

2003 No. 2323

**PUBLIC HEALTH, ENGLAND
SOCIAL CARE, ENGLAND**

**The Care Standards Act 2000 (Domiciliary Care Agencies
and Nurses Agencies) (Amendment) (England) Regulations
2003**

Made - - - - - *8th September 2003*
Laid before Parliament *9th September 2003*
Coming into force *1st October 2003*

The Secretary of State, in exercise of the powers conferred upon him by sections 12(2), 22(1), 2(b) and 7(c) and 118(5) to (7) of the Care Standards Act 2000^(a), and of all other powers enabling him in that behalf, and having consulted such persons as he considers appropriate^(b), hereby makes the following Regulations:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Care Standards Act 2000 (Domiciliary Care Agencies and Nurses Agencies) (Amendment) (England) Regulations 2003 and shall come into force on 1st October 2003.

(2) These Regulations apply to England only.

Amendment of the Domiciliary Care Agencies Regulations 2002

2.—(1) The Domiciliary Care Agencies Regulations 2002^(c) shall be amended in accordance with the following provisions of this regulation.

(2) Regulation 12 (fitness of domiciliary care workers supplied by an agency) shall be re-numbered as paragraph (1) of regulation 12.

(3) In regulation 12, after paragraph (1) there shall be added the following paragraph—

“(2) Paragraph (1)(d), in so far as it relates to paragraph 13 of Schedule 3, shall not apply until 31st October 2004 in respect of a domiciliary care worker who has been supplied by the agency at any time during the period from 1st October 2002 to 30th September 2003.”.

(4) In Schedule 3, there shall be added at the end the following paragraph—

“13. Either—

(a) where the position falls within section 115(3) or (4) of the Police Act 1997 (registration under Part 2 of the Care Standards Act 2000), an enhanced criminal record certificate issued under section 115 of that Act; or

^(a) 2000 c.14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State. *See* section 121(1) for the definitions of “prescribed” and “regulations”.

^(b) *See* section 22(9) of the Care Standards Act 2000 for the requirement to consult.

^(c) S.I. 2002/3214.

(b) in any other case, a criminal record certificate issued under section 113 of that Act, including, where applicable, the matters specified in section 113(3A) or 115(6A) of that Act and, once they are in force, section 113(3C)(a) and (b) or section 115(6B)(a) and (b) of that Act(a).”.

Amendment of the Nurses Agencies Regulations 2002

3.—(1) The Nurses Agencies Regulations 2002(b) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 12 (fitness of nurses supplied by an agency), there shall be added at the end the following paragraph—

“(4) Paragraph (1)(d), in so far as it relates to paragraph 13 of Schedule 3, shall not apply in respect of a nurse who, at any time during the period from 1st October 2002 to 30th September 2003, has been supplied by the agency.”.

(3) In Schedule 3, there shall be added at the end the following paragraph—

“13. Either—

(a) where the position falls within section 115(3) or (4) of the Police Act 1997 (registration under Part 2 of the Care Standards Act 2000), an enhanced criminal record certificate issued under section 115 of that Act; or

(b) in any other case, a criminal record certificate issued under section 113 of that Act, including, where applicable, the matters specified in section 113(3A) or 115(6A) of that Act and, once they are in force, section 113(3C)(a) and (b) or section 115(6B)(a) and (b) of that Act.”.

Amendment of the National Care Standards Commission (Registration) Regulations 2001

4.—(1) In paragraph 10 of Schedule 2 to the National Care Standards Commission (Registration) Regulations 2001(c)—

(a) in sub-paragraph (1), the words “In the case of an establishment or agency other than a domiciliary care agency or a nurses agency,” shall be omitted;

(b) sub-paragraphs (3) to (5) shall be omitted.

(2) The amendments made by paragraph (1) shall not apply in relation to any application for registration under Part 2 of the Care Standards Act 2000 which is made before 1st October 2003.

Signed by authority of the Secretary of State for Health

Stephen Ladyman
Parliamentary Under Secretary of State,
Department of Health

8th September 2003

(a) Sections 113(3A) and 115(6A) are added to the Police Act 1997 by section 8 of the Protection of Children Act 1999 (c.14), and amended by sections 104 and 116 of, and paragraph 25 of Schedule 4 to, the Care Standards Act 2000. Sections 113(3C) and 115(6B) are added to the Police Act 1997 by section 90 of the Care Standards Act 2000 on a date to be appointed.

(b) S.I. 2002/3212.

(c) S.I. 2001/3969. Relevant amending instruments are S.I. 2002/865 and 2003/369.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England only, amend certain Regulations made under the Care Standards Act 2000 in respect of domiciliary care agencies and nurses agencies.

Regulation 2 of these Regulations amends the Domiciliary Care Agencies Regulations 2002 so that the person registered in respect of a domiciliary care agency ensures that the information to be available in relation to domiciliary care workers includes a criminal record certificate issued under the Police Act 1997.

By regulation 2(3), this requirement does not apply until 31st October 2004 to domiciliary care workers supplied by the agency between 1st October 2002 and 30th September 2003.

Regulation 3 of these Regulations amends the Nurses Agencies Regulations 2002 so that the person registered in respect of a nurses agency ensures that the information to be available in relation to nurses includes a criminal record certificate issued under the Police Act 1997. By regulation 3(2) this requirement does not apply to nurses supplied by the agency between 1st October 2002 and 30th September 2003.

Regulation 4 of these Regulations amends the National Care Standards Commission (Registration Regulations) 2001 so that a person who applies to be registered under the Care Standards Act 2000 as a person who carries on a domiciliary care agency or nurses agency must provide to the Commission a statement confirming that a criminal record certificate has been issued to staff who work, or are intended to work, at the agency. The amendment applies to applications for registration made on or after 1st October 2003.

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