

**2004 No. 661**

**PUBLIC HEALTH, ENGLAND**

**The Commission for Healthcare Audit and Inspection  
(Fees and Frequency of Inspections) Regulations 2004**

*Made* - - - - - *10th March 2004*

*Laid before Parliament* *10th March 2004*

*Coming into force* - - *1st April 2004*

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The Secretary of State, in exercise of the powers conferred upon him by sections 12(2), 15(3), 16(3), 31(7) and 118 (5) to (7) of the Care Standards Act 2000<sup>(a)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

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(a) 2000 c. 14. Section 31(7) of the Care Standards Act 2000 (“the Act”) has been amended by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (“the 2003 Act”), section 147 and Schedule 9, paragraph 23. 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. *See*: section 121(1) for the definitions of “prescribed” and “regulations”. The functions of the National Care Standards Commission under Part 2 of the Act are transferred either to the Commission for Healthcare Audit and Inspection or to the Commission for Social Care Inspection in accordance with section 102 of the 2003 Act with effect from 1st April 2004.

## PART I—GENERAL

### Citation, commencement and application

1.—(1) These Regulations may be cited as the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 and shall come into force on 1st April 2004.

(2) These Regulations apply in relation to England only.

### Interpretation

2. In these Regulations—

“the Act” means the Care Standards Act 2000;

“the 1984 Act” means the Registered Homes Act 1984<sup>(a)</sup>;

“acute hospital” means a hospital of the type referred to in section 2(3)(a)(i) of the Act (not being a hospice) which has approved places;

“agency” means an independent medical agency;

“approved place” means a bed provided for the use of a service user at night;

“certificate” means a certificate of registration;

“establishment” means an independent hospital or independent clinic;

“existing provider” means a person who immediately before 1st April 2002—

(a) was registered under Part 1 of the 1984 Act in respect of a residential care home; or

(b) was registered under Part 2 of the 1984 Act in respect of a nursing home or mental nursing home;

“hospice” means an establishment the whole or main purpose of which is to provide palliative care;

“listed services” has the same meaning as in section 2(7) of the Act, as modified by regulation 3(4) of the Private and Voluntary Health Care (England) Regulations 2001<sup>(b)</sup>, but in these Regulations excludes treatment using prescribed techniques or prescribed technology;

“mental health hospital” means a hospital of the type referred to in section 2(3)(b) of the Act;

“new provider” means a person who carries on an independent hospital, independent clinic or independent medical agency and did so for the first time on or after 1st April 2002;

“prescribed techniques or prescribed technology” means the techniques or technology set out in regulation 3(1)(a) to (f) of the Private and Voluntary Health Care (England) Regulations 2001;

“previously exempt provider” means a provider who immediately before 1st April 2002 carried on an establishment other than a residential care home, nursing home or mental nursing home in respect of which a person was required to be registered under Part 1 or 2 of the 1984 Act;

“registered manager” means a person who is registered under Part 2 of the Act as the manager of the establishment or agency;

“registered person” means any person who is the registered provider or registered manager in respect of an establishment or agency;

“registered provider” in relation to an establishment or agency means a person who is registered under Part 2 of the Act as the person carrying on the establishment or agency;

“service user” means any person who is to be provided with accommodation or services in an establishment, or by an agency, but excludes registered persons or persons employed or intended to be employed in an establishment or by an agency, and their relatives;

“small establishment” means an establishment which has less than four approved places.

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(a) 1984 c. 23.

(b) S.I. 2001/3968.

## PART II—FEES

### Registration fees

3.—(1) For the purposes of section 12(2) of the Act, and subject to paragraph (2), the fee to accompany an application by a person seeking to be registered under Part 2 of the Act as a person who carries on an establishment or agency shall be £1,584.

(2) Where the establishment is a small establishment the fee shall be £432.

(3) For the purposes of section 12(2) of the Act, the fee to accompany an application by a person seeking to be registered under Part 2 of the Act as a person who manages an establishment or agency other than a small establishment shall be £432.

### Variation fees

4.—(1) For the purposes of section 15(3) of the Act, the fee to accompany an application by the registered provider under section 15(1)(a) of the Act (“the variation fee”) shall, subject to paragraphs (2) and (3), be £792.

(2) Where the establishment is a small establishment the fee shall be £432.

(3) In a case where the variation of a condition is a minor variation, the variation fee shall be £72.

(4) For the purposes of paragraph (3), a “minor variation” is a variation which, in the opinion of the CHAI(a), if the application for the variation of the condition were granted, would involve no material alteration in the register kept by the CHAI in accordance with regulations made under section 11(4) of the Act.

### Annual fees

5.—(1) Subject to paragraphs (2) and (3), the registered provider, in respect of an establishment or agency specified in column (1) of the Table below, shall pay an annual fee and—

- (a) the amount of the annual fee shall be—
  - (i) in a case where no amount is specified in column (3) or (4), the amount specified in column (2);
  - (ii) in any other case, the sum of the amount specified in column (2) and the amounts specified in column (3), and (if applicable) column (4), multiplied by the number of approved places specified in respect of each column; and
- (b) shall be payable for the year beginning 1st April 2004 and subsequent years in accordance with column (5).

<i>Column (1)</i> <i>Establishment or agency</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
(a) Hospice	£216	£72	£72	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and

(a) See section 5A of the Care Standards Act 2000 (as inserted by section 103 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43)) (“the 2003 Act”) for the definition of the CHAI, and see also section 41 of the 2003 Act.

<i>Column (1) Establishment or agency</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) Annual fee due on</i>
				(c) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(b) Acute hospital or mental health hospital	£3,600	£144	£72	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (c) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(c) Hospital using prescribed techniques or prescribed technology	£1,080	£144	£72	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (c) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue;

<i>Column (1) Establishment or agency</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) Annual fee due on</i>
				(ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(d) Hospital providing listed services	£1,440	£144	£72	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (c) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(e) Independent clinic or independent medical agency	£1,440			(a) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (b) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.

(2) In the case of an establishment which is a small establishment, the annual fee shall be the flat rate specified in column (2).

(3) Where an independent hospital falls into more than one of the categories listed in paragraph (a), (b), (c) or (d) of column (1) of the Table above, the category that applies to it for the purposes of this regulation shall be the category with the highest flat rate fee payable as set out in column (2) in relation to paragraphs (a), (b), (c) or (d).

### PART III—FREQUENCY OF INSPECTIONS

#### **Frequency of inspections**

6.—(1) Subject to paragraphs (2) and (3), the CHAI shall arrange for premises which are used as an establishment, or for the purposes of an agency, to be inspected a minimum of once in every 12 month period.

(2) In the case of an establishment or agency, carried on by a person other than an existing provider in respect of which a person is registered for the first time in a 12 month period, no inspection shall be required in that period.

(3) Any inspection referred to in paragraph (1) may be unannounced.

(4) In this regulation “12 month period” means a period commencing on 1st April in any year and ending on 31st March in the following year.

Signed by the authority of the Secretary of State for Health

10th March 2004

*Stephen Ladyman*  
Parliamentary Under-Secretary of State,  
Department of Health

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations partly replace, with amendments, the National Care Standards Commission (Fees and Frequency of Inspections) Regulations 2003 and prescribe the fees that are to be paid to the Commission for Healthcare Audit and Inspection (“the CHAI”) by certain establishments and agencies, namely independent hospitals, independent clinics and independent medical agencies, under Part 2 of the Care Standards Act 2000 (“the Act”).

The National Care Standards Commission is abolished with effect from 1st April 2004 and its functions in relation to the regulation of independent hospitals, independent clinics and independent medical agencies have been transferred to the CHAI pursuant to section 102 of the Health and Social Care (Community Health and Standards) Act 2003 as from that date.

The fees are payable—

- (a) on an application for registration in respect of an establishment or agency (regulation 3); and
- (b) on an application for the variation or removal of any condition for the time being in force in relation to the registration (regulation 4).

In addition, regulation 5 prescribes the annual fee that is to be paid in respect of these establishments and agencies under section 16(3) of the Act.

Regulation 6 prescribes the frequency of inspections of premises used for the purposes of these establishments and agencies.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department of Health’s website [www.doh.gov.uk/regulatoryimpact/index.htm](http://www.doh.gov.uk/regulatoryimpact/index.htm) In addition, a copy can be obtained from Room 530b Skipton House, 80 London Road, London, SE1 6LH.

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