



Care Standards Act 2000

2000 CHAPTER 14

PART II

ESTABLISHMENTS AND AGENCIES

Modifications etc. (not altering text)

- C1** Pt. 2 restricted (7.12.2004) by [Adoption and Children Act 2002 \(c. 38\)](#), [ss. 2\(4\)](#), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/3203, [art. 2](#)
- C2** Pt. 2: functions transferred (20.11.2003 for certain purposes and 1.4.2004 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 102\(1\)-\(3\)](#), 199; S.I. 2004/759, [art. 5\(2\)](#)
- C3** Pt. 2 modified (W.) (30.4.2003) by [The Care Standards Act 2000 \(Commencement No. 10\) and Transitional Provisions \(Wales\) Order 2003 \(S.I. 2003/152\)](#), [art. 3](#)
- C4** Pt. 2 applied (with modifications) (E.) (31.8.2004) by [The Adult Placement Schemes \(England\) Regulations 2004 \(S.I. 2004/2071\)](#), [reg. 40\(2\)](#), Sch. 5
- C5** Pt. 2 applied (with modifications) (W.) (1.8.2004) by [The Adult Placement Schemes \(Wales\) Regulations 2004 \(S.I. 2004/1756\)](#), [reg. 3\(3\)](#), Sch. 1
- C6** Pt. 2: functions transferred (8.11.2006 for certain purposes and 1.4.2007 otherwise) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 148\(1\)](#), 188(3); S.I. 2007/935, [art. 5](#)

Registration

11 Requirement to register.

- (1) Any person who carries on or manages an establishment or agency of any description without being registered under this Part in respect of it (as an establishment or, as the case may be, agency of that description) shall be guilty of an offence.
- (2) ^[F1]Where the activities of an agency are carried on from two or more branches, each of those branches shall be treated as a separate agency for the purposes of this Part.]

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Care Standards Act 2000, Part II is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The [F²references in [F³subsection (1)] to an agency do] not include a reference to a voluntary adoption agency.
- (4) The Secretary of State may by regulations make provision about the keeping of registers by [F⁴[F⁵the CHAI[F⁶, the CSCI or] the CIECSS]] for the purposes of this Part.
- (5) A person guilty of an offence under this section shall be liable on summary conviction—
- (a) if subsection (6) does not apply, to a fine not exceeding level 5 on the standard scale;
 - (b) if subsection (6) applies, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (6) This subsection applies if—
- (a) the person was registered in respect of the establishment or agency at a time before the commission of the offence but the registration was cancelled before the offence was committed; or
 - (b) the conviction is a second or subsequent conviction of the offence and the earlier conviction, or one of the earlier convictions, was of an offence in relation to an establishment or agency of the same description.

Textual Amendments

- F1** S. 11(2) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 166, 170(1)(b), Sch. 5 para. 10(a), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)
- F2** Words in s. 11(3) substituted (25.2.2003 for E. for certain purposes, 30.4.2003 for E. otherwise and 28.11.2003 for W.) by [Adoption and Children Act 2002 \(c. 38\)](#), ss. 139, 148, **Sch. 3 para. 106** (with Sch. 4 paras. 6-8); S.I. 2003/366, art. 2(1)(4); S.I. 2003/3079, **art. 2(1)**
- F3** Words in s. 11(3) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), Sch. 5 para. 10(b); S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)
- F4** Words in s. 11(4) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 166, 170(1)(b), Sch. 5 para. 10(c), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 (with arts. 3-22)
- F5** Words in s. 11(4) substituted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 147, 199, **Sch. 9 para. 20**; S.I. 2004/759, **art. 5(2)**
- F6** Words in s. 11(4) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, **Sch. 14 para. 42**; S.I. 2007/935, **art. 5**

Modifications etc. (not altering text)

- C7** S. 11 applied (W.) (1.4.2003) by S.I. 2003/237, reg. 52(4)(6) (as substituted by [The Fostering Services \(Wales\) \(Amendment\) Regulations 2003 \(S.I. 2003/896\)](#), **reg. 2(2)**)
- C8** S. 11 applied (W.) (1.9.2003) by [The Residential Family Centres \(Wales\) Regulations 2003 \(S.I. 2003/781\)](#), **reg. 34(4)(b)**
- C9** S. 11(1)(5)(6) excluded (W.) (temp.) (1.4.2003) by S.I. 2003/237, reg. 52(2)(3) (as substituted by [The Fostering Services \(Wales\) \(Amendment\) Regulations 2003 \(S.I. 2003/896\)](#), **reg. 2(2)**)
- C10** S. 11(1)(5)(6) excluded (W.) (1.9.2003) by [The Residential Family Centres \(Wales\) Regulations 2003 \(S.I. 2003/781\)](#), **reg. 34(2)**

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Commencement Information

- 11** S. 11 partly in force; s. 11 not in force at Royal Assent see s. 122; s. 11 in force for W. for certain purposes at 1.7.2001 by [S.I. 2001/2190, art. 2, Sch. Table](#); s. 11 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 11 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 11 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920, arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 11 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152, art. 2](#); s. 11 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528, art. 2](#); s. 11 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015, art. 2](#); s. 11 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730, art. 2](#)

12 Applications for registration.

- (1) A person seeking to be registered under this Part shall make an application to the registration authority.
- (2) The application—
 - (a) must give the prescribed information about prescribed matters;
 - (b) must give any other information which the registration authority reasonably requires the applicant to give,
and must be accompanied by [^{F7}a fee of [^{F8}the prescribed amount]].
- (3) A person who applies for registration as the manager of an establishment or agency must be an individual.
- (4) A person who carries on or manages, or wishes to carry on or manage, more than one establishment or agency must make a separate application in respect of each of them.

Textual Amendments

- F7** Words in s. 12(2) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. {105\(3\)}, 199; S.I. 2006/1680, art. 2\(2\)](#)
- F8** Words in s. 12(2) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by [Health and Social Care Act 2008 \(c. 14\), ss. 95, 170\(1\)\(b\), Sch. 5 para. 11; S.I. 2009/2862, art. 2; S.I. 2010/807, art. 2\(2\), Sch. 1 Pt. 2 \(with arts. 3-22\)](#)

Modifications etc. (not altering text)

- C11** S. 12(2) modified (temp.) (E.) (26.6.2006) by [The Health and Social Care \(Community Health and Standards\) Act 2003 Commencement \(No. 9\) Order 2006 \(S.I. 2006/1680\), art. 4\(2\)](#)

Commencement Information

- 12** S. 12 partly in force; s. 12 not in force at Royal Assent see s. 122; s. 12 in force for W. for certain purposes at 1.7.2001 by [S.I. 2001/2190, art. 2, Sch. Table](#); s. 12 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 12 in force for E. for certain purposes at 1.1.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(4\)\(a\)\(i\)\(5\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 12 in force

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for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 12 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 12 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 12 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 11 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 12 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

13 Grant or refusal of registration.

- (1) Subsections (2) to (4) apply where an application under section 12 has been made with respect to an establishment or agency in accordance with the provisions of this Part.
- (2) If the registration authority is satisfied that—
 - (a) the requirements of regulations under section 22; and
 - (b) the requirements of any other enactment which appears to the registration authority to be relevant,
 are being and will continue to be complied with (so far as applicable) in relation to the establishment or agency, it shall grant the application; otherwise it shall refuse it.
- (3) The application may be granted either unconditionally or subject to such conditions as the registration authority thinks fit.
- (4) On granting the application, the registration authority shall issue a certificate of registration to the applicant.
- (5) The registration authority may at any time—
 - (a) vary or remove any condition for the time being in force in relation to a person's registration; or
 - (b) impose an additional condition.

Commencement Information

- 13** S. 13 partly in force; s. 13 not in force at Royal Assent see s. 122; s. 13 in force for E. for certain purposes at 1.1.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(4)(a)(i)(5) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 13 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 13 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 13 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 13 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 13 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 13 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

14 Cancellation of registration.

- (1) The registration authority may at any time cancel the registration of a person in respect of an establishment or agency—
 - (a) on the ground that that person has been convicted of a relevant offence;

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- (b) on the ground that any other person has been convicted of such an offence in relation to the establishment or agency;
 - (c) on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements;
 - (d) on any ground specified by regulations.
- (2) For the purposes of this section the following are relevant offences—
- (a) an offence under this Part or regulations made under it;
 - (b) an offence under the ^{M1}Registered Homes Act 1984 or regulations made under it;
 - (c) an offence under the 1989 Act or regulations made under it;
 - [^{F9}(d) an offence under regulations under section 1(3) of the Adoption (Intercountry Aspects) Act 1999,
 - (e) an offence under the Adoption and Children Act 2002 or regulations made under it]
 - [^{F10}(f) an offence under Part 1 of the Health and Social Care Act 2008 or regulations made under that Part.]
- (3) In this section “relevant requirements” means—
- (a) any requirements or conditions imposed by or under this Part; and
 - (b) the requirements of any other enactment which appear to the registration authority to be relevant.

Textual Amendments

- F9** S. 14(2)(d)(e) substituted (30.12.2005) for s. 14(2)(d) by [Adoption and Children Act 2002 \(c. 38\)](#), ss. 139, 148, [Sch. 3 para. 107](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, art. 2
- F10** S. 14(2)(f) inserted (21.7.2008 for certain purposes and 1.10. 2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 12](#); S.I. 2010/807, [art. 2\(2\)](#), [Sch. 1 Pt. 2](#) (with arts. 3-22)

Modifications etc. (not altering text)

- C12** S. 14(1)(d) applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(a\)](#), 3

Commencement Information

- I4** S. 14 partly in force; s. 14 not in force at Royal Assent see s. 122; s. 14 in force for W. for certain purposes at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch. Table](#); s. 14 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 14 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 14 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\)](#), [3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 14 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 14 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 14 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 14 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

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Marginal Citations

M1 1984 c. 23.

VALID FROM 01/04/2009

[^{F11}14A Suspension of registration

- (1) The Welsh Ministers may at any time suspend for a specified period the registration of a person in respect of an establishment or agency for which the Welsh Ministers are the registration authority.
- (2) Except where the Welsh Ministers give notice under section 20B, the power conferred by subsection (1) is exercisable only on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements.
- (3) The suspension of a person's registration does not affect the continuation of the registration (but see sections 24A and 26 as to offences).
- (4) A period of suspension may be extended under subsection (1) on one or more occasions.
- (5) Reference in this Part to the suspension of a person's registration is to suspension under this section, and related expressions are to be read accordingly.
- (6) In this section “relevant requirements” has the same meaning as in section 14.]

Textual Amendments

F11 S. 14A inserted (1.4.2009 for certain purposes and 1.10.2010 otherwise) by **Health and Social Care Act 2008** (c. 14), ss. 95, 170(1)(b), **Sch. 5 para. 13**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

15 Applications by registered persons.

- (1) A person registered under this Part may apply to the registration authority—
 - (a) for the variation or removal of any condition for the time being in force in relation to the registration; or
 - (b) for the cancellation of the registration^[F12]; or
 - (c) for the cancellation of, or the variation of the period of, any suspension of the registration.]
- (2) But a person may not make an application under subsection (1)(b)—
 - (a) if the registration authority has given him notice under section 17(4)(a) of a proposal to cancel the registration, unless the registration authority has decided not to take that step; or
 - (b) if the registration authority has given him notice under section 19(3) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

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- (3) An application under subsection (1) shall be made in such manner and state such particulars as may be prescribed and, if made under paragraph (a) [^{F13}or (c)] of that subsection, shall be accompanied by [^{F14}a fee of the prescribed amount].
- (4) If the registration authority decides to grant an application under subsection (1)(a) it shall serve notice in writing of its decision on the applicant (stating, where applicable, the condition as varied) and issue a new certificate of registration.
- [^{F15}(4A) If the Welsh Ministers decide to grant an application under subsection (1)(c), they must serve notice in writing of their decision on the applicant (stating, where applicable, the period as varied).]
- [^{F16}(5) If different amounts are prescribed under subsection (3), the regulations may provide for the appropriate Minister to determine which amount is payable in a particular case.]

Textual Amendments

- F12** S. 15(1)(c) and preceding word inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 14\(a\)](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 35
- F13** Word in s. 15(3) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 14\(b\)\(i\)](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 35
- F14** Words in s. 15(3) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 14\(b\)\(ii\)](#); S.I. 2009/2862, [art. 2](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2
- F15** S. 15(4A) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 14\(c\)](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 35
- F16** S. 15(5) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 14\(d\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2

Modifications etc. (not altering text)

- C13** S. 15(3) modified (temp.) (E.) (26.6.2006) by [The Health and Social Care \(Community Health and Standards\) Act 2003 Commencement \(No. 9\) Order 2006 \(S.I. 2006/1680\)](#), [art. 4\(2\)](#)

Commencement Information

- I5** S. 15 partly in force; s. 15 not in force at Royal Assent see s. 122; s. 15 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, [art. 2](#), Sch. Table; s. 15 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, [arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 15 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, [arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 15 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 15 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, [art. 2](#); s. 15 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, [art. 2](#); s. 15 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, [art. 2](#); s. 15 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, [art. 2](#)

16 Regulations about registration.

- (1) Regulations may make provision about the registration of persons under this Part in respect of establishments or agencies, and in particular about—

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- (a) the making of applications for registration;
 - (b) the contents of certificates of registration.
- (2) Regulations may provide that no application for registration under this Part may be made in respect of a fostering agency^{F17} . . . which is an unincorporated body.
- [^{F18}(3) Persons registered under this Part must also pay to the registration authority, at such time as may be prescribed, [^{F19} an annual fee of the prescribed amount].]
- (4) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Textual Amendments

- F17** Words in s. 16(2) repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), ss. 139, 148, [Sch. 3 para. 108](#), [Sch. 5](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), [art. 2](#); [S.I. 2005/2897](#), [art. 2](#)
- F18** S. 16(3) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 105\(6\)](#), 199; [S.I. 2006/1860](#), [art. 2\(2\)](#)
- F19** Words in s. 16(3) substituted (21.7.2008 for certain purposes, 2.11.2009 for E. otherwise, and 1.10.2010 for W. otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b), [Sch. 5 para. 15](#); [S.I. 2009/2862](#), [art. 2](#); [S.I. 2010/807](#), [art. 2\(2\)](#), [Sch. 1 Pt. 2](#)

Modifications etc. (not altering text)

- C14** S. 16(1)(3) applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(b\)](#), 3
- C15** S. 16(3) modified (temp.) (E.) (26.6.2006) by [The Health and Social Care \(Community Health and Standards\) Act 2003 Commencement \(No. 9\) Order 2006 \(S.I. 2006/1680\)](#), [art. 4\(2\)](#)

Commencement Information

- I6** S. 16 wholly in force at 1.4.2002; s. 16 not in force at Royal Assent see s. 122; s. 16 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch. Table](#); s. 16 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), 3(2)(3)(a)(i) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 16 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), 3(2)(7)(a) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Registration procedure

17 Notice of proposals.

- (1) Subsections (2) and (3) apply where a person applies for registration in respect of an establishment or agency.
- (2) If the registration authority proposes to grant the application subject to any conditions which have not been agreed in writing between it and the applicant, it shall give the applicant written notice of its proposal and of the conditions subject to which it proposes to grant his application.
- (3) The registration authority shall give the applicant notice of a proposal to refuse the application.

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- (4) Except where it makes an application under section 20, the registration authority shall give any person registered in respect of an establishment or agency notice of a proposal—
 - (a) to cancel the registration (otherwise than in accordance with an application under section 15(1)(b));
 - (b) to vary or remove (otherwise than in accordance with an application under section 15(1)(a)) any condition for the time being in force in relation to the registration; or
 - (c) to impose any additional condition in relation to the registration.
- (5) The registration authority shall give the applicant notice of a proposal to refuse an application under section 15(1)(a).
- (6) A notice under this section shall give the registration authority's reasons for its proposal.

Commencement Information

- I7** S. 17 partly in force; s. 17 not in force at Royal Assent see s. 122; s. 17 in force for E. at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(f\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), [2002/1493](#), [2002/1790](#), [2002/2001](#), [2002/3210](#)); s. 17 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 17 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 17 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 17 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 17 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

18 Right to make representations.

- (1) A notice under section 17 shall state that within 28 days of service of the notice any person on whom it is served may make written representations to the registration authority concerning any matter which that person wishes to dispute.
- (2) Where a notice has been served under section 17, the registration authority shall not determine any matter to which the notice relates until either—
 - (a) any person on whom the notice was served has made written representations to it concerning the matter;
 - (b) any such person has notified the registration authority in writing that he does not intend to make representations; or
 - (c) the period during which any such person could have made representations has elapsed.

Modifications etc. (not altering text)

- C16** S. 18(2) modified (W.) (2.10.2003) by [The Nurses Agencies \(Wales\) Regulations 2003](#) ([S.I. 2003/2527](#)), [reg. 30](#), [Sch. 5 para. 4\(2\)\(b\)](#)

Commencement Information

- I8** S. 18 partly in force; s. 18 not in force at Royal Assent see s. 122; s. 18 in force for E. at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(f\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), [2002/1493](#), [2002/1790](#), [2002/2001](#), [2002/3210](#));

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s. 18 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 18 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 18 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 18 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 18 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

19 Notice of decisions.

- (1) If the registration authority decides to grant an application for registration in respect of an establishment or agency unconditionally, or subject only to conditions which have been agreed in writing between it and the applicant, it shall give the applicant written notice of its decision.
- (2) A notice under subsection (1) shall state the agreed conditions.
- (3) If the registration authority decides to adopt a proposal under section 17, it shall serve notice in writing of its decision on any person on whom it was required to serve notice of the proposal.
- (4) A notice under subsection (3) shall—
 - (a) explain the right of appeal conferred by section 21;
 - (b) in the case of a decision to adopt a proposal under section 17(2), state the conditions subject to which the application is granted; and
 - (c) in the case of a decision to adopt a proposal under section 17(4)(b) or (c), state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.
- (5) Subject to subsection (6), a decision of the registration authority to adopt a proposal under section 17(2) or (4) shall not take effect—
 - (a) if no appeal is brought, until the expiration of the period of 28 days referred to in section 21(2); and
 - (b) if an appeal is brought, until it is determined or abandoned.
- (6) Where, in the case of a decision to adopt a proposal under section 17(2), the applicant notifies the registration authority in writing before the expiration of the period mentioned in subsection (5)(a) that he does not intend to appeal, the decision shall take effect when the notice is served.

Commencement Information

- 19** S. 19 partly in force; s. 19 not in force at Royal Assent see s. 122; s. 19 in force for E. at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(f\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), [2002/1493](#), [2002/1790](#), [2002/2001](#), [2002/3210](#)); s. 19 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 19 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 19 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 19 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 19 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

20 Urgent procedure for cancellation etc.

- (1) If—

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- (a) the registration authority applies to a justice of the peace for an order—
 - (i) cancelling the registration of a person in respect of an establishment or agency;
 - (ii) varying or removing any condition for the time being in force by virtue of this Part; or
 - (iii) imposing an additional condition; and
 - (b) it appears to the justice that, unless the order is made, there will be a serious risk to a person’s life, health or well-being,
the justice may make the order, and the cancellation, variation, removal or imposition shall have effect from the time when the order is made.
- (2) An application under subsection (1) may, if the justice thinks fit, be made without notice.
- (3) As soon as practicable after the making of an application under this section, the registration authority shall notify the appropriate authorities of the making of the application.
- (4) An order under subsection (1) shall be in writing.
- (5) Where such an order is made, the registration authority shall, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—
- (a) a copy of the order; and
 - (b) notice of the right of appeal conferred by section 21.
- (6) For the purposes of this section the appropriate authorities are—
- (a) the local authority in whose area the establishment or agency is situated;
 - (b) the [^{F20}Primary Care Trust or][^{F21}Local Health Board] in whose area the establishment or agency is situated; and
 - (c) any statutory authority not falling within paragraph (a) or (b) whom the registration authority thinks it appropriate to notify.
- (7) In this section “statutory authority” means a body established by or under an Act of Parliament.

Textual Amendments

F20 Words in s. 20(6)(b) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 2(5), **Sch. 2 Pt. 2 para. 70**; S.I. 2002/2478, arts. 2(1), **3(1)(d)** (subject to art. 3(3) and with transitional provisions in art. 4)

F21 Words in s. 20(6)(b) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 30(2)**

Modifications etc. (not altering text)

C17 S. 20(2)(4)(5) applied (W.) (1.4.2003) by S.I. 2003/237, reg. 52(5) (as substituted by The Fostering Services (Wales) (Amendment) Regulations 2003 (S.I. 2003/896), reg. 2(2))

C18 S. 20(2)(4)(5) applied (W.) (1.9.2003) by The Residential Family Centres (Wales) Regulations 2003 (S.I. 2003/781), reg. 34(5)

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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Commencement Information

- I10** S. 20 partly in force; s. 20 not in force at Royal Assent see s. 122; s. 20 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 20 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 20 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 20 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 20 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 20 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

VALID FROM 01/10/2010

[^{F22}20A Urgent procedure for cancellation: Wales

- (1) If in respect of an establishment or agency for which the Welsh Ministers are the registration authority—
 - (a) the Welsh Ministers apply to a justice of the peace for an order cancelling the registration of a person in respect of the establishment or agency, and
 - (b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,
 the justice may make the order, and the cancellation has effect from the time when the order is made.
- (2) An application under subsection (1) may, if the justice thinks fit, be made without notice.
- (3) As soon as practicable after the making of an application under this section, the Welsh Ministers must notify the appropriate authorities of the making of the application.
- (4) An order under subsection (1) is to be in writing.
- (5) Where such an order is made, the Welsh Ministers must, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—
 - (a) a copy of the order, and
 - (b) notice of the right of appeal conferred by section 21.
- (6) For the purposes of this section the appropriate authorities are—
 - (a) the local authority in whose area the establishment or agency is situated,
 - (b) the Local Health Board in whose area the establishment or agency is situated, and
 - (c) any statutory authority not falling within paragraph (a) or (b) whom the Welsh Ministers think it appropriate to notify.
- (7) In this section “statutory authority” has the same meaning as in section 20.

Textual Amendments

- F22** Ss. 20A, 20B inserted (1.10.2010) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(3), Sch. 5 para. 19; S.I. 2010/807, art. 2(2), Sch. 1 Pt. 2 (with arts. 3-22)

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 01/10/2010

20B Urgent procedure for suspension or variation etc: Wales

- (1) Subsection (2) applies where—
 - (a) a person is registered under this Part in respect of an establishment or agency for which the Welsh Ministers are the registration authority, and
 - (b) the Welsh Ministers have reasonable cause to believe that unless they act under this section any person will or may be exposed to the risk of harm.
- (2) Where this subsection applies, the Welsh Ministers may, by giving notice in writing under this section to the person registered in respect of the establishment or agency, provide for any decision of the Welsh Ministers that is mentioned in subsection (3) to take effect from the time when the notice is given.
- (3) Those decisions are—
 - (a) a decision under section 13(5) to vary or remove a condition for the time being in force in relation to the registration or to impose an additional condition;
 - (b) a decision under section 14A to suspend the registration or extend the period of suspension.
- (4) The notice must—
 - (a) state that it is given under this section,
 - (b) state the Welsh Ministers' reasons for believing that the circumstances fall within subsection (1)(b),
 - (c) specify the condition as varied, removed or imposed or the period (or extended period) of suspension, and
 - (d) explain the right of appeal conferred by section 21.]

Textual Amendments

F22 Ss. 20A, 20B inserted (1.10.2010) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(3), [Sch. 5 para. 19](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)

21 Appeals to the Tribunal.

- (1) An appeal against—
 - (a) a decision of the registration authority under this Part; or
 - (b) an order made by a justice of the peace under section 20,shall lie to the Tribunal.
- (2) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.
- (3) On an appeal against a decision of the registration authority the Tribunal may confirm the decision or direct that it shall not have effect.
- (4) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.

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- (5) The Tribunal shall also have power on an appeal against a decision or order—
- (a) to vary any condition for the time being in force in respect of the establishment or agency to which the appeal relates;
 - (b) to direct that any such condition shall cease to have effect; or
 - (c) to direct that any such condition as it thinks fit shall have effect in respect of the establishment or agency.

Commencement Information

- III** S. 21 partly in force; s. 21 not in force at Royal Assent see s. 122; s. 21 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(b) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 21 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 21 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 21 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 21 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 21 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 21 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

Regulations and standards

22 Regulation of establishments and agencies.

- (1) Regulations may impose in relation to establishments and agencies any requirements which the appropriate Minister thinks fit for the purposes of this Part and may in particular make any provision such as is mentioned in subsection (2), (7) or (8).
- (2) Regulations may—
- (a) make provision as to the persons who are fit to carry on or manage an establishment or agency;
 - (b) make provision as to the persons who are fit to work at an establishment or for the purposes of an agency;
 - (c) make provision as to the fitness of premises to be used as an establishment or for the purposes of an agency;
 - (d) make provision for securing the welfare of persons accommodated in an establishment or provided with services by an establishment, an independent medical agency or a domiciliary care agency;
 - (e) make provision for securing the welfare of children placed, under section 23(2)(a) of the 1989 Act, by a fostering agency;
 - (f) make provision as to the management and control of the operations of an establishment or agency;
 - (g) make provision as to the numbers of persons, or persons of any particular type, working at an establishment or for the purposes of an agency;
 - (h) make provision as to the management and training of such persons;
 - (i) impose requirements as to the financial position of an establishment or agency;

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- (j) make provision requiring the person carrying on an establishment or agency to appoint a manager in prescribed circumstances.
- (3) Regulations under subsection (2)(a) may, in particular, make provision for prohibiting persons from managing an establishment or agency unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1).
- (4) Regulations under subsection (2)(b) may, in particular, make provision for prohibiting persons from working in such positions as may be prescribed at an establishment, or for the purposes of an agency, unless they are registered in, or in a particular part of, one of the registers maintained under section 56(1).
- (5) Regulations under paragraph (d) of subsection (2) may, in particular, make provision—
- (a) as to the promotion and protection of the health of persons such as are mentioned in that paragraph;
 - (b) as to the control and restraint of adults accommodated in, or provided with services by, an establishment;
 - (c) as to the control, restraint and discipline of children accommodated in, or provided with services by, an establishment.
- (6) Regulations under paragraph (e) of subsection (2) may, in particular, make provision—
- (a) as to the promotion and protection of the health of children such as are mentioned in that paragraph;
 - (b) as to the control, restraint and discipline of such children.
- (7) Regulations may make provision as to the conduct of establishments and agencies, and such regulations may in particular—
- (a) make provision as to the facilities and services to be provided in establishments and by agencies;
 - (b) make provision as to the keeping of accounts;
 - (c) make provision as to the keeping of documents and records;
 - (d) make provision as to the notification of events occurring in establishments or in premises used for the purposes of agencies;
 - (e) make provision as to the giving of notice by the person carrying on an establishment or agency of periods during which he or (if he does not manage it himself) the manager proposes to be absent from the establishment or agency, and specify the information to be supplied in such a notice;
 - (f) provide for the making of adequate arrangements for the running of an establishment or agency during a period when the manager is absent from it;
 - (g) make provision as to the giving of notice by a person registered in respect of an establishment or agency of any intended change in the identity of the manager or the person carrying it on;
 - (h) make provision as to the giving of notice by a person registered in respect of an establishment or agency which is carried on by a body corporate of changes in the ownership of the body or the identity of its officers;
 - (i) make provision requiring the payment [^{F23}, in respect of any notification required to be made by virtue of paragraph (h), of]^{F24} a fee of the prescribed amount;]]
 - (j) make provision requiring arrangements to be made by the person who carries on, or manages, an establishment or agency for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided

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- in the establishment or by the agency and requiring that person to take steps for publicising the arrangements;
- (k) make provision requiring arrangements to be made by the person who carries on, or manages, an independent hospital, independent clinic or independent medical agency for securing that any medical or psychiatric treatment, or listed services, provided in or for the purposes of the establishment or (as the case may be) for the purposes of the agency are of appropriate quality and meet appropriate standards;
- (l) make provision requiring arrangements to be made by the person who carries on, or manages, a care home for securing that any nursing provided by the home is of appropriate quality and meets appropriate standards.
- (8) Regulations may make provision—
- (a) ^{F25}
- (b) imposing other requirements (in addition to those imposed by section 25 of the 1989 Act (use of accommodation for restricting liberty)) as to the placing of a child in accommodation provided for the purpose [^{F26}of restricting liberty], including a requirement to obtain the permission of any local authority who are looking after the child;
- (c) as to the facilities which are to be provided for giving religious instruction to children in children’s homes.
- (9) Before making regulations under this section, except regulations which amend other regulations made under this section and do not, in the opinion of the appropriate Minister, effect any substantial change in the provision made by those regulations, the appropriate Minister shall consult any persons he considers appropriate.
- (10) References in this section to agencies do not include references to voluntary adoption agencies^{[F27} or adoption support agencies.]
- (11) In subsection (7)(k), “listed services” has the same meaning as in section 2.

Textual Amendments

- F23** Words in s. 22(7)(i) substituted (20.11.2003 for certain purposes and 1.8.2006 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), **ss. 105(7)**, 199; S.I. 2006/1680, **art. 2(2)**
- F24** Words in s. 22(7)(i) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 95**, 170(1)(b)(3), **Sch. 5 para. 21**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)
- F25** S. 22(8)(a) repealed (1.4.2006 for W. and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), **ss. 107(2)(a)**, 196, 199, Sch. 14 Pt. 2; S.I. 2005/3285, **art. 2(2)(c)**
- F26** Words in s. 22(8)(b) substituted (1.4.2006 for W. and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), **ss. 107(2)(b)**, 199; S.I. 2005/3285, **art. 2**
- F27** Words in s. 22(10) inserted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), **ss. 139**, 148, **Sch. 3 para. 109** (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2**

Modifications etc. (not altering text)

- C19** S. 22 applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), **regs. 2(2)(c)**, 3

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C20 S. 22(7)(i) modified (temp.) (E.) (26.6.2006) by [The Health and Social Care \(Community Health and Standards\) Act 2003 Commencement \(No. 9\) Order 2006 \(S.I. 2006/1680\)](#), [art. 4\(2\)](#)

Commencement Information

I12 S. 22 wholly in force at 20.11.2001; s. 22 not in force at Royal Assent see s. 122; s. 22 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch.](#) Table; s. 22 in force for E. at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(3\)\(c\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), [2002/1493](#), [2002/1790](#), [2002/2001](#), [2002/3210](#))

VALID FROM 01/04/2010

^{F28}22A Power of CIECSS to serve notice where person is failing to comply with regulations

- (1) This section applies if—
 - (a) a person (“P”) is registered in respect of a relevant establishment or agency; and
 - (b) the CIECSS is of the opinion that P is failing or has failed to comply with a requirement imposed on P in relation to that establishment or agency.
- (2) The CIECSS may serve a compliance notice on P.
- (3) A compliance notice is a notice which—
 - (a) states that the CIECSS is of the opinion mentioned in subsection (1)(b);
 - (b) specifies the requirement with which the CIECSS considers P is failing or has failed to comply;
 - (c) specifies how the CIECSS considers that P is failing or has failed to comply with that requirement;
 - (d) specifies the establishment or agency in relation to which the CIECSS considers P is failing or has failed to comply with that requirement;
 - (e) specifies the steps the CIECSS considers need to be taken by P in relation to that establishment or agency to comply with that requirement or (as the case may be) to prevent a recurrence of the failure to comply with that requirement;
 - (f) specifies a period for the taking of those steps; and
 - (g) explains the effect of subsections (4) and (5).
- (4) Failing to take the steps specified in a compliance notice within the period so specified is an offence.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) In this section—
 - (a) a “relevant establishment or agency” means an establishment or agency in relation to which the functions of the registration authority under section 13 are exercisable by the CIECSS;
 - (b) references to a “requirement” are references to a requirement imposed by regulations under—
 - (i) section 22;

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Care Standards Act 2000, Part II is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) section 9 of the Adoption Act 1976; or
- (iii) section 9 of the Adoption and Children Act 2002.]

Textual Amendments

F28 S. 22A inserted (1.4.2010 for E. and otherwise prosp.) by [Children and Young Persons Act 2008](#) (c. 23), [ss. 26\(2\), 44](#); [S.I. 2009/3354](#), [art. 3\(2\)](#)

VALID FROM 01/04/2010

[^{F29}22B Notice restricting accommodation at certain establishments

- (1) The registration authority may serve a notice on a person who is registered in respect of an establishment to which this section applies imposing on that person the requirement in subsection (2) in relation to that establishment.
- (2) The requirement is to ensure that no child is accommodated at the establishment unless the child—
 - (a) was accommodated there when the notice was served; and
 - (b) has continued to be accommodated there since the notice was served.
- (3) A notice under subsection (1) must—
 - (a) explain the requirement imposed by the notice;
 - (b) specify the establishment in relation to which that requirement is imposed;
 - (c) give the registration authority's reasons for serving the notice;
 - (d) explain the right of appeal conferred by section 21.
- (4) A notice under subsection (1) ceases to have effect—
 - (a) at such time as may be specified in the notice;
 - (b) if the registration authority serves a notice to that effect on the person on whom the notice under subsection (1) was served;
 - (c) if the Tribunal so directs under section 21(4A) or (4B).
- (5) Subsection (6) applies if—
 - (a) the registration authority serves a notice on a person under subsection (1) or (4)(b); and
 - (b) one or more other persons are registered in respect of the establishment to which the notice relates.
- (6) The registration authority must as soon as practicable serve a notice in the same terms under subsection (1) or (as the case may be) (4)(b) on the persons mentioned in subsection (5)(b).
- (7) The reference in subsection (5) to serving a notice on a person does not include a reference to serving a notice on a person in pursuance of subsection (6).
- (8) This section applies to the following establishments—
 - (a) a children's home;
 - (b) a residential family centre.]

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Textual Amendments

F29 S. 22B inserted (1.4.2010 for E. and 26.4.2010 for W.) by [Children and Young Persons Act 2008](#) (c. 23), [ss. 27, 44](#); [S.I. 2009/3354](#), [art. 3\(2\)](#); [S.I. 2010/1329](#), [art. 2](#)

23 National minimum standards.

- (1) The appropriate Minister may prepare and publish statements of national minimum standards applicable to establishments or agencies.
- (2) The appropriate Minister shall keep the standards set out in the statements under review and may publish amended statements whenever he considers it appropriate to do so.
- (3) Before issuing a statement, or an amended statement which in the opinion of the appropriate Minister effects a substantial change in the standards, the appropriate Minister shall consult any persons he considers appropriate.
- (4) The standards shall be taken into account—
 - (a) in the making of any decision by the registration authority under this Part;
 - (b) in any proceedings for the making of an order under section 20;
 - (c) in any proceedings on an appeal against such a decision or order; and
 - (d) in any proceedings for an offence under regulations under this Part ^{F30}or proceedings against a voluntary adoption agency for an offence under section 9(4) of the Adoption Act 1976 or ^{F31}against a voluntary adoption agency or adoption support agency for an offence under] section 9 of the Adoption and Children Act 2002].

Textual Amendments

F30 Words in s. 23(4)(d) inserted (30.4.2003 for E., 28.11.2003 for W. for certain purposes and 30.12.2005 for W. otherwise) by [Adoption and Children Act 2002](#) (c. 38), [ss. 139, 148](#), [Sch. 3 para. 110](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/366](#), [art. 2\(4\)](#); [S.I. 2003/3079](#), [art. 2\(1\)](#); [S.I. 2005/2213](#), [art. 2](#)

F31 Words in s. 23(4)(d) inserted (20.11.2003 for certain purposes, 1.4.2004 for E. so far as not already in force, otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), [ss. 147, 199](#), [Sch. 9 para. 21](#); [S.I. 2004/759](#), [art. 4\(2\)](#)

Commencement Information

I13 S. 23 wholly in force at 1.4.2002; s. 23 not in force at Royal Assent see s. 122; s. 23(1)-(3) in force for E. at 2.3.2001 by [S.I. 2001/731](#), [arts. 1\(2\), 2](#); s. 23 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch. Table](#); s. 23(4) in force for E. for certain purposes at 1.1.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(4\)\(b\)\(6\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 23 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210)

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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Offences

24 Failure to comply with conditions.

If a person registered in respect of an establishment or agency fails, without reasonable excuse, to comply with any condition for the time being in force by virtue of this Part in respect of the establishment or agency, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I14 S. 24 partly in force; s. 24 not in force at Royal Assent see s. 122; s. 24 in force for E. at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(f\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), [2002/1493](#), [2002/1790](#), [2002/2001](#), [2002/3210](#)); s. 24 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 24 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 24 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 24 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 24 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

VALID FROM 01/04/2009

[^{F32}24A Offences relating to suspension

- (1) If a person who is registered under this Part in respect of an establishment or agency carries on or (as the case may be) manages the establishment or agency while the person's registration is suspended, the person is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

Textual Amendments

F32 S. 24A inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 95, 170\(3\)](#), [Sch. 5 para. 22](#); [S.I. 2009/462](#), [art. 2](#), [Sch. 1 para. 35](#)

25 Contravention of regulations.

- (1) Regulations under this Part may provide that a contravention of or failure to comply with any specified provision of the regulations shall be an offence.
- (2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Modifications etc. (not altering text)

C21 S. 25(1) applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(d\), 3](#)

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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Commencement Information

I15 S. 25 wholly in force at 1.4.2002; s. 25 not in force at Royal Assent see s. 122; s. 25 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 25 in force for E. for certain purposes at 20.11.2001 by S.I. 2001/3852, arts. 1(4), 3(2)(3)(a)(i) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 25 in force for E. in so far as not already in force at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(a) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210)

26 False descriptions of establishments and agencies.

- (1) A person who, with intent to deceive any person—
 - (a) applies any name to premises in England or Wales; or
 - (b) in any way describes such premises or holds such premises out,
so as to indicate, or reasonably be understood to indicate, that the premises are an establishment, or an agency, of a particular description shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale unless registration has been effected under this Part in respect of the premises as an establishment or agency of that description.
- (2) References to premises in subsection (1) shall be taken to include references to an undertaking or organisation.
- (3) No person shall, with intent to deceive any person, in any way describe or hold out an establishment or agency as able to provide any service or do any thing the provision or doing of which would contravene a condition for the time being in force by virtue of this Part in respect of the establishment or agency.
- (4) A person who contravenes subsection (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Commencement Information

I16 S. 26 partly in force; s. 26 not in force at Royal Assent see s. 122; s. 26 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 26 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 26 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 26 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 26 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 26 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

27 False statements in applications.

- (1) Any person who, in an application for registration under this Part or for the variation of any condition in force in relation to his registration, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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Commencement Information

I17 S. 27 partly in force; s. 27 not in force at Royal Assent see s. 122; s. 27 in force for E. for certain purposes at 1.1.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(4\)\(b\)\(6\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 27 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 27 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920, arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 27 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152, art. 2](#); s. 27 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528, art. 2](#); s. 27 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015, art. 2](#); s. 27 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730, art. 2](#)

28 Failure to display certificate of registration.

- (1) A certificate of registration issued under this Part in respect of any establishment or agency shall be kept affixed in a conspicuous place in the establishment or at the agency.
- (2) If default is made in complying with subsection (1), any person registered in respect of the establishment or agency shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Modifications etc. (not altering text)

C22 S. 28(1) modified (W.) (1.1.2009) by [The Private Dentistry \(Wales\) Regulations 2008 \(S.I. 2008/1976\), reg. 4](#)

Commencement Information

I18 S. 28 partly in force; s. 28 not in force at Royal Assent see s. 122; s. 28 in force for E. at 1.4.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(7\)\(f\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 28 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920, arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 28 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152, art. 2](#); s. 28 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528, art. 2](#); s. 28 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015, art. 2](#); s. 28 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730, art. 2](#)

29 Proceedings for offences.

- ^{F33}(1) Proceedings in respect of an offence under this Part or regulations made under it shall not, without the written consent of the Attorney General, be taken by any person other than the CIECSS or the Welsh Ministers.]
- (2) Proceedings for an offence under this Part or regulations made under it may be brought within [^{F34}the permitted period] from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this subsection more than three years after the commission of the offence.

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[^{F35}(3) “The permitted period” means—

- (a) in the case of proceedings brought by the Welsh Ministers, a period of 12 months;
- (b) in any other case, a period of 6 months.]

Textual Amendments

- F33** S. 29(1) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 24\(a\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F34** Words in s. 29(2) substituted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 24\(b\)](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 35
- F35** S. 29(3) inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 24\(c\)](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 35

Commencement Information

- I19** S. 29 partly in force; s. 29 not in force at Royal Assent see s. 122; s. 29 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 29 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), [3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 29 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, [art. 2](#); s. 29 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, [art. 2](#); s. 29 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, [art. 2](#); s. 29 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, [art. 2](#)

30 Offences by bodies corporate.

- (1) This section applies where any offence under this Part or regulations made under it is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) any director, manager, or secretary of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,he (as well as the body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (3) The reference in subsection (2) to a director, manager or secretary of a body corporate includes a reference—
 - (a) to any other similar officer of the body; and
 - (b) where the body is a local authority, to any officer or member of the authority.

Commencement Information

- I20** S. 30 partly in force; s. 30 not in force at Royal Assent see s. 122; s. 30 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 30 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), [3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 30 in force for W. for certain purposes at

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30.1.2003 by [S.I. 2003/152, art. 2](#); s. 30 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528, art. 2](#); s. 30 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015, art. 2](#); s. 30 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730, art. 2](#)

F³⁶Penalty notices

Textual Amendments

F36 Ss. 30ZA, 30ZB and preceding cross-heading inserted (21.7.2008 for certain purposes and 1.4.2009 otherwise) by [Health and Social Care Act 2008 \(c. 14\), ss. 95, 170\(1\)\(b\)\(3\), Sch. 5 para. 25; S.I. 2009/462, art. 2, Sch. 1 para. 35](#)

30ZA Penalty notices

- (1) Where the Welsh Ministers are satisfied that a person has committed a fixed penalty offence, they may give the person a penalty notice in respect of the offence.
- (2) A fixed penalty offence is any relevant offence which—
 - (a) relates to an establishment or agency for which the Welsh Ministers are the registration authority, and
 - (b) is prescribed for the purposes of this section.
- (3) A relevant offence is—
 - (a) an offence under this Part or under regulations made under this Part, or
 - (b) an offence under regulations made under section 9 of the Adoption and Children Act 2002.
- (4) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment of a penalty in accordance with the notice.
- (5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.
- (6) Where a person is given a penalty notice, the person cannot be convicted of the offence to which the notice relates if the person pays the penalty in accordance with the notice.
- (7) Penalties under this section are payable to the Welsh Ministers.
- (8) In this section “prescribed” means prescribed by regulations made by the Welsh Ministers.

30ZB Penalty notices: supplementary provision

- (1) The Welsh Ministers may by regulations make—
 - (a) provision as to the form and content of penalty notices,
 - (b) provision as to the monetary amount of the penalty and the time by which it is to be paid,
 - (c) provision determining the methods by which penalties may be paid,
 - (d) provision as to the records to be kept in relation to penalty notices,

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- (e) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
 - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
 - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates,
 - (f) provision for a certificate—
 - (i) purporting to be signed by or on behalf of a prescribed person, and
 - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,
to be received in evidence of the matters so stated,
 - (g) provision as to action to be taken if a penalty is not paid in accordance with a penalty notice, and
 - (h) such other provision in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.
- (2) Regulations under subsection (1)(b)—
- (a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but
 - (b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction.
- (3) In this section—
- “penalty” means a penalty under a penalty notice;
 - “penalty notice” has the meaning given by section 30ZA(4).]

Miscellaneous and supplemental

VALID FROM 01/09/2009

[^{F37}30A Notification of matters relating to persons carrying on or managing certain establishments or agencies

- (1) This section applies where a person (“P”) is carrying on or managing an establishment or agency mentioned in subsection (6).
- (2) If the registration authority—
 - (a) has decided to adopt a proposal under section 17(4)(a) to cancel the registration of P in respect of the establishment or agency,
 - ^{F38}(aa) [has decided to adopt a proposal under section 17(4)(aa) to suspend the registration of P in respect of the establishment or agency or to extend any such suspension,
 - (ab) has given a notice under section 20B to suspend the registration of P in respect of the establishment or agency or to extend any such suspension,]
 - (b) has brought proceedings against P for a relevant offence which it alleges P committed in relation to the establishment or agency, ^{F39} . . .

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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- (c) has served a notice on P under section 22B,^[F40] or
- (d) has given P a penalty notice under section 30ZA in respect of an offence which it alleges P committed in relation to the establishment or agency and P has paid the penalty in accordance with the notice,]

it must as soon as practicable notify each local authority in England and Wales of that fact.

- (3) If the registration authority becomes aware of any prescribed circumstances which relate to P it must as soon as practicable notify each local authority in England and Wales of those circumstances.
- (4) A notification under this section must contain such information as may be prescribed.
- (5) A notification under this section may be transmitted to a local authority electronically if—
 - (a) the local authority has agreed that notifications may be given to them by being transmitted to an electronic address and in an electronic form specified in the agreement; and
 - (b) the notification is a notification to which that agreement applies.
- (6) The establishments and agencies are—
 - (a) a children's home;
 - (b) a residential family centre;
 - (c) a fostering agency;
 - (d) a voluntary adoption agency;
 - (e) an adoption support agency;
 - (f) a provider of social work services.

- (7) In this section—

“electronic address” includes any number or address used for the purposes of receiving electronic communications;

“electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000 the processing of which on receipt is intended to produce writing;

“electronically” means in the form of an electronic communication;

“relevant offence” means an offence under—

- (a) this Part;
- (b) regulations under this Part;
- (c) section 9(4) of the Adoption Act 1976;
- (d) regulations under section 9 of the Adoption and Children Act 2002;

“prescribed” means prescribed by regulations made—

- (a) in relation to England, by the Secretary of State;
- (b) in relation to Wales, by the Welsh Ministers.]

Textual Amendments

- F37** S. 30A inserted (1.9.2009 for E. for certain purposes, 26.4.2010 for W. for certain purposes, 28.3.2011 for W. otherwise, and 1.4.2011 for E. otherwise) by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 29, 44**; [S.I. 2009/2273](#), **art. 2(2)**; [S.I. 2010/1329](#), **art. 2**; [S.I. 2010/2981](#), **art. 4**; [S.I. 2011/949](#), **art. 3**

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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- F38** S. 30A(2)(aa)(ab) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 26(2)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)
- F39** Word at the end of s. 30A(2)(b) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 166, 170(1)(b)(3), Sch. 5 para. 26(3), **Sch. 15 Pt. 1**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)
- F40** S. 30A(2)(d) and preceding word inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by Health and Social Care Act 2008 (c. 14), ss. 95, 170(1)(b)(3), **Sch. 5 para. 26(4)**; S.I. 2010/807, **art. 2(2)**, Sch. 1 Pt. 2 (with arts. 3-22)

31 Inspections by persons authorised by registration authority.

- (1) The registration authority may at any time require a person who carries on or manages an establishment or agency to provide it with any information relating to the establishment or agency which the registration authority considers it necessary or expedient to have for the purposes of its functions under this Part.

[^{F41}(1A) The power under subsection (1) to require the provision of information includes—

- (a) power to require the provision of copies of any documents or records (including medical and other personal records); and
- (b) in relation to records kept by means of a computer, power to require the provision of the records in legible form.]

- (2) A person authorised by the registration authority may at any time enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency.

(3) A person authorised by virtue of this section to enter and inspect premises may—

- (a) make any examination into the state and management of the premises and treatment of patients or persons accommodated or cared for there which he thinks appropriate;
- (b) inspect and take copies of any documents or records [^{F42}(including medical and other personal records)] required to be kept in accordance with regulations under this Part, [^{F43}section 9 of the Adoption and Children Act 2002], section 23(2)(a) or 59(2) of the 1989 Act or section 1(3) of the ^{M2}Adoption (Intercountry Aspects) Act 1999;
- (c) interview in private the manager or the person carrying on the establishment or agency;
- (d) interview in private any person [^{F44}working] there;
- (e) interview in private any patient or person accommodated or cared for there who consents to be interviewed.

(4) The powers under subsection (3)(b) include—

- (a) power to require the manager or the person carrying on the establishment or agency to produce any documents or records, wherever kept, for inspection on the premises; and
- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

- (5) Subsection (6) applies where the premises in question are used as an establishment and the person so authorised—

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- (a) is a medical practitioner or registered nurse; and
 - (b) has reasonable cause to believe that a patient or person accommodated or cared for there is not receiving proper care.
- (6) The person so authorised may, with the consent of the person mentioned in subsection (5)(b), examine him in private^{F45}

The [^{F46}power] conferred by this subsection may be exercised in relation to a person who is incapable of giving consent without that person's consent.

- (7) The Secretary of State may by regulations [^{F47}require the CIECSS] to arrange for premises which are used as an establishment or for the purposes of an agency to be inspected on such occasions or at such intervals as may be prescribed.
- (8) A person who proposes to exercise any power of entry or inspection conferred by this section shall if so required produce some duly authenticated document showing his authority to exercise the power.
- (9) Any person who—
- (a) intentionally obstructs the exercise of any power conferred by this section or section 32; or
 - (b) fails without a reasonable excuse to comply with any requirement under this section or that section,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Textual Amendments

- F41** S. 31(1A) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 108\(2\)](#), 199; S.I. 2004/759, [art. 5\(2\)](#); S.I. 2004/873, [art. 2](#)
- F42** Words in s. 31(3)(b) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 108\(3\)\(a\)](#), 199; S.I. 2004/759, [art. 5\(2\)](#); S.I. 2004/873, [art. 2](#)
- F43** Words in s. 31(3)(b) substituted (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\), ss. 139, 148, Sch. 3 para. 111](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2005/2213, {[art. 3](#)}; S.I. 2005/3112, [art. 2](#)
- F44** Word in s. 31(3)(d) substituted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 108\(3\)\(b\)](#), 199; S.I. 2004/759, [art. 5\(2\)](#); S.I. 2004/873, [art. 2](#)
- F45** Words in s. 31(6) repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 108\(4\), 196, 199, Sch. 14 Pt. 2](#); S.I. 2004/759, {[arts. 5\(2\), 13](#)}; S.I. 2004/873, [art. 2](#)
- F46** Word in s. 31(6) substituted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 147, 199, Sch. 9 para. 23\(a\)](#); S.I. 2004/759, [art. 5\(2\)\(b\)](#)
- F47** Words in s. 31(7) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\), ss. 95, 170\(1\)\(b\)\(3\), Sch. 5 para. 27](#); S.I. 2010/807, [art. 2\(2\)](#), [Sch. 1 Pt. 2](#) (with [arts. 3-22](#))

Modifications etc. (not altering text)

- C23** S. 31(7) applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\), regs. 2\(2\)\(e\)](#), 3

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Commencement Information

I21 S. 31 partly in force; s. 31 not in force at Royal Assent see s. 122; s. 31 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for E. for certain purposes at 1.1.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(4\)\(c\)\(6\)](#), [Sch. 1 para. 5\(2\)\(3\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 31 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 31 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 31 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 31 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 31 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

Marginal Citations

M2 1999 c. 18.

32 Inspections: supplementary.

- (1) A person authorised by virtue of section 31 to enter and inspect any premises may seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Part.
- (2) A person so authorised—
 - (a) may require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under section 31 or this section;
 - (b) may take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.
- (3) A person authorised by virtue of section 31 to inspect any records shall be entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.
- (4) The references in section 31 to the person carrying on the establishment or agency include, in the case of an establishment or agency which is carried on by a company, a reference to any director, manager, secretary or other similar officer of the company.
- (5) Where any premises which are used as an establishment or for the purposes of an agency have been inspected under section 31, the registration authority—
 - (a) shall prepare a report on the matters inspected; and
 - (b) shall without delay send a copy of the report to each person who is registered in respect of the establishment or agency.
- (6) The registration authority shall make copies of any report prepared under subsection (5) available for inspection at its offices by any person at any reasonable time; and may take any other steps for publicising a report which it considers appropriate.

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- (7) Any person who asks the registration authority for a copy of a report prepared under subsection (5) shall be entitled to have one on payment of a reasonable fee determined by the registration authority; but nothing in this subsection prevents the registration authority from providing a copy free of charge when it considers it appropriate to do so.
- (8) ^{F48}

Textual Amendments

F48 S. 32(8) repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 14\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); [S.I. 2004/759](#), [art. 13](#)

Commencement Information

I22 S. 32 partly in force; s. 32 not in force at Royal Assent see s. 122; s. 32 in force for E. for certain purposes at 1.1.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(4\)\(c\)\(6\)](#), [Sch. 1 para. 5\(2\)\(3\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 32 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 32 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\), 3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 32 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 32 in force for W. for certain purposes at 2.10.2003 by [S.I. 2003/2528](#), [art. 2](#); s. 32 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015](#), [art. 2](#); s. 32 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730](#), [art. 2](#)

33 Annual returns.

- (1) Regulations may require the person carrying on an establishment or agency to make an annual return to the registration authority.
- (2) Provision may be made by the regulations as to the contents of the return and the period in respect of which and date by which it is to be made.

Modifications etc. (not altering text)

C24 S. 33 applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(f\), 3](#)

Commencement Information

I23 S. 33 wholly in force at 1.4.2002; s. 33 not in force at Royal Assent see s. 122; s. 33 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch.](#) Table; s. 33 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 33 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210)

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34 Liquidators etc.

- (1) Regulations may—
- (a) require any person to whom this section applies to give notice of his appointment to the registration authority;
 - (b) require any person to whom this section applies to appoint a person to manage the establishment or agency in question.
- (2) This section applies to any person appointed as—
- (a) a receiver or manager of the property of a relevant company;
 - (b) the liquidator or provisional liquidator of a relevant company; or
 - (c) the trustee in bankruptcy of a relevant individual.
- (3) In this section—
- “company” includes a partnership;
 - “relevant company” means a company which is registered under this Part in respect of an establishment or agency; and
 - “relevant individual” means an individual who is registered under this Part in respect of an establishment or agency.

Modifications etc. (not altering text)

- C25** S. 34 applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(g\), 3](#)

Commencement Information

- I24** S. 34 wholly in force at 1.4.2002; s. 34 not in force at Royal Assent see s. 122; s. 34 in force for W. at 1.7.2001 by [S.I. 2001/2190, art. 2, Sch. Table](#); s. 34 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#)); s. 34 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210](#))

35 Death of registered person.

- (1) Regulations may—
- (a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered under this Part in respect of an establishment or agency has died;
 - (b) require the personal representatives of a deceased person who was registered in respect of an establishment or agency to notify the registration authority of his death.
- (2) Regulations under subsection (1)(a) may in particular—
- (a) provide for the establishment or agency to be carried on for a prescribed period by a person who is not registered in respect of it; and
 - (b) include provision for the prescribed period to be extended by such further period as the registration authority may allow.

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Modifications etc. (not altering text)

- C26** S. 35 applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(h\)](#), 3

Commencement Information

- I25** S. 35 wholly in force at 1.4.2002; s. 35 not in force at Royal Assent see s. 122; s. 35 in force for W. at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch.](#) Table; s. 35 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 35 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210)

36 Provision of copies of registers.

- (1) Subject to subsection (3), the registration authority shall secure that copies of any register kept for the purposes of this Part are available at its offices for inspection at all reasonable times by any person.
- (2) Subject to subsections (3) and (4), any person who asks the registration authority for a copy of, or of an extract from, a register kept for the purposes of this Part shall be entitled to have one.
- (3) Regulations may provide that subsections (1) and (2) shall not apply—
 - (a) in such circumstances as may be prescribed; or
 - (b) to such parts of a register as may be prescribed.
- (4) A fee determined by the registration authority shall be payable for the copy except—
 - (a) in prescribed circumstances;
 - (b) in any other case where the registration authority considers it appropriate to provide the copy free of charge.

Modifications etc. (not altering text)

- C27** S. 36(3) applied (with modifications) (E.) (2.8.2004) by [The Care Standards Act 2000 \(Extension of the Application of Part 2 to Adult Placement Schemes\) \(England\) Regulations 2004 \(S.I. 2004/1972\)](#), [regs. 2\(2\)\(i\)](#), 3

Commencement Information

- I26** S. 36 partly in force; s. 36 not in force at Royal Assent see s. 122; s. 36 in force for W. for certain purposes at 1.7.2001 by [S.I. 2001/2190](#), [art. 2](#), [Sch.](#) Table; s. 36 in force for E. for certain purposes at 20.11.2001 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(3\)\(a\)\(i\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 36 in force for E. in so far as not already in force at 1.4.2002 by [S.I. 2001/3852](#), [arts. 1\(4\)](#), [3\(2\)\(7\)\(a\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 36 in force for W. for certain purposes at 1.4.2002 by [S.I. 2002/920](#), [arts. 1\(4\)](#), [3\(3\)](#) (subject to [art. 3\(4\)\(5\)](#) and to transitional provisions in [Schs. 1-3](#)); s. 36 in force for W. for certain purposes at 30.1.2003 by [S.I. 2003/152](#), [art. 2](#); s. 36 in force for W. for certain purposes at 2.10.2003 by [S.I.](#)

Status: Point in time view as at 21/07/2008. This version of this part contains provisions that are not valid for this point in time.

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2003/2528, [art. 2](#); s. 36 in force for W. for certain purposes at 1.4.2004 by [S.I. 2004/1015, art. 2](#); s. 36 in force for W. for certain purposes at 7.4.2004 by [S.I. 2004/1730, art. 2](#)

[^{F49}36A Voluntary adoption agencies: distribution of functions

- (1) This section applies to functions relating to voluntary adoption agencies conferred on the registration authority by or under this Part or under Chapter 2 of Part 1 of the Adoption and Children Act 2002.
- (2) Subject to the following provisions, functions to which this section applies are exercisable—
 - (a) where the principal office of an agency is in England, by [^{F50}the CIECSS],
 - (b) where the principal office of an agency is in Wales, by the Assembly.
- (3) So far as those functions relate to the imposition, variation or removal of conditions of registration, they may only be exercised after consultation with the Assembly or (as the case may be) [^{F50}the CIECSS].
- (4) But—
 - (a) where such a function as is mentioned in subsection (3) is exercisable by the [^{F50}the CIECSS] in relation to an agency which has a branch in Wales, it is exercisable only with the agreement of the Assembly,
 - (b) where such a function as is mentioned in subsection (3) is exercisable by the Assembly in relation to an agency which has a branch in England, it is exercisable only with the agreement of [^{F50}the CIECSS].
- (5) The functions conferred on the registration authority by sections 31 and 32 of this Act in respect of any premises of a voluntary adoption agency are exercisable—
 - (a) where the premises are in England, by [^{F50}the CIECSS]
 - (b) where the premises are in Wales, by the Assembly.
- (6) In spite of subsections (2) to (5), regulations may provide for any function to which this section applies to be exercisable by [^{F50}the CIECSS] instead of the Assembly, or by the Assembly instead of [^{F50}the CIECSS], or by one concurrently with the other, or by both jointly or by either with the agreement of or after consultation with the other.
- (7) In this section, “regulations” means regulations relating to England and Wales.]

Textual Amendments

- F49** S. 36A inserted (1.2.2003 for W., 25.2.2003 for E. for certain purposes, 30.4.2003 for E. for certain further purposes and 30.12.2005 for E. otherwise) by [Adoption and Children Act 2002 \(c. 38\), ss. 16, 148](#) (with [Sch. 4 paras. 1, 6-8](#)); [S.I. 2003/181, art. 2](#); [S.I. 2003/366, art. 2\(1\)\(4\)](#); [S.I. 2005/2213, art. 3](#)
- F50** Words in s. 36A substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\), ss. 157, 188, Sch. 14 para. 49](#); [S.I. 2007/935, art. 5](#)

Modifications etc. (not altering text)

- C28** S. 36A amended (temp.) (25.2.2003) by [Adoption and Children Act 2002 \(c. 38\), ss. 139, 148, Sch. 4 para. 4\(2\)](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2003/366, {art. 2}](#)

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37 Service of documents.

- (1) Any notice or other document required under this Part to be served on a person carrying on or managing, or intending to carry on or manage, an establishment or agency may be served on him—
 - (a) by being delivered personally to him; or
 - (b) by being sent by post to him in a registered letter or by the recorded delivery service at his proper address.
- (2) For the purposes of section 7 of the ^{M3}Interpretation Act 1978 (which defines “service by post”) a letter addressed to a person carrying on or managing an establishment or agency enclosing a notice or other document under this Act shall be deemed to be properly addressed if it is addressed to him at the establishment or agency.
- (3) Where a notice or other document is served as mentioned in subsection (1)(b), the service shall, unless the contrary is proved, be deemed to have been effected on the third day after the day on which it is sent.
- (4) Any notice or other document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (5) For the purposes of this section, and of section 7 of the ^{M4}Interpretation Act 1978 in its application to this section, without prejudice to subsection (2) above, the proper address of a person shall be—
 - (a) in the case of a secretary or clerk of a body corporate, that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, that of the principal office of the firm; and
 - (c) in any other case, the last known address of the person.

Commencement Information

I27 S. 37 partly in force; s. 37 not in force at Royal Assent see s. 122; s. 37 in force for E. at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(f) (subject to transitional provisions in Sch. 1 and with transitional provisions in Sch. 2) (as amended by S.I. 2001/4150, 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 37 in force for W. for certain purposes at 1.4.2002 by S.I. 2002/920, arts. 1(4), 3(3) (subject to art. 3(4)(5) and to transitional provisions in Schs. 1-3); s. 37 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2; s. 37 in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2; s. 37 in force for W. for certain purposes at 1.4.2004 by S.I. 2004/1015, art. 2; s. 37 in force for W. for certain purposes at 7.4.2004 by S.I. 2004/1730, art. 2

Marginal Citations

M3 1978 c. 30.
M4 1978 c. 30.

38 Transfers of staff under Part II.

- (1) The appropriate Minister may by order make a scheme for the transfer to the new employer of any eligible employee.
- (2) In this section—

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“eligible employee” means a person who is employed under a contract of employment with an old employer on work which would have continued but for the provisions of this Part;

“new employer” means the registration authority;

“old employer” means a local authority or a Health Authority.

Commencement Information

I28 S. 38 wholly in force at 20.11.2001; s. 38 not in force at Royal Assent see s. 122; s. 38 in force for W. at 1.7.2001 by [S.I. 2001/2190, art. 2, Sch.](#) Table; s. 38 in force for E. at 20.11.2001 by [S.I. 2001/3852, arts. 1\(4\), 3\(2\)\(3\)\(c\)](#) (subject to transitional provisions in [Sch. 1](#) and with transitional provisions in [Sch. 2](#)) (as amended by [S.I. 2001/4150](#), 2002/1493, 2002/1790, 2002/2001, 2002/3210)

39 Temporary extension of meaning of “nursing home”.

In section 21 of the ^{M5}Registered Homes Act 1984 (meaning of nursing home)—

- (a) in subsection (1), after “(3)” there is inserted “ and (3A) ”;
- (b) in subsection (2), for “subsection (1) above” there is substituted “ this section ”;
- (c) in subsection (3)(e)(ii), “dental practitioner or” is omitted; and
- (d) after subsection (3) there is inserted—

“(3A) The definition in subsection (1) above does not include any premises used, or intended to be used, wholly or mainly by a dental practitioner for the purpose of treating his patients unless subsection (3B) or (3C) below applies.

(3B) This subsection applies if—

- (a) the premises are also used, or intended to be used, by that or another dental practitioner for the purpose of treating his patients under general anaesthesia; and
- (b) the premises are not used, or intended to be used, by any dental practitioner for the purpose of treating his patients under general anaesthesia—
 - (i) in pursuance of the ^{M6}National Health Service Act 1977; or
 - (ii) under an agreement made in accordance with Part I of the ^{M7}National Health Service (Primary Care) Act 1997.

(3C) This subsection applies if the premises are used, or intended to be used, for the provision of treatment by specially controlled techniques and are not excepted by regulations under subsection (3)(g) above.”

Commencement Information

I29 S. 39 wholly in force at 31.8.2001; s. 39 not in force at Royal Assent see s. 122; s. 39 in force for E. for certain purposes at 19.2.2001 and for E. in so far as not already in force at 19.3.2001 by [S.I. 2001/290, arts. 1\(3\), 2](#) (with transitional provisions in [art. 3](#)); s. 39 in force for W. for certain purposes at 31.7.2001 and for W. at 31.8.2001 as to the remainder by [S.I. 2001/2504, art. 2](#) (with transitional provisions in [art. 3](#))

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Marginal Citations

- M5** 1984 c. 23.
M6 1977 c. 49.
M7 1997 c. 46.

40 Temporary extension of meaning of “children’s home”.

In section 63(3)(a) of the 1989 Act (meaning of “children’s home”), for “more than three children at any one time” there shall be substituted “ children ”.

Commencement Information

- I30** S. 40 wholly in force at 28.2.2001; s. 40 not in force at Royal Assent see s. 122; s. 40 in force for E. for certain purposes at 15.10.2000 and s. 40 in force for E. in so far as not already in force at 1.1.2001 by S.I. 2000/2795, **art. 2(1)(2)(a)** (with **art. 3**); s. 40 in force for W. for certain purposes at 1.2.2001 and s. 40 in force for W. in so far as not already in force at 28.2.2001 by S.I. 2001/139, **arts. 1(3), 2** (with transitional provisions in **art. 3**)

41 Children’s homes: temporary provision about cancellation of registration.

- (1) In paragraph 1(4) of Schedule 5 to the 1989 Act (voluntary homes and voluntary organisations)—
- (a) in paragraph (a), after “is not” there shall be inserted “ , or has not been, ”;
 - (b) after “is” there shall be inserted “ , or has been, ”.
- (2) In paragraph 2 of that Schedule, after sub-paragraph (5) there shall be inserted—
- “(6) In relation to a home which has ceased to exist, the reference in sub-paragraph (4) to any person carrying on the home shall be taken to be a reference to each of the persons who carried it on.”
- (3) In paragraph 3(3) of Schedule 6 to the 1989 Act (registered children’s homes), after “is being” there shall be inserted “ and has been ”.
- (4) In paragraph 4 of that Schedule—
- (a) in sub-paragraph (3) after “is being” there shall be inserted “ , or has been, ”;
 - (b) after sub-paragraph (4) there shall be inserted—
- “(5) In relation to a home which has ceased to exist, references in this paragraph and paragraph 5(4) to the person, or any person, carrying on the home include references to each of the persons who carried it on.”

Commencement Information

- I31** S. 41 wholly in force at 28.2.2001; s. 41 not in force at Royal Assent see s. 122; s. 41 in force for E. at 1.1.2001 by S.I. 2000/2795, **art. 2(2)(a)** (with **art. 3**); s. 41 in force for W. at 28.2.2001 by S.I. 2001/139, **arts. 1(3), 2(2)(a)** (with transitional provisions in **art. 3**)

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42 Power to extend the application of Part II.

- (1) Regulations may provide for the provisions of this Part to apply, with such modifications as may be specified in the regulations, to prescribed persons to whom subsection (2) [^{F51}, (2A)] or (3) applies.
- [^{F52}(2) This subsection applies to—
- (a) Welsh local authorities providing services in the exercise of their social services functions, and
 - (b) persons who provide services which are similar to services which—
 - (i) may or must be so provided by Welsh local authorities, or
 - (ii) may or must be provided by Welsh NHS bodies.
- (2A) This subsection applies to—
- (a) English local authorities providing services in the exercise of their social services functions so far as relating to persons aged under 18, and
 - (b) persons who provide services which are similar to services which may or must be so provided by English local authorities.]
- (3) This subsection applies to persons who carry on or manage an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, individuals mentioned in subsection (4).
- (4) The individuals referred to in subsection (3) are those who provide services for the purpose of any of the services mentioned in subsection (2) [^{F53} or (2A)].
- [^{F54}(5) [^{F55}Regulations under subsection (1) made by the Secretary of State may in particular specify whether, for the purposes of the application of this Part to any person, the registration authority is to be the CHAI [^{F56}, the CSCI or the CIECSS].]
- [^{F57}(6) For the purposes of this section, functions mentioned in section 135(1)(e) of the Education and Inspections Act 2006 are taken to be social services functions relating to persons aged under 18.
- (7) In this section—
- “cross-border Special Health Authorities” means Special Health Authorities not performing functions only or mainly in respect of England or only or mainly in respect of Wales,
 - “English local authorities” means local authorities in England,
 - “Welsh local authorities” means local authorities in Wales, and
 - “Welsh NHS bodies” means—
 - (a) Local Health Boards,
 - (b) National Health Service trusts all or most of whose hospitals, establishments and facilities are situated in Wales,
 - (c) Special Health Authorities performing functions only or mainly in respect of Wales, and
 - (d) cross-border Special Health Authorities but only so far as their functions are performed in respect of Wales.]

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Textual Amendments

- F51** Words in s. 42(1) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 28\(2\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F52** S. 42(2)(2A) substituted (21.7.2008 for certain purposes and 1.10.2010 otherwise) for s. 42(2) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 28\(3\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F53** Words in s. 42(4) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 28\(4\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F54** S. 42(5) inserted (20.11.2003 for certain purposes and 1.4.2004 otherwise) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 147, 199, [Sch. 9 para. 25](#); S.I. 2004/759, [art. 5\(2\)](#)
- F55** S. 42(5) repealed (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 166, 170(1)(b)(3), [Sch. 5 para. 28\(5\)](#); Sch. 15 Pt. 1; S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)
- F56** Words in s. 42(5) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 188, [Sch. 14 para. 50](#); S.I. 2007/935, [art. 5](#)
- F57** S. 42(6)(7) inserted (21.7.2008 for certain purposes and 1.10.2010 otherwise) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170(1)(b)(3), [Sch. 5 para. 28\(6\)](#); S.I. 2010/807, [art. 2\(2\)](#), Sch. 1 Pt. 2 (with arts. 3-22)

Commencement Information

- I32** S. 42 wholly in force at 1.9.2003; s. 42 not in force at Royal Assent see s. 122; s. 42 in force for W. at 1.7.2001 by S.I. 2001/2190, [art. 2](#), Sch. Table; s. 42 in force for E. at 1.9.2003 by S.I. 2003/933, [art. 2\(3\)](#)

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