7)(i) modified (temp.) (E.) (26.6.2006) by [The Health and Social Care \(Community Health and Standards\) Act 2003 Commencement \(No. 9\) Order 2006 \(S.I. 2006/1680\)](#), [art. 4\(2\)](#)

#### **Commencement Information**

- II** S. 22 wholly in force at 20.11.2001; s. 22 not in force at Royal Assent see s. 122; s. 22 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch.](#) Table; s. 22 in force for E. at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(3\)\(c\)](#) (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)

### **[<sup>F7</sup>22A Power of CIECSS to serve notice where person is failing to comply with regulations**

- (1) This section applies if—
- (a) a person (“P”) is registered in respect of a relevant establishment or agency; and
  - (b) the CIECSS is of the opinion that P is failing or has failed to comply with a requirement imposed on P in relation to that establishment or agency.
- (2) The CIECSS may serve a compliance notice on P.
- (3) A compliance notice is a notice which—
- (a) states that the CIECSS is of the opinion mentioned in subsection (1)(b);
  - (b) specifies the requirement with which the CIECSS considers P is failing or has failed to comply;
  - (c) specifies how the CIECSS considers that P is failing or has failed to comply with that requirement;
  - (d) specifies the establishment or agency in relation to which the CIECSS considers P is failing or has failed to comply with that requirement;
  - (e) specifies the steps the CIECSS considers need to be taken by P in relation to that establishment or agency to comply with that requirement or (as the case may be) to prevent a recurrence of the failure to comply with that requirement;
  - (f) specifies a period for the taking of those steps; and
  - (g) explains the effect of subsections (4) and (5).
- (4) Failing to take the steps specified in a compliance notice within the period so specified is an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section—
- (a) a “relevant establishment or agency” means an establishment or agency in relation to which the functions of the registration authority under section 13 are exercisable by the CIECSS;

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- (b) references to a “requirement” are references to a requirement imposed by regulations under—
  - (i) section 22;
  - (ii) section 9 of the Adoption Act 1976; or
  - (iii) section 9 of the Adoption and Children Act 2002.]

#### Textual Amendments

- F7** S. 22A inserted (1.4.2010 for E. and otherwise prosp.) by [Children and Young Persons Act 2008](#) (c. 23), [ss. 26\(2\), 44](#); S.I. 2009/3354, [art. 3\(2\)](#)

### [<sup>F8</sup>22B Notice restricting accommodation at certain establishments

- (1) The registration authority may serve a notice on a person who is registered in respect of an establishment to which this section applies imposing on that person the requirement in subsection (2) in relation to that establishment.
- (2) The requirement is to ensure that no child is accommodated at the establishment unless the child—
  - (a) was accommodated there when the notice was served; and
  - (b) has continued to be accommodated there since the notice was served.
- (3) A notice under subsection (1) must—
  - (a) explain the requirement imposed by the notice;
  - (b) specify the establishment in relation to which that requirement is imposed;
  - (c) give the registration authority's reasons for serving the notice;
  - (d) explain the right of appeal conferred by section 21.
- (4) A notice under subsection (1) ceases to have effect—
  - (a) at such time as may be specified in the notice;
  - (b) if the registration authority serves a notice to that effect on the person on whom the notice under subsection (1) was served;
  - (c) if the Tribunal so directs under section 21(4A) or (4B).
- (5) Subsection (6) applies if—
  - (a) the registration authority serves a notice on a person under subsection (1) or (4)(b); and
  - (b) one or more other persons are registered in respect of the establishment to which the notice relates.
- (6) The registration authority must as soon as practicable serve a notice in the same terms under subsection (1) or (as the case may be) (4)(b) on the persons mentioned in subsection (5)(b).
- (7) The reference in subsection (5) to serving a notice on a person does not include a reference to serving a notice on a person in pursuance of subsection (6).
- (8) This section applies to the following establishments—
  - (a) a children's home;
  - (b) a residential family centre.]

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#### Textual Amendments

- F8** S. 22B inserted (1.4.2010 for E. and 26.4.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 27, 44](#); [S.I. 2009/3354](#), [art. 3\(2\)](#); [S.I. 2010/1329](#), [art. 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;
  - <sup>F9</sup>(ba) by the registration authority in considering whether to serve a notice under section 22B;
  - (c) in any proceedings on an appeal [<sup>F10</sup>under section 21]; and
  - (d) in any proceedings for an offence under regulations under this Part [<sup>F11</sup>or proceedings against a voluntary adoption agency for an offence under section 9(4) of the Adoption Act 1976 or [<sup>F12</sup>against a voluntary adoption agency or adoption support agency for an offence under] section 9 of the Adoption and Children Act 2002].

#### Textual Amendments

- F9** S. 23(4)(ba) inserted (1.4.2010 for E. and 26.4.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 28\(6\)\(a\), 44](#); [S.I. 2009/3354](#), [art. 3\(2\)](#); [S.I. 2010/1329](#), [art. 2](#)
- F10** Words in s. 23(4)(c) substituted (1.4.2010 for E. and 26.4.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 28\(6\)\(b\), 44](#); [S.I. 2009/3354](#), [art. 3\(2\)](#); [S.I. 2010/1329](#), [art. 2](#)
- F11** Words in s. 23(4)(d) inserted (30.4.2003 for E., 28.11.2003 for W. for certain purposes and 30.12.2005 for W. otherwise) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 139, 148](#), [Sch. 3 para. 110](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/366](#), [art. 2\(4\)](#); [S.I. 2003/3079](#), [art. 2\(1\)](#); [S.I. 2005/2213](#), [art. 2](#)
- F12** Words in s. 23(4)(d) inserted (20.11.2003 for certain purposes, 1.4.2004 for E. so far as not already in force, otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 147, 199](#), [Sch. 9 para. 21](#); [S.I. 2004/759](#), [art. 4\(2\)](#)

#### Modifications etc. (not altering text)

- C4** S. 23(1)-(3) applied (with modifications) (4.3.2013) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Holiday Schemes for Disabled Children\) \(England\) Regulations 2013 \(S.I. 2013/253\)](#), [regs. 1\(1\), 2\(1\)\(2\)\(g\)](#), [Sch.](#)

#### Commencement Information

- I2** S. 23 wholly in force at 1.4.2002; s. 23 not in force at Royal Assent see s. 122; s. 23(1)-(3) in force for E. at 2.3.2001 by [S.I. 2001/731](#), [arts. 1\(2\), 2](#); s. 23 in force for W. at 1.7.2001 by [S.I. 2001/2190](#),

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art. 2, **Sch.** Table; s. 23(4) in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, **arts. 1(4), 3(2)(4)(b)(6)** (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. 23 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)(a)** (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)

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