

2002 No. 1250

SOCIAL CARE, ENGLAND

CHILDREN AND YOUNG PERSONS, ENGLAND

**The National Care Standards Commission (Children's Rights
Director) Regulations 2002**

Made - - - - *1st May 2002*

Laid before Parliament *3rd May 2002*

Coming into force in accordance with regulation 1(1)

The Secretary of State for Health, in exercise of the powers conferred upon him by paragraph 10(2) of Schedule 1 to the Care Standards Act 2000(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Care Standards Commission (Children's Rights Director) Regulations 2002 and shall come into force—

- (a) for the purposes of paragraph (b) of the definition of “regulated children's services” in regulation 2(1) of these Regulations, on the day on which section 43 of the Act is wholly or partially brought into force in so far as it relates to relevant adoption functions(b);
- (b) for all other purposes, on 24th May 2002.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“national minimum standards” means statements of national minimum standards published under section 23 of the Act or section 87C of the 1989 Act(c);

“a Part II undertaking” means an establishment or agency in respect of which a person is for the time being required to be registered under Part II of the Act;

“regulated children's services” means—

- (a) any services provided by or in a Part II undertaking which are provided, or are to be provided, in respect of a child;

(a) 2000 c.14.

(b) Relevant adoption functions are defined by section 43(3)(a) of the Care Standards Act 2000.

(c) The 1989 Act is defined by section 121(13) of the Care Standards Act 2000 as meaning the Children Act 1989 (c.41). Section 87C was inserted in the 1989 Act by section 107 of the Care Standards Act 2000.

- (b) services provided by a local authority in the exercise of relevant adoption functions**(a)**;
- (c) services provided by a local authority in the exercise of relevant fostering functions**(b)**;
- (d) accommodation provided by a school, or by an institution within the further education sector (as defined in section 91 of the Further and Higher Education Act 1992**(c)**), in so far as it is provided in respect of a child;

“relevant regulations” means regulations made under the Act or the 1989 Act**(d)** and applicable to regulated children’s services.

- (2) For the purposes of these Regulations, the provider of regulated children’s services is—
- (a) in relation to services provided by or in a Part II undertaking, the person who carries on the establishment or agency concerned; and
 - (b) in relation to accommodation provided by a school or college, the relevant person as defined in section 87(11) of the 1989 Act**(e)**.

Functions of the children’s rights director

- 3.—(1) The functions of the children’s rights director are—
- (a) to secure, so far as possible, that the Commission**(f)** in exercising its functions—
 - (i) safeguards and promotes the rights and welfare of children who are provided with regulated children’s services;
 - (ii) gives proper consideration to the views of children to whom regulated children’s services are provided and to the views of the parents of such children;
 - (b) subject to paragraph (2) of this regulation, to establish, in consultation with such other persons as appear to him to be appropriate—
 - (i) the procedure to be followed by the Commission when considering an application for registration under section 12 of the Act in respect of a Part II undertaking by or in which a regulated children’s service is provided;
 - (ii) the methodology for inspection by persons authorised by the Commission in respect of—
 - (aa) premises used for the purposes of regulated children’s services;
 - (bb) regulated children’s services provided at such premises;
 - (c) to monitor the effectiveness of the procedure and methodology mentioned in sub-paragraph (b) of this paragraph;
 - (d) to advise the Commission from time to time on the numbers, qualifications and experience of staff it is likely to require to discharge its functions in relation to regulated children’s services, and to assist the Commission in the appointment of such staff;
 - (e) to monitor action taken by the Commission to enforce the requirements of the relevant regulations;
 - (f) to provide advice to regional directors**(g)** with a view to ensuring consistent application throughout England of the relevant regulations and national minimum standards which are applicable to regulated children’s services;
 - (g) to ascertain—
 - (i) the views of children about regulated children’s services provided to them; and
 - (ii) the views of their parents about those services,
 and to report such views to the Commission in so far as they are relevant to the discharge by the Commission of its functions;

(a) See footnote to regulation 1(1)(a).

(b) Relevant fostering functions are defined by section 43(3)(b) of the Care Standards Act 2000.

(c) 1992 (c.13).

(d) The 1989 Act is defined by section 121(13) of the Care Standards Act 2000 as meaning the Children Act 1989 (c.41).

(e) Section 87 is amended by section 105 of the Care Standards Act 2000.

(f) The Commission is defined by section 6(1) of the Care Standards Act 2000 as meaning the National Care Standards Commission.

(g) Regional directors are appointed under paragraph 9(1) of Schedule 1 to the Care Standards Act 2000.

- (h) to monitor and review the effectiveness of the arrangements made by the providers of regulated children's services in accordance with relevant regulations and any national minimum standards in relation to—
 - (i) dealing with complaints and representations made by or on behalf of children about such services;
 - (ii) the raising of concerns by employees of the providers of regulated children's services about the safety and welfare of children using such services;
 - (iii) ascertaining and responding to the views and wishes of children about the services provided to them;
 - (i) to report, to a police officer or an officer of the local authority for the area in which the service is provided or situated, any cases where he has reasonable cause to suspect that any child to whom regulated children's services are provided is suffering, or is likely to suffer, significant harm;
 - (j) to ensure that where a complaint about a regulated children's service is made to the Commission, such action as may be appropriate is taken by the Commission;
 - (k) to report to the Commission and the Secretary of State any significant evidence relating to the rights and welfare of children who are provided with regulated children's services;
 - (l) to discuss matters relating to the provision of regulated children's services with such bodies, including voluntary organisations, as appear to him to be appropriate;
 - (m) to report to the Commission about the availability and quality of regulated children's services;
 - (n) to report to the Commission on the effectiveness of the relevant regulations and of the national minimum standards applicable to regulated children's services;
 - (o) to publicise the office of children's rights director and his functions;
 - (p) to assist the Commission from time to time in the preparation of reports including its annual report, in so far as they concern regulated children's services.
- (2) The functions set out in paragraph (1) (b) of this regulation are subject to the requirements of—
- (a) the Act;
 - (b) section 87 of the 1989 Act; and
 - (c) regulations relating to the functions of the Commission in respect of registration and inspection, made under the Act or the 1989 Act(a).

Signed by authority of the Secretary of State for Health

1st May 2002

Jacqui Smith
Minister of State,
Department of Health

(a) See the National Care Standards Commission (Registration) Regulations 2001, S.I. 2001/3969 and the National Care Standards Commission (Fees and Frequency of Inspection) Regulations 2001, S.I. 2001/3980.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under paragraph 10(2) of Schedule 1 to the Care Standards Act 2000 and prescribe the functions of the children's rights director who is to be appointed by, and to be a member of the staff of, the National Care Standards Commission.

£1.75

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E0846 5/02 ON (MFK)