



Care Standards Act 2000

2000 CHAPTER 14

PART IX

GENERAL AND SUPPLEMENTAL

CHAPTER I

GENERAL

113 Default powers of appropriate Minister.

- (1) The powers conferred by this section are exercisable by the Secretary of State if he is satisfied that ^{F1} . . . the English Council—
- (a) has without reasonable excuse failed to discharge any of its functions; or
 - (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions or guidance given by him under section ^{F1} . . . 54(4) in relation to those functions.

[^{F2}(1A) ^{F3}]

- (2) The powers conferred by this section are exercisable by the Assembly if it is satisfied that the Welsh Council—
- (a) has without reasonable excuse failed to discharge any of its functions; or
 - (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions or guidance given by the Assembly under section 54(4) in relation to those functions.
- (3) The appropriate Minister may—
- (a) make an order declaring the authority in question to be in default; and
 - (b) direct the authority to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.

Status: Point in time view as at 01/04/2009.

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- (4) If the authority fails to comply with the appropriate Minister’s direction under subsection (3), the appropriate Minister may—
- (a) discharge the functions to which the direction relates himself; or
 - (b) make arrangements for any other person to discharge those functions on his behalf.

Textual Amendments

- F1** Words in s. 113(1) repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, **Sch. 14 Pt. 2**; S.I. 2004/759, **art. 13**
- F2** S. 113(1A) 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. 29**; S.I. 2004/759, **art. 5(2)**
- F3** S. 113(1A) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 166, 170(3), **Sch. 5 para. 30**, **Sch. 15 Pt. 1**; S.I. 2009/462, **art. 2**, **Sch. 1 paras. 35, 36**

Commencement Information

- I1** S. 113 partly in force; s. 113 not in force at Royal Assent see s. 122; s. 113(2)-(4) in force for W. at 1.4.2001 for certain purposes by S.I. 2000/2992, **art. 2(2)**, **Sch. 2**; s. 113(1)(3)(4) in force for E. for certain purposes at 25.3.2002 by S.I. 2002/1245, **arts. 1(3)**, **2(1)(e)**

[^{F4}113A Fees payable under Part 2

- (1) The CHAI [^{F5}, the CSCI and the CIECSS] may each from time to time make and publish provision determining the amount of any fee payable to it [^{F6} or him] under Part 2.
- (2) Provision under subsection (1) may include provision—
- (a) for different amounts to be payable in different cases, or classes of case;
 - (b) for different amounts to be payable by persons of different descriptions.
- [^{F7}(3) Before making any provision under subsection (1), the CHAI, the CSCI or the CIECSS must consult such bodies as appear to it or him to be representative of the persons liable to pay the fee.]
- (4) No provision may be made under subsection (1) without the consent of the Secretary of State.
- (5) If the Secretary of State considers it necessary or desirable to do so, he may by regulations make provision determining the amount of a fee payable to the CHAI [^{F8}, the CSCI or the CIECSS] under Part 2 instead of the amount for which provision is made under subsection (1).
- (6) Before making any regulations under subsection (5) in respect of fees payable to the CHAI [^{F9}, the CSCI or the CIECSS], the Secretary of State shall consult that body [^{F10} or person] and such other persons as appear to him to be appropriate.]

Textual Amendments

- F4** S. 113A inserted (20.11.2003 for certain purposes, 30.10.2005 for E. for certain further purposes, otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), **s.**

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105(2), 199; S.I. 2005/2925, **arts. 2(1)**, 3 (as amended by S.I. 2006/836, art. 3) (and see transitional provisions in S.I. 2006/1680, art. 4)

F5 Words in s. 113A(1) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(2)(a)**; S.I. 2007/935, **art. 5**

F6 Words in s. 113A(1) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(2)(b)**; S.I. 2007/935, **art. 5**

F7 S. 113A(3) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(3)**; S.I. 2007/935, **art. 5**

F8 Words in s. 113A(5) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(4)**; S.I. 2007/935, **art. 5**

F9 Words in s. 113A(6) substituted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(5)(a)**; S.I. 2007/935, **art. 5**

F10 Words in s. 113A(6) inserted (1.4.2007) by Education and Inspections Act 2006 (c. 40), ss. 157, 188, **Sch. 14 para. 53(5)(b)**; S.I. 2007/935, **art. 5**

Modifications etc. (not altering text)

C1 S. 113A modified (temp. 27.3.2009 to 31.3.2009) by The Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/462), **art. 6**

114 Schemes for the transfer of staff.

- (1) This section and the next apply to a scheme made under section 38, 70 or 79(3) for transferring eligible employees.
- (2) Subject to those provisions, such a scheme may apply to all, or any description of, employees or to any individual employee.
- (3) Such a scheme may be made by the appropriate Minister, and a recommendation may be made to Her Majesty in Council to make an Order containing such a scheme, only if any prescribed requirements about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

Commencement Information

I2 S. 114 wholly in force at 1.7.2001; s. 114 not in force at Royal Assent see s. 122; s. 114 in force for E. at 16.3.2001 by S.I. 2001/1210, **arts. 1(3)**, 2(d); s. 114 in force for W. at 1.4.2001 for certain purposes by S.I. 2000/2992, **art. 2(2)**, **Sch. 2**; s. 114 in force for W. at 1.7.2001 by S.I. 2001/2190, **art. 2**, **Sch. Table**

115 Effect of schemes.

- (1) The contract of employment of an employee transferred under the scheme—
 - (a) is not terminated by the transfer; and
 - (b) has effect from the date of transfer as if originally made between the employee and the transferee.
- (2) Where an employee is transferred under the scheme—
 - (a) all the rights, powers, duties and liabilities of the old employer under or in connection with the contract of employment are by virtue of this subsection transferred to the transferee on the date of transfer; and

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- (b) anything done before that date by or in relation to the old employer in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This subsection does not prejudice the generality of subsection (1).

- (3) Subsections (1) and (2) do not transfer an employee’s contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old employer or the transferee that he objects to the transfer.
- (4) Where an employee objects as mentioned in subsection (3), his contract of employment with the old employer is terminated immediately before the date of transfer; but he is not to be treated, for any purpose, as having been dismissed by that employer.
- (5) This section does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.

But no such right arises by reason only that, by virtue of this section, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

- (6) In this section—

“date of transfer” means the date of transfer determined under the scheme in relation to the employee;

“transferee” means the new employer to whom the employee is or would be transferred under the scheme;

and expressions used in this section and in the provision under which the scheme is made have the same meaning as in that provision.

Commencement Information

- I3** S. 115 wholly in force at 1.7.2001; s. 115 not in force at Royal Assent see s. 122; s. 115 in force for E. at 16.3.2001 by S.I. 2001/1210, arts. 1(3), 2(d); s. 115 in force for W. at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table

116 Minor and consequential amendments.

Schedule 4 (which makes minor amendments and amendments consequential on the provisions of this Act) shall have effect.

Commencement Information

- I4** S. 116 partly in force; s. 116 not in force at Royal Assent see s. 122; s. 116 in force for certain purposes at 2.10.2000 by S.I. 2000/2544, art. 2(2)(g) (with art. 3); s. 116 in force for E. for certain purposes at 1.1.2001 by S.I. 2000/2795, art. 2(2)(b) (with art. 3); s. 116 in force for W. for certain purposes at 28.2.2001 by S.I. 2001/139, arts. 1(3), 2(2)(b) (with transitional provisions in art. 3); s. 116 in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 116 in force for E. for certain purposes at 2.7.2001 by S.I. 2001/2041, arts. 1(4), 2(1)(d) (subject to art. 2(2)(3) and with transitional, transitory and savings provisions in art. 3, Sch.); s. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(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. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/4150, arts.

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1(2), 3(2)(3)(a)(b) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, art. 6); s. 116 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)-(10) and to transitional provisions in Schs. 1-3); s. 116 in force for E. for certain purposes at 1.4.2002 by S.I. 2002/1493, arts. 1(2), 3(2) (subject to transitional provisions in art. 4); s. 116 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2(1); s. 116 in force for E. for certain purposes at 24.2.2003, 30.4.2003 and 1.6.2003 by S.I. 2003/365, art. 3(2)(5)(6) (subject to Sch.); s. 116 in force for W. for certain purposes at 5.3.2003 and 30.4.2003 by S.I. 2003/501, art. 2(1)(3)(a); s. 116 in force for E. for certain purposes at 7.3.2003 by S.I. 2003/933, art. 2(1)(c); s. 116 in force for certain purposes at 26.7.2004 by S.I. 2004/1757, art. 2(c)

117 Transitional provisions, savings and repeals.

- (1) Schedule 5 (which makes transitional and saving provision) shall have effect; but nothing in that Schedule shall be taken to prejudice the operation of sections 16 and 17 of the ^{M1}Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments mentioned in Schedule 6 to this Act are repealed to the extent specified in that Schedule.

Commencement Information

- I5** S. 117 partly in force; s. 117 not in force at Royal Assent see s. 122; s. 117(2) in force for certain purposes at 2.10.2000 by S.I. 2000/2544, art. 2(2)(h); s. 117(1) in force for W. for certain purposes at 1.7.2001 by S.I. 2001/2190, art. 2, Sch. Table; s. 117(1) in force for W. at 26.8.2001 by S.I. 2001/2782, art. 2(1)(l); s. 117(2) in force for E. for certain purposes at 4.10.2001 by S.I. 2001/3331, arts. 1(3), 2(b); s. 117 in force for E. for certain purposes at 1.4.2002 by S.I. 2001/3852, arts. 1(4), 3(2)(7)(j) (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. 117 in force for E. for certain purposes at 1.4.2003 by S.I. 2001/3852, arts. 1(4), 3(2)(8)(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); s. 117 in force for E. for certain purposes at 1.4.2002 and in force for E. for certain further purposes at 1.4.2003 by S.I. 2001/4150, arts. 1(2), 3(2)(3)(c)(4) (subject to transitional provisions in art. 4 and in S.I. 2002/1493, art. 4) (as amended by S.I. 2002/1493, 2002/1790, 2002/2001, 2002/3210); s. 117 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)-(10) and to transitional provisions in Schs. 1-3); s. 117 in force for W. for certain purposes at 30.1.2003 by S.I. 2003/152, art. 2(1); s. 117(2) in force for W. for certain purposes at 30.4.2003 by S.I. 2003/501, art. 2(3); s. 117(2) in force for E. for certain purposes at 30.4.2003 and 1.6.2003 by S.I. 2003/365, art. 3(5)(6) (subject to Sch.); s. 117(2) in force for W. for certain purposes at 2.10.2003 by S.I. 2003/2528, art. 2

Marginal Citations

- M1** 1978 c. 30.

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