

**EXPLANATORY MEMORANDUM TO**  
**THE CARE STANDARDS ACT 2000 (REGISTRATION) REGULATIONS 2000**  
**2000 No. 2130**

1. This explanatory memorandum has been prepared by Department for Education and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The purpose of the instrument is to set out revised registration requirements for settings registerable under the Care Standards Act 2000.

3. **Matters of special interest to the [Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments]**

3.1 None

4. **Legislative Context**

4.1 These regulations are being made to replace the National Care Standards Commission (Registration) Regulations 2001 in light of amendments in the Health and Social Care Act 2008.

5. **Territorial Extent and Application**

5.1 This instrument applies in relation to England only.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

• *What is being done and why*

7.1 The Care Standards Act 2000 currently covers the registration requirements of children's social care settings, adult social care settings and private health care. The Health and Social Care Act 2008 will remove all elements of adult social care and private health care from the Care Standards Act with effect from October 2010. Adult social care, private health care and domiciliary care (in England) will then be regulated under the Health and Social Care Act. From October 2010 only children's social care settings will be regulated under the Care Standards Act.

7.2 The National Care Standards Commission (Registration) Regulations 2001 set out the registration requirements for all settings currently registerable under the Care

Standards Act (i.e. including adult social care and private health care). The Department for Education (DfE) is therefore replacing the National Care Standards Commission (Registration) Regulations 2001 with effect from October 2010 with a new set of registration regulations that only apply to children's settings.

7.3 The new regulations will apply in relation to the registration of:

- children's homes;
- fostering agencies;
- voluntary adoption agencies;
- adoption support agencies; and
- residential family centres.

7.4 DfE intend to continue with similar registration requirements to those that are in place at present. However, some changes are being made to the regulations to improve the registration arrangements. The changes are intended to; reduce unnecessary bureaucracy; provide Ofsted with the information they need to determine whether a service or person is fit for registration; and to provide useful information on registered services to those who may wish to use these services (for example local authorities placement services).

7.5 We have also removed the offence which was in the 2001 Regulations which was committed where a person, whose registration is cancelled by Ofsted, fails to return their registration certificate to Ofsted. The situation we would wish to avoid is that of a provider claiming to be registered when in fact they are not registered and are operating an establishment or agency illegally. However, this is already adequately covered by Section 26 of the Care Standards Act 2000 which makes it an offence if, with intent to deceive any person, you hold premises out as an establishment or agency of particular description unless registered under the Act. In addition, Section 2 of the Fraud Act 2006 (fraud by misrepresentation) would cover the situation where someone falsely represents that they are registered. As the ill we wish to address is covered in other pieces of legislation, the specific offence that was in these regulations is unnecessary.

- *Consolidation*

7.2 These regulations replace the National Care Standards Commission (Registration) Regulations 2001, as amended.

## **8. Consultation outcome**

8.1 DfE undertook a 12 week consultation on the proposed changes. Given the minor nature of the changes there was a limited response to the consultation. The vast majority of those who responded supported the proposed changes; a very small number of people were undecided about some of the changes although they did not express many views as to why. People were particularly undecided around the categorisation of children's homes where there are different approaches to how children's homes could be categorised. Taking into account the consultation responses and any practical constraints (such as how to determine consistently and meaningfully

which category a home would fall into) the list contained in the regulations is intended to provide the most useful categorisation of children's homes.

## **9. Guidance**

9.1 DfE do not intend to produce guidance to support these regulations. Ofsted, who administer the registration arrangements, currently provide guidance on applying for registration, which is available here - <http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Local-services>. Revised guidance will be provided by Ofsted.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is limited. A number of the changes will provide a less bureaucratic registration process (for example, where a provider is already registered in respect of one establishment or agency they will no longer need to resend any information Ofsted already hold in order to register further establishments.) Providers will be required to submit a number of additional documents at the point of registration (for example, their behaviour management plan) to enable Ofsted to better consider the suitability of the provider to provide the service. However, they are not being required to produce anything new as they are already required to have these documents, it is simply the requirement to actually send them to Ofsted at the point of application that is new.

10.2 The impact on the public sector is the same as the impact on business etc, as explained at 10.1.

10.3 An Impact Assessment has not been prepared for this instrument because of the limited impact the changes will have.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 Small businesses that provide the services effected by these regulations were able to respond to the public consultation, and were notified of the consultation where they'd expressed an interest in being notified of such consultations. It is essential that small businesses are included in the registration requirements because of the very likely risk of very serious harm to extremely vulnerable children if the settings are not suitably regulated and monitored.

11.3 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to only require information to be provided that is essential to allow Ofsted to determine whether the service is suitable for registration. Also, information will now be able to be sent to Ofsted electronically.

## **12. Monitoring & review**

12.1 The impact of these amendments is limited. However, they should result in a more straightforward application process, in particular, for those applying for further registration. It should also result in Ofsted having better information on which to make decisions about suitability. This impact will be considered on an ongoing basis. Ofsted will provide feedback on whether the extra information is helpful and on whether the new arrangements have led to a less bureaucratic registration process, with feedback from providers who apply for registration being sought as part of this.

### **13. Contact**

Rachel Taylor at the Department for Education Tel: 0207 783 8255 or email: [rachel.taylor@education.gsi.gov.uk](mailto:rachel.taylor@education.gsi.gov.uk) can answer any queries regarding the instrument.