

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Further provisions about functions of Commission

Section 81: Publication of programme of reviews etc.

272. **Section 81** requires the Commission to publish a document that sets out the reviews and studies that it intends to carry out under sections 48, 54 and 57. Before preparing the document, the Commission must consult the Secretary of State and any other person specified by order of the Secretary of State. Once prepared, the Commission must send them a copy of the document. *Subsection (4)* makes clear that the requirement to publish such a programme does not prevent the Secretary of State from requiring the Commission to carry out a particular review or investigation, or the Commission from carrying out a special investigation under section 48 where it considers there to be a risk to the health, safety or welfare of people receiving health or social care.

Section 82: Failure by the Commission in discharge of its functions

273. If the Secretary of State considers that the Commission is failing to carry out any of its functions, or to carry them out properly, then section 82 enables the Secretary of State to issue a direction to the Commission. The section also enables the Secretary of State to carry out functions of the Commission or arrange for a third party to do so if the Commission fails to comply with the direction. These powers might be needed not necessarily because of any fault on the Commission's part but possibly due to circumstances outside its control, for example, a serious infection affecting many of its staff and therefore its ability to perform its duties.

Section 83: Reports for each financial year etc.

274. **Section 83** places a duty on the Commission to report annually to Parliament on a number of matters. These are:
- the way it has exercised its functions;
 - the provision of NHS care;
 - the provision of adult social services;
 - the carrying on of activities regulated by the Commission; and
 - the steps it has taken to implement the proposals in its statement on user involvement required under section 5,
- in each case, during the financial year in question.
275. The report can be made up of separate documents on each matter or be presented in a single document. The Secretary of State may require the Commission to include in its report separate reports on specified aspects of the matters.

*These notes refer to the Health and Social Care Act 2008
(c.14) which received Royal Assent on 21 July 2008*

276. The Commission's functions under the Mental Health Act are excluded from the annual report under section 83. The Commission will produce a separate annual report on the operation of the Mental Health Act. MHAC currently has to report biennially on the operation of the Mental Health Act.
277. All reports under this section must be laid before Parliament and sent to the Secretary of State. The Commission is also required to provide any other additional reports and information on the exercise of its functions that the Secretary of State may request during the year.

Section 84: Reports and information

278. **Section 84** requires the Commission to make copies of any report it publishes available to view at its offices. It must provide copies of the report on request. The Commission may also provide other information that a person might request that is relevant to the discharge of its functions. It can charge a reasonable fee for providing information or copies of reports.