

2002 No. 3210 (C.109)

SOCIAL CARE, ENGLAND

**The Care Standards Act 2000 (Commencement and
Transitional Provisions) (Amendment No. 2) (England)
Order 2002**

Made - - - - 19th December 2002

The Secretary of State, in exercise of the powers conferred upon him by sections 118(5) to (7) and 122 of the Care Standards Act 2000(a), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, interpretation and application

1.—(1) This Order may be cited as the Care Standards Act 2000 (Commencement and Transitional Provisions) (Amendment No. 2) (England) Order 2002.

(2) In this Order—

“the No. 9 Order” means the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001(b);

“the No. 10 Order” means the Care Standards Act 2000 (Commencement No. 10 (England) and Transitional, Savings and Amendment Provisions) Order 2001(c).

(3) This Order applies to England only.

Amendment of the No. 9 Order

2.—(1) The No. 9 Order shall be amended in accordance with the following paragraphs of this article.

(2) In article 3(5)(b)(i) and (ii) and (8), for “1st January 2003” substitute “1st April 2003”.

(3) In Schedule 1—

(a) in paragraph 1 in the definition of nurses agency provider, insert after paragraph (b) of the definition—

“but does not include a person for any period in which his licence continues to be treated as valid by virtue of article 4 of the Care Standards Act 2000 (Commencement and Transitional Provisions) (Amendment No. 2) (England) Order 2002 and whose case falls within paragraph (1)(a) of that article;”;

(b) after paragraph 2(3)(b), insert—

“(ba) in a case where—

(i) before 1st January 2003 the regulator grants a licence to a nurses agency provider which is valid for a period after 31st December 2002; or

(a) 2000 c.14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as the Secretary of State.

(b) S.I. 2001/3852. Relevant amending instruments are S.I. 2001/4150, S.I. 2002/1493, S.I. 2002/1790 and S.I. 2002/2001.

(c) S.I. 2001/4150.

- (ii) a licence granted to a nurses agency provider continues to be treated as valid by virtue of article 4 of the Care Standards Act 2000 (Commencement and Transitional Provisions) (Amendment No. 2) (England) Order 2002 and he has not applied for a renewal of the licence before 1st January 2003,

21st January 2003”;

- (c) in paragraph 2(5), for “on or after 17th December 2001” substitute “on or after 1st January 2003”;
- (d) in paragraph 2(6)(b), for “1st January 2003” substitute “1st April 2003”;
- (e) in paragraph 10(7) and (8), for “1st January 2003” on each occasion where it occurs substitute “1st April 2003”;
- (f) in paragraph 13—
 - (i) in sub-paragraph (2)(a) for “1st January 2003” substitute “1st April 2003”;
 - (ii) in sub-paragraph (5)(a), for “1st December 2002”, “1st January 2003” and “6th December 2002” substitute respectively “1st March 2003”, “1st April 2003” and “7th March 2003”;
 - (iii) in sub-paragraph (5)(b), for the words “in December 2002” substitute “in March 2003”;
 - (iv) in sub-paragraph (8)(b), for “1st January 2003” on each occasion where it occurs substitute “1st April 2003”;
 - (v) in sub-paragraph (14)(b), for “1st January 2003” and “31st December 2002” substitute respectively “1st April 2003” and “31st March 2003”;
- (g) in paragraph 14(8) and (9)(b), for “1st January 2003” substitute “1st April 2003”;
- (h) in paragraph 15(1)(b)(i) and (2)(b)(i), for “31st December 2002” substitute “31st March 2003”.

Amendment of the No. 10 Order

- 3. In article 3(4) of the No. 10 Order, for “1st January 2003” substitute “1st April 2003”.

Transitional provisions

4.—(1) Where a person (“the authorised person”) is authorised to carry on a nurses agency (“the agency”) by a licence which has been granted to him by a local authority under section 2 of the 1957 Act and that licence ceases to be valid on 31st December 2002 by virtue of section 2(6) of the 1957 Act, paragraph (2) shall apply for the period from the expiry of the licence until—

- (a) in a case where an application for renewal of a licence is made by the authorised person before 1st January 2003 but is not determined before that date and is not withdrawn or abandoned, the date on which that application is finally disposed of; or
- (b) in a case where no application for renewal of the licence is made by the authorised person before 1st January 2003, 1st April 2003 or, if later, the date which is the effective date in respect of the authorised person for the purpose of the No. 9 Order(a).

(2) Where this paragraph applies, the licence referred to in paragraph (1) shall, notwithstanding section 2(6) of the 1957 Act, continue to be treated as valid subject to any conditions imposed by the local authority to which immediately prior to its expiry the licence was subject.

(3) Where the application for renewal of the licence referred to in paragraph (1)(a) is not finally disposed of before 1st April 2003, paragraph (4) applies for the period on or after 1st April 2003.

(a) The term “effective date” is defined in paragraph 2(1) of the Schedule to the No. 9 Order.

(4) Where this paragraph applies—

- (a) the 1957 Act shall, subject to sub-paragraph (b) of this paragraph, continue to be treated as in force in relation to the agency;
- (b) the functions, powers and duties that immediately before 1st April 2003 the regulator had under the 1957 Act in relation to that agency shall apply to, and be exercisable by, the Commission instead of the regulator;
- (c) sections 11(1) to (3), (5) and (6) and 26 of the Care Standards Act 2000 shall not apply to the authorised person in respect of the agency.

(5) Paragraph 3 of the Schedule to the No. 9 Order must be complied with in any case where the regulator grants a licence to a nurses agency provider on or after 17th December 2001 but before 1st January 2003, notwithstanding that that paragraph has been complied with in that case before the coming into force of this Order.

(6) In this article, “the 1957 Act” and “the regulator” have the same meaning as in the No. 9 Order and “nurses agency” means an agency for the supply of nurses within the meaning of the 1957 Act.

Signed by authority of the Secretary of State for Health

19th December 2002

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further amendments to the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001 (“the No. 9 Order”), and the Care Standards Act 2000 (Commencement No. 10 (England) and Transitional, Savings and Amendment Provisions) Order 2001 (“the No. 10 Order”), and also makes transitional provision.

The day appointed for the coming into force of certain provisions of the Care Standards Act 2000, in respect of the registration under that Act of residential family centres, domiciliary care agencies and nurses agencies, is altered from 1st January 2003 to 1st April 2003 (article 2(2)). Consequential amendments are made to transitional provisions in the No. 9 Order in relation to such registration (article 2(3)), and a further consequential amendment is made to the No. 10 Order (article 3).

Article 4 makes transitional provision which is necessary as a result of section 2(6) of the Nurses Agencies Act 1957 (“the 1957 Act”) which provides that licences granted under section 2 of that Act are to be valid until the 31st December in the year next following the year in which a licence is granted. Under article 4(1)(a), where a provider has made an application for renewal of the licence which has not been determined before 31st December 2002, the licence continues to be treated as valid until the application is finally disposed of or withdrawn or abandoned. In a case where an application is not finally disposed of before 1st April 2003, article 4(4) has the effect that the 1957 Act is treated as continuing in force in relation to the agency. Under article 4(1)(b), where no application for renewal of the licence has been made, the licence will continue to be treated as valid until the date on which the provider is treated as registered under Part II of the Care Standards Act 2000.

Article 4(5) provides that where a nurses agency provider, to whom a regulator has granted a licence pursuant to section 2 of the 1957 Act on or after 17th December 2001 but before 1st January 2003, complied with paragraph 3 of the Schedule to the No. 9 Order before the coming into force of this Order, that provider must nevertheless take steps to comply with paragraph 3.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Care Standards Act 2000 have been brought into force—

(a) in relation to England (as well as Wales) by—

the Care Standards Act 2000 (Commencement No. 1) Order 2000 (S.I. 2000/2544) (C.72); and

the Care Standards Act 2000 (Commencement No. 11) Order 2002 (S.I. 2002/629) (C.19);

(b) in relation to England by—

the Care Standards Act 2000 (Commencement No. 1 (England) and Transitional Provisions) Order 2000 (S.I. 2000/2795) (C.79);

the Care Standards Act 2000 (Commencement No. 2 (England) and Transitional Provisions) Order 2001 (S.I. 2001/290) (C.17);

the Care Standards Act 2000 (Commencement No. 3) (England) Order 2001 (S.I. 2001/731) (C.26);

the Care Standards Act 2000 (Commencement No. 4) (England) Order 2001 (S.I. 2001/1193) (C.39);

the Care Standards Act 2000 (Commencement No. 5) (England) Order 2001 (S.I. 2001/1210) (C.41);

the Care Standards Act 2000 (Commencement No. 6) (England) Order 2001 (S.I. 2001/1536) (C.55);

the Care Standards Act 2000 (Commencement No. 7 (England) and Transitional, Transitory and Savings Provisions) Order 2001 (S.I. 2001/2041) (C.68);

the Care Standards Act 2000 (Commencement No. 8) (England) Order 2001 (S.I. 2001/3331) (C.109);

the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001 (S.I. 2001/3852) (C.125);

the Care Standards Act 2000 (Commencement No. 10 (England) and Transitional, Savings and Amendment Provisions) Order 2001 (S.I. 2001/4150) (C.134);

the Care Standards Act 2000 (Commencement No. 12) (England) Order 2002 (S.I. 2002/1245) (C.33);

the Care Standards Act 2000 (Commencement No. 13) (England) Order 2002 (S.I. 2002/839) (C.22);

the Care Standards Act 2000 (Commencement No. 14 (England) and Transitional, Savings and Amendment Provisions) Order 2002 (S.I. 2002/1493) (C.43);

the Care Standards Act 2000 (Commencement No. 15 (England) and Transitional Provisions) (Amendment) Order 2002 (S.I. 2002/1790) (C.55); and

the Care Standards Act 2000 (Commencement No. 16) (England) Order 2002 (S.I. 2002/2215) (C.70).

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 3 (partially)	20th November 2001	2001/3852
Sections 1 to 3 (partially)	1st January 2002	2001/3852
Sections 1 to 3 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 4 (partially)	20th November 2001	2001/3852
Section 4 (partially)	1st January 2002	2001/3852
Section 4 (partially)	1st April 2002	2001/3852
Section 4 (partially)	1st September 2002	2001/3852 (amended by 2002/1790)
Section 5 (partially)	1st April 2002	2001/3852
Section 6(3) and Schedule 1 (partially)	16th March 2001	2001/1193
Section 6 and Schedule 1 (partially)	9th April 2001	2001/1193
Section 7	1st April 2002	2001/3852
Section 10 (partially)	1st April 2002	2001/3852
Section 11 (partially)	20th November 2001	2001/3852
Section 11 (in so far as not already in force)	1st April 2002	2001/3852
Section 12 (partially)	20th November 2001	2001/3852

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 12 and 13 (partially)	1st January 2002	2001/3852
Sections 12 and 13 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 14 to 16 (partially)	20th November 2001	2001/3852
Sections 14 to 16 (partially)	1st January 2002	2001/3852
Sections 14 to 16 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 17 to 20	1st April 2002	2001/3852
Section 21 (partially)	20th November 2001	2001/3852
Section 21 (in so far as not already in force)	1st April 2002	2001/3852
Section 22	20th November 2001	2001/3852
Section 23(1) to (3)	2nd March 2001	2001/731
Section 23(4) (partially)	1st January 2002	2001/3852
Section 23 (in so far as not already in force)	1st April 2002	2001/3852
Section 24	1st April 2002	2001/3852
Section 25 (partially)	20th November 2001	2001/3852
Section 25 (in so far as not already in force)	1st April 2002	2001/3852
Section 26	1st April 2002	2001/3852
Section 27 (partially)	1st January 2002	2001/3852
Section 27 (in so far as not already in force)	1st April 2002	2001/3852
Sections 28 to 30	1st April 2002	2001/3852
Section 31 (partially)	20th November 2001	2001/3852
Sections 31 and 32 (partially)	1st January 2002	2001/3852
Sections 31 and 32 (in so far as they are not already in force)	1st April 2002	2001/3852
Sections 33 to 36 (partially)	20th November 2001	2001/3852
Sections 33 to 36 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 37	1st April 2002	2001/3852
Section 38	20th November 2001	2001/3852
Section 39 (partially)	19th February 2001	2001/290
Section 39 (in so far as not already in force)	19th March 2001	2001/290
Section 40 (partially)	15th October 2000	2000/2795
Section 40 (in so far as not already in force)	1st January 2001	2000/2795

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 41	1st January 2001	2000/2795
Sections 43, 45(4), 48, 49, 50, 51 and 52 (partially)	20th November 2001	2001/3852
Sections 43(1), (2), (3)(b), 44, 45, 46(1) to (6), (7)(a) and (b) and (8), and 47 to 53 (partially)	1st April 2002	2001/3852
Section 54 and Schedule 1 (partially)	10th April 2001	2001/1536
Section 54 and Schedule 1 (partially)	7th May 2001	2001/1536
Section 54 (partially)	25th March 2002	2002/1245
Section 55 (partially)	7th May 2001	2001/1536
Section 55 (partially)	25th March 2002	2002/1245
Section 59 (partially)	7th May 2001	2001/1536
Section 60 (partially)	7th May 2001	2001/1536
Section 62 (partially)	7th May 2001	2001/1536
Section 62 (partially)	25th March 2002	2002/1245
Section 63 (partially)	7th May 2001	2001/1536
Section 63 (partially)	25th March 2002	2002/1245
Section 65 (partially)	7th May 2001	2001/1536
Section 66 (partially)	7th May 2001	2001/1536
Section 66 (partially)	25th March 2002	2002/1245
Section 67 (partially)	25th March 2002	2002/1245
Section 70(1) (partially)	25th March 2002	2002/1245
Section 71 (partially)	7th May 2001	2001/1536
Section 71 (partially)	25th March 2002	2002/1245
Section 79 and Schedule 3 (partially)	16th March 2001	2001/1210
Section 79 (partially) and Schedule 3 (in so far as not already in force)	2nd July 2001	2001/2041
Section 79(1) (partially)	2nd September 2002	2001/2041
Section 79(1) (partially)	1st April 2002	2002/839
Section 79(1) (partially)	2nd September 2002	2002/2215
Section 80(8) (partially)	2nd October 2000	2000/2544
Section 94	2nd October 2000	2000/2544
Section 95	1st April 2002	2002/1493

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 96 (partially)	15th September 2000	2000/2544
Section 96 (in so far as not already in force)	2nd October 2000	2000/2544
Section 98	1st April 2001	2001/1193
Section 99	15th September 2000	2000/2544
Section 100	2nd October 2000	2000/2544
Section 101	2nd October 2000	2000/2544
Section 102	18th March 2002	2002/629
Section 103	2nd October 2000	2000/2544
Section 104 (partially)	18th March 2002 and 1st April 2002	2002/629
Sections 105(1) to (4), 107 and 108 (partially)	20th November 2001	2001/3852
Sections 105 to 110 (in so far as they are not already in force)	1st April 2002	2001/3852
Section 111 (partially)	1st September 2002	2001/3852 (amended by 2002/1790)
Section 112	4th October 2001	2001/3331
Section 113(1), (3) and (4) (partially)	25th March 2002	2002/1245
Sections 114 and 115	16th March 2001	2001/1210
Section 116 and Schedule 4 (partially)	2nd October 2000	2000/2544
Section 116 and Schedule 4 (partially)	1st January 2001	2000/2795
Section 116 and Schedule 4 (partially)	2nd July 2001	2001/2041
Section 116 and Schedule 4 (partially)	1st April 2002	2001/3852
Section 116 and Schedule 4 (partially)	1st April 2002	2001/4150
Section 116 and Schedule 4 (partially)	1st April 2002	2002/1493
Section 117(2) and Schedule 6 (partially)	2nd October 2000	2000/2544
Section 117(2) and Schedule 6 (partially)	4th October 2001	2001/3331
Section 117(2) and Schedule 6 (partially)	1st April 2002	2001/3852
Section 117(2) and Schedule 6 (partially)	1st September 2002	2001/3852 (amended by 2002/1790)
Section 117(2) and Schedule 6 (partially)	1st April 2002	2001/4150
Section 117(2) and Schedule 6 (partially)	1st September 2002	2001/4150 (amended by 2002/1790)

Certain provisions of the Act have been brought into force in relation to Wales only, by the following statutory instruments—

S.I. 2000/2992 (W. 192) (C.93)

S.I. 2001/139 (W. 5) (C.7)

S.I. 2001/2190 (W. 152) (C.70)

S.I. 2001/2354 (W. 192) (C.80)

S.I. 2001/2504 (W. 205) (C.82)

S.I. 2001/2538 (W. 213) (C.83)

S.I. 2001/2782 (W. 235) (C.92)

S.I. 2002/920 (W. 108) (C.24)

S.I. 2002/1175 (W. 123) (C.31).

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SOCIAL CARE, ENGLAND

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