

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part II Establishments and Agencies

Regulations and standards

84. *Section 22* provides regulation-making powers which will cover the management, staff, premises and conduct of establishments and agencies (other than voluntary adoption agencies). It also provides for regulations to be made regarding the welfare of service users. *Section 23* gives the appropriate Minister the power to publish statements of national minimum standards with which establishments and agencies are expected to comply. They are to be taken into account as stated in *subsection (4)*. For example, a regulation made under section 22 might state that suitable and nutritious food should be provided to all residents in a home. The national minimum standards would set out what registered providers are expected to provide in terms of the number of meals per day and their nutritional content.
85. Different services will have different sets of regulations and standards which will be appropriate to the type of service.

Section 22 Regulation of establishments or agencies

86. *Subsection (1)* provides a general power to make regulations imposing any requirements as the appropriate Minister thinks fit. *Subsection (2)* amplifies this, providing for regulations to be made that will be key to the registration of establishments and agencies. It will be essential that the registration authority can ensure establishments and agencies are carried on or managed by persons who are fit to do so. This subsection allows regulations to be made to ensure that establishments and agencies are suitably managed, staffed and equipped and that premises are fit for their purpose.
87. *Subsection (2) (d)* provides powers to make regulations regarding the welfare of persons accommodated in establishments or provided with services by them, or who use the services of an independent medical agency or domiciliary care agency. *Subsection (2) (e)* provides similar powers to make regulations to secure the welfare of children placed by independent fostering agencies.
88. *Subsections (3) and (4)* provide that regulations may be made prohibiting a person's appointment as manager of, or employment in, an establishment or agency unless they are on a register of social care workers, maintained under *section 56*.
89. *Subsections (5) and (6)* provide that the welfare regulation making powers in 22 (2) (d) and (e) may cover the protection and promotion of health, the control and restraint of adults, and the control and restraint and discipline of children. This will enable regulations to set out what is acceptable behaviour management for adults and children.
90. *Subsection (7)* gives the appropriate Minister power to make provision as to the conduct of an establishment or agency, including the provision of facilities and services, record

keeping, notification of events, arrangements for dealing with complaints and in relation to independent hospitals and clinics, the arrangements to be made to secure that any medical or psychiatric treatment or listed services meet appropriate standards.

91. *Subsections (7)(h) and (i)*. Just as it will be important for the registration authority to be made aware of a change in the person managing a home or branch of an agency, so will it be important to have notice of changes in the ownership or the officers of a company which was registered in respect of a service. Fit person checks of company officers have a cost, and so in order to satisfy itself that the officers of the company taking over are fit persons, the registration authority would need to carry out these checks and be able to charge for this.
92. *Subsection (8)* concerns regulations made in respect of secure accommodation for children, which may cover both its provision and its use, and facilities for religious instruction in children's homes.
93. *Subsection (9)* requires the appropriate Minister to consult such persons as he considers appropriate before making or significantly amending regulations under the powers in this section.
94. *Subsection (10)* Voluntary adoption agencies are excepted from the regulation-making powers set out in this section as equivalent provision is being made for them through amendments to the Adoption Act 1976 (see *Schedule 4, paragraph 5(6)(b)*).

Section 23 National minimum standards

95. *Section 23* provides for the appropriate Minister to prepare and publish national minimum standards applicable to establishments and agencies. These will specify the standards applicable to the services and which, as *subsection (4)* makes clear, must be taken into account by a registration authority when making any decision, or in any proceedings for an offence under regulations under Part II. The standards may include parts of the GSCC codes of conduct and practice for employers of social care staff (see note to *section 62*).