

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I Introductory

Registration authorities

Section 6 National Care Standards Commission

43. *Section 6* establishes the National Care Standards Commission. It is a statutory body corporate, which will exercise in England the functions conferred upon it by or under this Act or other legislation. The constitutional arrangements and general provisions for the Commission are set out in *Schedule 1*, which makes provision for the Commission, the General Social Care Council and the Care Council for Wales (see notes on *section 54* below).
44. *Subsection (2)* provides that the Commission must, in the exercise of its functions, act in accordance with directions given to it by, and under the general guidance of, the Secretary of State. *Subsection (4)* provides that the power for the Secretary of State to issue directions, includes directions in connection with organisational and structural matters, such as, for instance, the establishment of regional offices, or a separate division for private and voluntary healthcare.
45. The Commission will be responsible for the regulation of the whole range of care services from care homes for the elderly, children's homes, domiciliary care, fostering and adoption agencies through to independent hospitals, clinics, medical agencies and nurses agencies. It will also inspect boarding schools, further education colleges which provide accommodation and local authority fostering and adoption services. It will take on the regulation and inspection functions that are currently split between local authorities, Health Authorities and the Department of Health centrally. Some services will be regulated for the first time – these include local authorities' own care homes and children's homes and domiciliary care agencies.
46. Under the provisions of *Schedule 1* the Commission (subject to directions) may take any necessary or expedient action to fulfil its statutory duties (*paragraph 3*). The Secretary of State has powers to make regulations governing the procedures of the Commission, and the appointment of members (*paragraph 6*) and for the appointment of a chief officer (*paragraph 8*). The first chief officer will be appointed by the Secretary of State. The Commission will appoint subsequent chief officers itself, subject to the approval of Secretary of State. The following paragraphs are worthy of additional comment:
47. *Paragraph 9*: The Secretary of State will be able to direct the Commission to appoint regional directors. In line with the White Paper, *Modernising Social Services*, it is intended that these regions will be based upon the regions of the NHS Executive.
48. *Paragraph 10* provides that the Commission must appoint a member of staff as a children's rights director, whose role will be prescribed in regulations. The intention is that he should ensure that the work of the Commission in regulating children's services

*These notes refer to the Care Standards Act 2000
(c.14) which received Royal Assent on 20 July 2000*

takes full account of children's rights and welfare. *Paragraph 11* provides that the Commission must appoint a director of private and voluntary healthcare, who will be a member of staff with functions to be prescribed in regulations. The intention is that s/he will preside over a separate healthcare division within the Commission, and will oversee the Commission's interests in, and responsibilities for, the regulation of independent healthcare.

49. *Paragraph 12* makes provision for an authority to appoint staff and provides that an authority may pay or make provision for the payment of pensions, allowances, gratuities or compensation, subject to directions from the Secretary of State.
50. *Paragraph 13* provides that the Commission may arrange for any of its functions to be carried out by a committee or member of staff of the Commission, or by another person. *Paragraph 14* makes provision to enable staff from other bodies, such as Health Authorities and the Commission for Health Improvement, to be placed at the disposal of the Commission and *vice versa*.
51. *Paragraph 15* provides that the Commission may run conferences, seminars and other training events. *Paragraph 17* allows the Commission to charge a reasonable fee for non-regulatory activities. Although registration and annual fees will cover the costs of regulation, there are some activities which the Commission will carry out which it would not be fair to expect all registered services to pay for. The Commission might, for example, wish to charge a fee to those who attend its training events, in order to recover its outlay.