

2003 No. 365 (C. 23)

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

**Care Standards Act 2000 (Commencement No.17 (England)
and Transitional and Savings Provisions) Order 2003**

Made - - - - *22nd February 2003*

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 No.17 (England) and Transitional and Savings Provisions) Order 2003.

(2) In this Order—

“existing agency” means an adoption society which is approved under Part I of the 1976 Act;

“existing provider” means a person who carries on an existing agency;

“the Act” means the Care Standards Act 2000;

“the 1976 Act”(b) means the Adoption Act 1976.

(3) This Order applies to England only.

(4) In article 3 any reference to a section is a reference to a section of the Act, and any reference to a Schedule is, unless the context otherwise requires, a reference to a Schedule of the Act.

The Schedule

2. The Schedule to this Order, which makes transitional provision, shall have effect.

Appointed days

3.—(1) This article shall have effect subject to the Schedule to this Order.

(2) 24th February 2003 is the day appointed for the coming into force of—

(a) for the purpose only of the exercise of any power to make regulations—

(i) sections 43(1) to (3)(a), 45(4) and 51(1) in so far as they relate to relevant adoption functions;

(ii) section 116 and Schedule 4, in so far as they relate to paragraphs 5(2)(b), (6)(a) to (c); and

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

(b) 1976 c.36.

- (b) for the purpose only of issuing statements of national minimum standards relating to the exercise of relevant adoption functions by local authorities, section 49(1).
- (3) 25th February 2003 is the day appointed for the coming into force of, for the purposes specified in paragraph (4), the following subsections of section 4—
 - (a) subsection (7);
 - (b) subsection (9) in so far as it relates to a voluntary adoption agency; and
 - (c) subsection (1) in so far as it relates to those subsections.
- (4) The following purposes are specified—
 - (a) to enable the Commission to consider or obtain information—
 - (i) about an existing provider for the purposes of paragraph 2 (registration in respect of existing agencies) of the Schedule to this Order;
 - (ii) in relation to an application which is to be determined by the Commission by virtue of paragraph 6 (transfer of applications for approval — applications for approval) of the Schedule to this Order;
 - (b) to enable the Commission to determine an application for registration for the purposes of Part II of the Act in respect of a voluntary organisation that is not an existing agency, except for the purpose of enabling any effect to be given to the determination of such an application before 30th April 2003.
- (5) 30th April 2003 is the day appointed for the coming into force of—
 - (a) in so far as they are not already in force the following subsections of section 4—
 - (i) subsection (7);
 - (ii) subsection (9) in so far as it relates to a voluntary adoption agency; and
 - (iii) subsection (1) in so far as it relates to those subsections;
 - (b) sections 43, 44, 45, 46(1) to (6), (7)(c) and (d) and (8), 47, 49, 51 and 53 in so far as they relate to relevant adoption functions;
 - (c) section 116 and Schedule 4, in so far as they relate to paragraph 5 of that Schedule, other than sub-paragraph (6)(d) and (7)(b), and are not already in force;
 - (d) section 117(2) and Schedule 6, in so far as they relate to the 1976 Act.
- (6) 1st June 2003 is the day appointed for the coming into force of—
 - (a) section 116 and Schedule 4, in so far as they relate to paragraph 27;
 - (b) section 117(2) and Schedule 6, in so far as they relate to the Adoption (Intercountry Aspects) Act 1999(a).

(a) 1999 c.18.

TRANSITIONAL PROVISION

Completion of the transfer of registration form

1. The existing provider shall, by not later than 21st March 2003 or such later date before the 30th April 2003 as may be agreed by the existing provider with the Commission—

- (a) complete the transfer of registration form made available for that purpose by the Secretary of State; and
- (b) send a copy of the form so completed to—
 - (i) the Commission; and
 - (ii) the Secretary of State.

Registration in respect of existing agencies

2.—(1) This paragraph shall have effect subject to paragraphs 4 (decision as to withdrawal of approval under section 4 of the 1976 Act) and 5 (pending proposal as to withdrawal of approval under section 4 of the 1976 Act).

(2) Subject to sub-paragraph (3), where an existing provider has complied with paragraph 1, the existing provider shall, with effect from 30th April 2003, be treated, for the purposes of Part II of the Act, as having applied for and been granted registration in respect of the existing agency as a voluntary adoption agency, subject to—

- (a) in a case where the existing provider has indicated on the transfer of registration form that the agency makes arrangements only in respect of—
 - (i) adoptions other than intercountry adoptions;
 - (ii) adoptions other than intercountry adoptions and, in relation to intercountry adoption, the preparation of relevant reports on behalf of a local authority; or
 - (iii) intercountry adoptions,a condition that the agency may make only such arrangements; and
- (b) a condition that the activities of the agency may only be carried on from the principal office and branch (if any) of the agency which are specified on the agency's certificate of registration,

and those conditions shall have effect from 30th April 2003, for the purposes of section 19(1) of the Act, as if they had been agreed in writing between the existing provider and the Commission.

(3) An existing provider shall not be treated as having applied for and been granted registration where paragraph 3(1) applies.

(4) The provisions of sub-paragraph (2) are without prejudice to the powers of the Commission to vary, remove, or impose any conditions in accordance with Part II of the Act.

(5) In this paragraph—

- (a) “relevant reports” means a report about—
 - (i) the suitability of a person to adopt a child;
 - (ii) the placement of a child for adoption;
 - (iii) the adoption of a child;
- (b) “intercountry adoption” means—
 - (i) the adoption of a child habitually resident in the British Islands by prospective adopters habitually resident outside the British Islands; or
 - (ii) the adoption of a child habitually resident outside the British Islands.

Continuation of approval under the 1976 Act

3.—(1) This sub-paragraph applies where an existing provider has complied with paragraph 1 and has indicated on the transfer of registration form that with effect from 30th April 2003, the agency will provide section 51 counselling only.

(2) Subject to sub-paragraph (3), where sub-paragraph (1) applies, with effect from 30th April 2003—

- (a) the existing agency shall continue to be approved as an adoption society under Part I of the 1976 Act subject to a condition that the agency may provide section 51 counselling only; and
- (b) sections 4, 5(3) to (5) and 8 of the 1976 Act and regulations 3,14,15 and 16 of the Adoption Agencies Regulations 1983^(a) shall continue in force in respect of that agency, notwithstanding the provision made by article 3(5)(d) of this Order and the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003^(b).

(3) The approval of an existing agency under this paragraph shall continue until the earlier of any of the following events—

- (a) the agency ceases to provide section 51 counselling;
- (b) the approval is withdrawn in accordance with section 4 of the 1976 Act; or
- (c) the existing provider is treated as having applied for and been granted registration under Part II of the Act in respect of an adoption support agency^(c).

(4) In this paragraph, “section 51 counselling” means counselling services in respect of the disclosure of information by the Registrar General under section 51 of the 1976 Act.

Decision as to withdrawal of approval under section 4 of the 1976 Act

4. An existing provider shall not be treated for the purposes of Part II of the Act as having applied for and been granted registration in respect of the existing agency as a voluntary adoption agency if—

- (a) the Secretary of State has before 30th April 2003 given notice to the existing agency of a decision under section 4 of the 1976 Act to withdraw the approval given to the agency; and
- (b) the date specified in that notice as the date from which the withdrawal of approval is to have effect, is a date on or after 30th April 2003.

Pending proposal as to withdrawal of approval under section 4 of the 1976 Act

5.—(1) This paragraph applies where the Secretary of State has on or after 3rd March 2003, given notice to an existing agency of a proposal under section 5(3) of the 1976 Act to withdraw the approval he has given to the agency.

(2) Where this paragraph applies, any notice referred to in sub-paragraph (1) shall, for the purposes of Part II of the Act, and notwithstanding that it does not comply with the requirements for such a notice under the Act, be treated with effect from 30th April 2003 as if it were a notice of a proposal given under section 17(4) of the Act to cancel his registration (otherwise than in accordance with an application under section 15(1)(b)), in respect of the existing agency.

(3) In determining any matter to which the notice relates the Commission must consider any written representations that the existing provider made to the Secretary of State in accordance with section 5(3) of the 1976 Act.

Transfer of applications — applications for approval

6.—(1) This sub-paragraph applies to an application for approval under section 3 of the 1976 Act which—

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- (a) S.I.1983/1964, amended as respects England, by S.I. 1997/649, 1997/2308, 1999/2768, 2001/2237, 2001/2992, 2002/3220 and 2003/367.
 - (b) S.I. 2003/367.
 - (c) See section 8 of the Adoption and Children Act 2002 (c.38).

- (a) has been made before 25th February 2003; and
- (b) in respect of which the Secretary of State has not as at 25th February 2003 served either—
 - (i) notice of approval in accordance with section 3(1) of the 1976 Act; or
 - (ii) notice of proposal to refuse the application under section 5(1) of that Act.

(2) This sub-paragraph applies to an application for approval under section 3 of the 1976 Act which is made to the Secretary of State on or after the 25th February 2003.

(3) The Secretary of State may give the Commission notice of transfer of an application to which sub-paragraph (1) or (2) applies where it appears to the Secretary of State that he is unlikely to be able to determine the application before 30th April 2003.

(4) An application to which sub-paragraph (1) or (2) applies shall be treated with effect from the application transfer date as an application for registration in respect of the agency under Part II of the Act.

(5) For the purposes of this paragraph—

- (a) if, notice of transfer is given to the Commission in respect of the application before 30th April 2003, the application transfer date is the date on which the notice of transfer was given;
- (b) if as at 30th April 2003, the application has not been determined by the Secretary of State, and notice of transfer has not been given to the Commission, the application transfer date is the 30th April 2003.

Transitory provisions

7.—(1) From the date on which the transfer of registration form referred to in paragraph 1, in relation to an existing agency is sent by the existing provider to the Commission, until such time as the existing provider is treated, in accordance with paragraph 2, as having applied for and been granted registration for the purposes of Part II of the Act, the existing provider shall for the purpose of enabling the Commission to consider or obtain information about any matter in relation to the existing agency be treated as having applied for registration under Part II of the Act in respect of that agency.

(2) The Commission may, until such time as the existing provider is treated, in accordance with paragraph 2 as having been granted registration for the purposes of Part II of the Act in respect of the existing agency, request the existing provider to supply to it any information or documents that, if the existing provider had made an application for registration under Part II of the Act in respect of the agency would be relevant for the purpose of determining the application.

(3) Where the Commission requests the existing provider to supply to it any information or documents in accordance with sub-paragraph (2), the existing provider shall supply such information or documents within fourteen days of the request being made.

Signed by authority of the Secretary of State for Health

22nd February 2003

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, in relation to England only, certain provisions of, and repeals made by, the Care Standards Act 2000 (“the Act”) and makes consequential transitional provision and savings.

The Order primarily brings the registration and inspection of voluntary adoption agencies and the inspection of the exercise by local authorities of their relevant adoption functions, within the regulatory framework of the Act with effect from 30th April 2003. Voluntary adoption agencies are currently approved under section 3 of the Adoption Act 1976.

The Order also brings into force the amendments made by the Act to the Adoption (Intercountry Aspects) Act 1999 that are consequential on the registration of voluntary adoption agencies under the Act.

The Schedule makes transitional provision and savings consequential upon the registration of voluntary adoption agencies under the Act.

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);

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

the Care Standards Act 2000 (Commencement and Transitional Provisions) (Amendment No.2) (England) Order 2002 (S.I.2002/3210) (C.109).

<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 April 2003	2001/3852 (amended by 2002/3210)
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
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

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 40 (in so far as not already in force)	1st January 2001	2000/2795
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
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
Section 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 April 2002	2001/3852 (amended by 2002/3210)
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

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
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 April 2003	2001/4150 (amended by 2002/3210)

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)
- S.I.2003/152 (W.22) (C.8)

2003 No. 365 (C. 23)

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

Care Standards Act 2000 (Commencement No.17 (England)
and Transitional and Savings Provisions) Order 2003

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