



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

2003 CHAPTER 43

PART 5

MISCELLANEOUS

Appointments and employment

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;

Status: Point in time view as at 20/10/2005. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Section 189. (See end of Document for details)

- (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;
 - (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) ”.
- (4) The effect of subsections (1) to (3) is to be disregarded in determining for the purposes of section 1 of the Regulatory Reform Act 2001 (c. 6) (power by order to make provision reforming law which imposes burdens) whether any provision of either of the following Acts falls within subsection (4)(a) of that section (provision amended by an Act within previous two years)—
- (a) the Protection of Children Act 1999 (c. 14);
 - (b) the Care Standards Act 2000 (c. 14).

Commencement Information

II S. 189(1) in force at 1.4.2004 by S.I. 2004/759, art. 11

Status:

Point in time view as at 20/10/2005. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Section 189.