
STATUTORY INSTRUMENTS

2002 No. 865

**SOCIAL CARE, ENGLAND
CHILDREN AND YOUNG PERSONS, ENGLAND
PUBLIC HEALTH, ENGLAND**

**The Care Standards Act 2000 (Establishments and
Agencies) (Miscellaneous Amendments) Regulations 2002**

<i>Made</i>	- - - -	<i>27th March 2002</i>
<i>Laid before Parliament</i>		<i>28th March 2002</i>
<i>Coming into force</i>	- -	<i>18th April 2002</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 12(2), 22(1), (2)(a) to (d), (5)(c) and (7)(c), 25(1), 36(3), 48(1) and 118(5) to (7) of the Care Standards Act 2000⁽¹⁾ and sections 23(2)(a) and (9), 59(2) of, and paragraph 12 of Schedule 2 to, the Children Act 1989⁽²⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Care Standards Act 2000 (Establishments and Agencies) (Miscellaneous Amendments) Regulations 2002 and shall come into force on 18th April 2002.

(2) In these Regulations, “the Act” means the Care Standards Act 2000.

(3) These Regulations extend to England only.

Amendment of the Care Homes Regulations 2001: information

2.—(1) The Care Homes Regulations 2001⁽³⁾ shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 7 (fitness of registered provider)—

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- (1) [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. *See* section 121(1) for the definitions of “prescribed” and “regulations”.
- (2) [1989 c. 41](#). These powers are exercisable by the Secretary of State in relation to England. Their exercise in relation to Wales has been transferred to the National Assembly for Wales by virtue of article 2 of, and the entry for the Children Act 1989 in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).
- (3) S.I. [2001/3965](#).

- (a) in paragraph (3)(c)—
 - (i) in head (i), after the words “paragraphs 1 to 5” there shall be added the words “and 7”;
 - (ii) heads (ii) and (iii) shall be omitted;
- (b) paragraph (4) shall be omitted.
- (3) In regulation 9 (fitness of registered manager)—
 - (a) in paragraph (2)(c)—
 - (i) in head (i), after the words “paragraphs 1 to 5” there shall be added the words “and 7”;
 - (ii) heads (ii) and (iii) shall be omitted;
 - (b) paragraph (3) shall be omitted.
- (4) In regulation 19 (fitness of workers)—
 - (a) in paragraphs (1)(b) and (4)(b)—
 - (i) in head (i), for the words “1 to 6” there shall be substituted the words “1 to 7”;
 - (ii) heads (ii) and (iii) shall be omitted;
 - (b) paragraph (7) shall be omitted.
- (5) In Schedule 2 (information and documents in respect of persons carrying on, managing or working at a care home)—
 - (a) in paragraph 7, for the words “section 113(3A) or (3C) or 115(6A) or (6B) of that Act” there shall be substituted the words “sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B) (a) and (b) of that Act.”;
 - (b) paragraph 8 shall be omitted.

Further amendment of the Care Homes Regulations 2001

3.—(1) The Care Homes Regulations 2001 shall be further amended in accordance with the following provisions of this regulation.

- (2) In regulation 23(2)(c), for the word “are” there shall be substituted the word “is”.
- (3) In regulation 43 (offences)—
 - (a) in paragraph (2), for sub-paragraphs (c) and (d), there shall be substituted the following sub-paragraphs—
 - “(c) the period specified in the notice, within which the registered person may make representations to the Commission, has expired; and
 - (d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.”;
 - (b) in paragraph (3), from the beginning of sub-paragraph (b) to the end of the paragraph there shall be substituted the following sub-paragraphs—
 - “(b) where it is practicable for the registered person to take action for the purpose of complying with any of those regulations, the action which, in the opinion of the Commission, the registered person should take for that purpose;
 - (c) the period, not exceeding three months, within which the registered person should take any action specified in accordance with sub-paragraph (b);
 - (d) the period, not exceeding one month, within which the registered person may make representations to the Commission about the notice.”.

(4) In Schedule 4 (other records to be kept in a care home), in paragraph 6, for the words “employed, including—” there shall be substituted the word “employed—”.

Amendment of the Children’s Homes Regulations 2001: information

4.—(1) The Children’s Homes Regulations 2001(4) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 6 (fitness of registered provider)—

- (a) in paragraph (3)(c), for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
- (b) paragraph (4) shall be omitted.

(3) In regulation 8 (fitness of registered manager)—

- (a) in paragraph (2)(c) for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
- (b) paragraph (3) shall be omitted.

(4) In regulation 26 (fitness of workers)—

- (a) in paragraph (3)(d) for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
- (b) paragraph (4) shall be omitted;
- (c) in paragraph (6)(b) for the words from “in relation to” until the end of the paragraph there shall be substituted the words “in relation to the matters specified in paragraphs 1 and 2 of Schedule 2.”.

(5) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at a children’s home)—

- (a) in paragraph 2, for the words “section 113(3A) or (3C) or 115(6A) or (6B) of that Act” there shall be substituted the words “sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B) (a) and (b) of that Act.”;
- (b) paragraph 7 shall be omitted.

Further amendment of the Children’s Homes Regulations 2001

5.—(1) The Children’s Homes Regulations 2001 shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 17(5) (behaviour management, discipline and restraint) for the words “paragraphs (6) and (7)”, there shall be substituted the words “paragraph (6)”.

(3) In regulation 41 (offences)—

- (a) in paragraph (2), for sub-paragraphs (c) and (d), there shall be substituted the following sub-paragraphs—
 - “(c) the period specified in the notice, within which the registered person may make representations to the Commission, has expired; and

- (d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.”;
- (b) in paragraph (3), from the beginning of sub-paragraph (b) to the end of the paragraph there shall be substituted the following sub-paragraphs—
 - “(b) where it is practicable for the registered person to take action for the purpose of complying with any of those regulations, the action which, in the opinion of the Commission, the registered person should take for that purpose;
 - (c) the period, not exceeding three months, within which the registered person should take any action specified in accordance with sub-paragraph (b);
 - (d) the period, not exceeding one month, within which the registered person may make representations to the Commission about the notice.”.

Amendment of the Fostering Services Regulations 2002: information

6.—(1) The Fostering Services Regulations 2002(5) shall be amended in accordance with the following provisions of this regulation.

- (2) In regulation 5 (fitness of registered provider)—
 - (a) in paragraph (3)(c), for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 1.”;
 - (b) paragraph (4) shall be omitted.
- (3) In regulation 7 (fitness of registered manager)—
 - (a) in paragraph (2)(c) for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 1.”;
 - (b) paragraph (3) shall be omitted.
- (4) In regulation 20 (fitness of workers)—
 - (a) in paragraph (3)(d) for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 1.”;
 - (b) paragraph (4) shall be omitted.
- (5) In Schedule 1 (information required in respect of persons seeking to carry on, manage or work for the purposes of a fostering service), paragraph 7 shall be omitted.

Further amendment of the Fostering Services Regulations 2002

7.—(1) The Fostering Services Regulations 2002 shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation), for the definition of “foster parent” there shall be substituted the following definition—

““foster parent” means a person with whom a child is placed, or may be placed under these Regulations, except that, in Parts IV and V of these Regulations it does not include a person with whom a child is placed under regulation 38(2);”.

(3) In regulation 27(7)(d) (assessment of prospective foster parents), the words “or young person” shall be omitted.

(4) In regulation 39 (placements outside England), paragraph (3) shall be omitted.

(5) In regulation 44(2)(b) (financial position), for the words “certified by an accountant” there shall be substituted the words “if requested to do so”.

(6) In regulation 48 (offences)—

(a) in paragraph (2), for sub-paragraphs (c) and (d), there shall be substituted the following sub-paragraphs—

“(c) the period specified in the notice, within which the registered person may make representations to the Commission, has expired; and

(d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.”;

(b) in paragraph (3), from the beginning of sub-paragraph (b) to the end of the paragraph there shall be substituted the following sub-paragraphs—

“(b) where it is practicable for the registered person to take action for the purpose of complying with any of those regulations, the action which, in the opinion of the Commission, the registered person should take for that purpose;

(c) the period, not exceeding three months, within which the registered person should take any action specified in accordance with sub-paragraph (b);

(d) the period, not exceeding one month, within which the registered person may make representations to the Commission about the notice.”;

(c) in paragraph (4), the words “or 32,” shall be omitted.

(7) In regulation 50(5)(b) (transitional provisions), for the word “agency” there shall be substituted the word “provider”.

Amendment of the National Care Standards Commission (Registration) Regulations 2001: information

8.—(1) The National Care Standards Commission (Registration) Regulations 2001(6) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3 (information and documents to be provided by an applicant)—

(a) in paragraph (2)—

(i) in sub-paragraph (b), the words “paragraphs 1 to 3 and 5 to 9 of” shall be omitted;

(ii) sub-paragraph (c) shall be omitted;

(b) in paragraph (3)—

(i) in sub-paragraph (b), for the words “paragraphs 9 to 11” there shall be substituted the words “Part II”;

(ii) sub-paragraph (c) shall be omitted.

(3) In Schedule 2 (documents to be supplied on an application for registration as a person who carries on an establishment or agency)—

(a) in paragraph 4—

(i) in sub-paragraph (a), for the words “section 113(3A)(a) and (b) and (3C)(a) and (b) of that Act” there shall be substituted the words “section 113(3A)(a) and (b) of that

- Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) of that Act;”;
- (ii) in sub-paragraph (b), for the words “section 115(6A)(a) and (b) and (6B)(a) and (b) of that Act” there shall be substituted the words “section 115(6A)(a) and (b) of that Act and the following provisions once they are in force, namely section 115(6B)(a) and (b) of that Act”;
- (b) in paragraph 10, for sub-paragraph (2) there shall be substituted the following sub-paragraph—
- “(2) The following documents are specified—
- (a) where the position falls within section 115(3) or (4) of the Police Act 1997 (registration under Part II of the Care Standards Act 2000), an enhanced criminal record certificate issued under section 115 of that Act; or
- (b) in any other case, a criminal record certificate issued under section 113 of that Act,
- including, where applicable, the matters specified in sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B)(a) and (b) of that Act.”.
- (4) In Schedule 3 (information and documents to be supplied on an application for registration as the manager of an establishment or agency)—
- (a) paragraphs 8 and 11 shall be omitted;
- (b) the paragraph numbered “3” which follows paragraph 11 shall be re-numbered as paragraph 11A;
- (c) in paragraph 12, for the words “section 113(3A)(a) and (b) and (3C)(a) and (b) of that Act” there shall be substituted the words “section 113(3A)(a) and (b) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) of that Act;”;
- (d) in paragraph 13, for the words “section 115(6A)(a) and (b) and (6B)(a) and (b) of that Act” there shall be substituted the words “section 115(6A)(a) and (b) of that Act and the following provisions once they are in force, namely section 115(6B)(a) and (b) of that Act;”.

Further amendment of the National Care Standards Commission (Registration) Regulations 2001

- 9.—(1) The National Care Standards Commission (Registration) Regulations 2001 shall be further amended in accordance with the following provisions of this regulation.
- (2) In regulation 8 (registers), the following paragraphs shall be added—
- “(3) Subsections (1) and (2) of section 36 of the Act (provision of copies of registers) shall not apply to any part of the register relating to children’s homes which consists of the restricted part of the address of any children’s home.
- (4) For the purposes of paragraph (3), the restricted part of the address of a children’s home is the whole of the address except the name of the children’s home.”.
- (3) In regulation 11 (offence)—
- (a) in paragraph (2), for sub-paragraph (a) there shall be substituted the following sub-paragraph—
- “(a) the Commission has served a notice on the person specifying—
- (i) details of the person’s failure to comply with that regulation, and

- (ii) the period, not exceeding one month, within which the person may make representations to the Commission about the notice, and”;
- (b) the words from “and” at the end of paragraph (2)(b) until the end of the regulation shall be omitted.
- (4) In Schedule 1 (information to be supplied on an application for registration as a person who carries on an establishment or agency)—
 - (a) in paragraph 1, sub-paragraph (g) shall be omitted;
 - (b) in paragraph 2(b), for “1(b) to (h)” there shall be substituted “1(b) to (f)”;
 - (c) in paragraph 17(f), after the words “a statement by” there shall be inserted the word “the”.

Amendment of the Private and Voluntary Health Care (England) Regulations 2001: information

10.—(1) The Private and Voluntary Health Care (England) Regulations 2001(7) shall be amended in accordance with the following provisions of this regulation.

- (2) In regulation 10 (fitness of registered provider)—
 - (a) in paragraph (3)(c), for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
 - (b) paragraph (4) shall be omitted.
- (3) In regulation 12 (fitness of registered manager)—
 - (a) in paragraph (2)(c), for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
 - (b) paragraph (3) shall be omitted.
- (4) In regulation 19 (fitness of workers)—
 - (a) in paragraph (2)(d), for the words from “in relation to him” until the end of the paragraph there shall be substituted the words “in relation to him in respect of each of the matters specified in Schedule 2.”;
 - (b) paragraph (3) shall be omitted.
- (5) In Schedule 2 (information required in respect of persons seeking to carry on, manage or work at an establishment or agency)—
 - (a) in paragraph 2, for the words “section 113(3A) or (3C) or 115(6A) or (6B) of that Act” there shall be substituted the words “sections 113(3A) and 115(6A) of that Act and the following provisions once they are in force, namely section 113(3C)(a) and (b) and section 115(6B) (a) and (b) of that Act.”;
 - (b) paragraph 8 shall be omitted.

Further amendment of the Private and Voluntary Health Care (England) Regulations 2001

11.—(1) The Private and Voluntary Health Care (England) Regulations 2001 shall be further amended in accordance with the following provisions of this regulation.

- (2) In regulation 51 (offences)—
 - (a) in paragraph (1), for the words “17 to 32” there shall be substituted the words “17 to 30”;

- (b) in paragraph (2), for sub-paragraphs (c) and (d), there shall be substituted the following sub-paragraphs—
 - “(c) the period specified in the notice, within which the registered person may make representations to the Commission, has expired; and
 - (d) in a case where, in accordance with paragraph (3)(b), the notice specifies any action that is to be taken within a specified period, the period has expired and the action has not been taken within that period.”;
- (c) in paragraph (3), from the beginning of sub-paragraph (b) to the end of the paragraph there shall be substituted the following sub-paragraphs—
 - “(b) where it is practicable for the registered person to take action for the purpose of complying with any of those regulations, the action which, in the opinion of the Commission, the registered person should take for that purpose;
 - (c) the period, not exceeding three months, within which the registered person should take any action specified in accordance with sub-paragraph (b);
 - (d) the period, not exceeding one month, within which the registered person may make representations to the Commission about the notice.”.

Signed by authority of the Secretary of State for Health

27th March 2002

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England only, amend the following Regulations made under the Care Standards Act 2000 (“the Act”):

- (a) the Care Homes Regulations 2001, the Children’s Homes Regulations 2001, the Fostering Services Regulations 2002, and the Private and Voluntary Health Care (England) Regulations 2001. Those Regulations (referred to below collectively as “the Conduct Regulations”) relate respectively to the conduct and management of care homes, children’s homes, fostering agencies and independent hospitals, independent clinics and independent medical agencies, and to the fitness of persons who carry on, manage or work at those establishments or agencies;
- (b) the National Care Standards Commission (Registration) Regulations 2001 (“the Registration Regulations”), which provide for the registration of persons who carry on or manage establishments or agencies defined in Part II of the Act, including the establishments or agencies referred to above.

Regulations 2, 4, 6 and 10 make amendments that are consequential on the coming into force of most of the relevant provisions of the Police Act 1997, as amended. Those regulations amend the Conduct Regulations in relation to the information that is to be available in respect of persons who carry on, manage or work at those establishments or agencies. The current Regulations require this to include information in respect of criminal record certificates under the Police Act 1997, and other information available under that Act, but this is subject to an exception where relevant provisions of that Act are not in force. The amendments remove this exception, and (except for the purposes of fostering agencies) make provision requiring certain other information to be available when certain provisions of that Act are in force.

Regulation 8 makes similar amendments to the Registration Regulations, in respect of the information that is to be provided by persons who intend to carry on or manage establishments or agencies and seek to be registered as such under the Act.

Regulations 3(3), 5(3), 7(6) and 11(2) amend the regulations relating to offences in respect of the breach of certain requirements of the Conduct Regulations. The amendments provide that, before the Commission brings proceedings in respect of a breach of regulations, it must specify a period in which the person concerned may make representations and, where it is practicable for the person to do so, the action he should take to comply with the regulations. Regulation 9(3) amends the Registration Regulations so that, before the Commission brings proceedings in respect of a breach of regulations, it must specify a period in which the person concerned may make representations.

Regulation 9(2) relates to the information contained in a register kept by the Commission in respect of children’s homes. It amends the Registration Regulations so as to provide that no part of the address of the home may be disclosed except the name of the home.

The Regulations also make minor corrections to the Conduct Regulations and the Registration Regulations.